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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV01–932–1 IFR]

Olives Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule increases the assessment rate established for the California Olive Committee (Committee) for the 2001 and subsequent fiscal years from $21.73 to $27.90 per ton of olives handled. The Committee is responsible for local administration of the marketing order which regulates the handling of olives grown in California. Authorization to assess olive handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal year begins January 1 and ends December 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: March 7, 2001. Comments received by May 7, 2001, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698, or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http//www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 148 and Order No. 932, both as amended (7 CFR part 932), regulating the handling of olives grown in California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California olive handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable olives beginning on January 1, 2001, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule increases the assessment rate established for the Committee for the 2001 and subsequent fiscal years from $21.73 per ton to $27.90 per ton of olives.

The California olive marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California olives. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2000 and subsequent fiscal years, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal year to fiscal year unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on December 12, 2000, and unanimously recommended fiscal year 2001 expenditures of $1,348,242 and an assessment rate of $27.90 per ton of olives. In comparison, last year's budgeted expenditures were $2,472,235 and the assessment rate was $21.73. Assessable tonnage for 2001 is estimated at 46,374, significantly below last year's of 113,750. Although the Committee reduced expenditures in

marketing development and research, the significant decrease in tonnage necessitates a higher assessment rate. The reduced research expenditures will fund: (1) Continued research and development of the mechanical olive harvester and (2) scientific studies to develop chemical and scientific defenses to counteract a potential threat from the olive fruit fly in the California production area. Market development expenditures are significantly lower because handlers have taken more responsibility for market development.

The following table compares major budget expenditure recommendations for the 2001 fiscal year with those from last year.

Budget expenditure	2000	2001
Administration ...	$356,190	$343,490
Research	868,550	408,337
Market Development	1,212,495	596,415

The assessment rate recommended by the Committee was derived by considering anticipated expenses, actual tonnage, and additional pertinent factors. The significant assessable tonnage decrease in 2001, due in large part to the alternate-bearing nature of olives, has made it necessary for the Committee to increase the assessment rate from $21.73 to $27.90 per ton, an increase of $6.17. Income derived from handler assessments, interest, and reserve funds will be adequate to cover budgeted expenses. Funds in the reserve will continue to be less than the maximum permitted by § 932.40 of the order (approximately one fiscal year's expenses) by the end of 2001.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2001 budget and those for subsequent fiscal years will be reviewed and, as appropriate, approved by the Department.

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

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

There are approximately 1,200 producers of olives in the production area and 2 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. None of the olive handlers may be classified as small entities, while the majority of olive producers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2001 and subsequent fiscal years from $21.73 per ton to $27.90 per ton of olives. The Committee unanimously recommended 2001 expenditures of $1,348,242 and an assessment rate of $27.90 per ton. The assessment rate of $27.90 is $6.17 higher than the 2000 rate. The estimated quantity of assessable olives for the 2001 fiscal year is 46,374 tons. Thus, the $27.90 rate should generate enough funds to meet this year's budgeted expenses, when combined with funds from the authorized reserve and interest income.

The following table compares major budget expenditure recommendations for the 2001 fiscal year with those from last year.

Budget expenditure	2000	2001
Administration ...	$356,190	$343,490
Research	868,550	408,337
Market Development	1,212,495	596,415

The reduced research expenditures will fund: (1) Continued research and development of the mechanical olive harvester and (2) scientific studies to develop chemical and scientific defenses to counteract a potential threat from the olive fruit fly in the California production area. Market development expenditures are significantly lower because handlers have taken more responsibility for market development.

A higher assessment rate is recommended for 2001 because the 2001 fiscal year assessable tonnage is approximately 59 percent smaller than last fiscal year's tonnage, due in large part to the alternate bearing nature of the crop:

1999	2000	2001
67,900	113,750	46,374

The Committee reviewed and unanimously recommended 2001 expenditures of $1,348,242, which reflects the decreases in the research, market development and administrative budgets. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Executive Subcommittee, the Research Subcommittee, and the Marketing Subcommittee. Alternate spending levels were discussed by these groups, based upon potential reductions in the funding of various research and market development projects. The Committee determined it was necessary to increase the assessment rate to cover these expenses because the significant decrease in tonnage will not provide sufficient funds to cover anticipated expenses. The assessment rate of $27.90 per ton of assessable olives was derived by considering anticipated expenses, the Committee's estimate of assessable olives, and additional pertinent factors.

A review of historical and preliminary information pertaining to the upcoming fiscal year indicates that the grower revenue for the 2000–2001 crop year is estimated to be approximately $36,068,864. Therefore, if the assessment rate is increased to $27.90 per ton, the estimated assessment revenue to the Committee will be $1,293,835 for the 2001 fiscal year, or approximately 3.59 percent of grower revenue.

This action increases the assessment obligation imposed on handlers for fiscal year 2001 by $286,128 ($6.17 difference between the new and current rate × 46,374 assessable tonnage estimate for 2001). Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, increasing the

assessment rate increases the burden on handlers, and may increase the burden on producers. In addition, the Committee's meeting was widely publicized throughout the California olive industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 12, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on California olive handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

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

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2001 fiscal period begins on January 1, 2001, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable olives handled during such fiscal period; (2) the action increases the assessment rate for assessable olives beginning with the 2001 fiscal period; (3) this action was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 932 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 932.230 is revised to read as follows:

§ 932.230 Assessment rate.

On and after January 1, 2001, an assessment rate of $27.90 per ton is established for California olives.

Dated: February 28, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–5320 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 956

[Docket No. FV00–956–1 FIR]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Revision of Administrative Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule modifying the handler assessment and reporting requirements under the Walla Walla sweet onion marketing order. The marketing order regulates the handling of sweet onions grown in the Walla Walla Valley and is administered locally by the Walla Walla Sweet Onion Marketing Committee (Committee). For sweet onions handled during the period September 1 through May 31 of each fiscal period, this rule continues in effect dates by which handlers must pay assessments and furnish reports to the Committee that reflect new cultural and storage practices that have extended the traditional mid-summer marketing season.

EFFECTIVE DATE: April 5, 2001.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 956, as amended (7 CFR part 956), regulating the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule provides dates by which handlers must pay assessments and furnish reports to the Committee that reflect new cultural and storage practices for sweet onions handled during the period September 1 through May 31 of each fiscal period. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for

a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Section 956.41 of the order provides the Committee with the authority to establish an annual budget of expenditures and § 956.42 provides authority for the Committee to levy assessments upon handlers of Walla Walla sweet onions to provide adequate funds to defray such expenditures. Section 956.202 establishes the current assessment rate of $0.21 per 50-pound bag of Walla Walla sweet onions handled. Section 956.42 also provides the Committee with the authority to impose an interest charge on any handler who fails to pay any assessment in a timely manner, and § 956.142 of the order's administrative rules and regulations establishes the rate of interest and the dates such interest charges begin to accrue. Section 956.80 establishes the authority for the Committee to require handler reports, while § 956.180 provides the rules and regulations necessary for the Committee to implement and administer such reporting requirements.

For sweet onions handled on or after September 1, this rule continues in effect dates by which handlers must pay assessments and furnish reports to the Committee. These changes recognize new cultural and storage practices that have extended the traditional mid-summer marketing season. The changes provide dates by which handlers must pay assessments and submit reports on shipments made in September or later. This rule was unanimously recommended by the Committee on August 15, 2000.

Sections 956.142 (interest charges) and 956.180 (reports) were established in August 1996 to foster prompt assessment payments and to ensure that adequate funds would be available to cover budgeted expenses incurred by the Committee under the order. Section 956.180 establishes reporting requirements for providing the Committee with statistical information regarding total industry shipments and is used as a basis for assessment collection. This information also is useful for the development of a budget and in making marketing and promotion plans for the upcoming season. Section 956.142 establishes assessment due dates and an interest charge of 1.5 percent per month on any handler who fails to pay his or her assessments within thirty days of the due date.

Historically, Walla Walla sweet onions have been planted in the fall, then harvested and marketed from late June to early August. Due to the short shelf life of this, traditionally non-storage, summer onion, the marketing season has closely followed the annual harvest. However, recent changes in cultural and storage practices within the Walla Walla sweet onion industry are lengthening the marketing season for some of the sweet onions produced in the Walla Walla Valley. A few producers have been planting sweet onions in the spring, thereby extending the traditional mid-summer harvest into late summer or early fall. In addition, with the recent introduction of Controlled Atmosphere (CA) storage, the potential now exists for extending the marketing season further into the fall and early winter season.

By extending the due dates for assessments and reports on sweet onions handled on or after September 1, this action provides Walla Walla sweet onion handlers more time to comply with these requirements. This will enable them to take advantage of the expanding marketing season. The Committee will continue to require that assessments be paid and reports submitted by September 1 for onions handled in June, July, and August.

For assessments due on sweet onions handled prior to September 1, the monthly interest charge of 1.5 percent will continue to accrue after September 30. For assessments due on sweet onions handled during the period September 1 through May 31 of each fiscal period, interest charges will begin accruing 30 days after the handler's report of shipments is due.

Handlers marketing their sweet onions prior to September 1 will continue to submit reports (Committee Form No. 1) showing weekly and seasonal totals by September 1, and assessments for their shipments to the Committee no later than September 30 to avoid late payment interest charges. For shipments during the period September 1 through May 31 of each fiscal period, handlers will submit a separate report, along with the appropriate assessment payment, for each monthly period that they continue to make shipments. Such reports will be due at the office of the Committee no later than 30 days following the end of the month in which shipments were made. Assessments will be due within thirty (30) days of the last day of the month in which the shipments are made. For example, a handler shipping Walla Walla sweet onions anytime during the month of September would furnish the shipment report to the Committee no later than October 30. In this example, the report would contain the number of 50-pound equivalents of Walla Walla sweet onions shipped by such handler during each week in September, along with the monthly total of shipments and a check for the appropriate assessment amount. This reporting and payment schedule continues for each monthly period Walla Walla sweet onions are handled after September 1.

With the introduction of spring planting and CA storage for Walla Walla sweet onions and the associated extension of the traditional marketing season, this action is necessary to ensure that adequate Committee operating funds are obtained in a timely manner, that producers and handlers are treated equitably and have the needed flexibility to produce and market their crop as they desire, and that consumers have an extended season in which to purchase Walla Walla sweet onions.

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

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

There are approximately 30 handlers of Walla Walla sweet onions who are subject to regulation under the order and approximately 60 sweet onion producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000.

The Committee estimates that all of the handlers of Walla Walla sweet onions ship under $5,000,000 worth of sweet onions on an annual basis. In addition, based on acreage, production, and producer prices reported by the National Agricultural Statistics Service, and the total number of onion producers in the regulated production area, the average gross annual producer revenue

from sweet onions was about $117,000 in 1999, the most recent year statistics are available. Based on this information, it can be concluded that the majority of Walla Walla sweet onion handlers and producers may be classified as small entities, excluding receipts from other sources.

Based on authority in §§ 956.42 and 956.80, the Committee unanimously recommended this action at a public meeting on August 15, 2000. Specifically, for sweet onions handled on or after September 1, this rule continues in effect dates by which handlers must pay assessments (§ 956.142) and furnish reports (§ 956.180) to the Committee. These changes are being made to recognize new cultural and storage practices that extend the traditional mid-summer marketing season to mid-winter, and provide handlers more time to pay assessments and file reports on these later shipments.

Regarding the impact of this action on affected entities, sweet onion handlers will not be forced into noncompliance with the order because they are now able to pay assessments and submit shipment reports later than was previously provided. When the previous deadlines were established, the Committee did not envision shipments being made in September or later. Walla Walla sweet onions have a relatively high market value, but generally must be harvested and sold within a short time period between late June and early August. With this extension in the marketing season, producers and handlers hope to increase their returns while providing consumers with unique, highly demanded sweet onions during a period of time when such onions were traditionally not available.

The Committee estimated that during the 2000 marketing season only a limited amount of sweet onions would be handled on or after September 1 and into early winter. The Committee has been informed, however, that an additional 1,300 acres of sweet onions may be planted for the 2001 marketing season, with many of the onions possibly going into CA storage. Approximately 800 acres of Walla Walla sweet onions were planted for the 2000 season.

The Committee discussed alternatives to the recommendation, including leaving the regulations unmodified. However, the Committee decided that it did not have the option of leaving the regulations unmodified because some handler assessment obligations are expected to accrue during the period September 1 through May 31 of each fiscal period. Another alternative discussed would have changed the regulations to require the submission of reports and assessments for the entire crop, regardless of when marketed, within 30 to 60 days of the date of shipment. The Committee rejected this option because it felt that the bulk of the Walla Walla sweet onion crop will continue to be marketed during the traditional mid-summer season, and it wants to ensure that an adequate income is received early in the fiscal period to offset expenditures. The fiscal period begins June 1 and ends May 31.

The Committee uses Form No. 1, Handler's Statement of Walla Walla Sweet Onion Shipments, for collecting assessments and statistical data. Prior to this action, this form was mailed to handlers in mid-August with the requirement that it be returned by September 1, and assessments were due within 30 days of September 1 to avoid imposition of the 1.5 percent per month interest charge. The Committee revised Form No. 1 to reflect the changes in handling practices and due dates.

The Committee estimates that only two of the currently regulated handlers in the Walla Walla sweet onion production area may initially ship sweet onions on or after September 1. The Committee also estimates that the revised Form No. 1 will continue to take approximately 25 minutes to complete. With only two handlers submitting reports on October 31 and possibly again on November 30, for example, the total additional burden on the industry for the information reporting requirements for sweet onions shipped on or after September 1 would approximate 100 minutes per year. Thus, while this rule will impose some additional reporting requirements, the burden is currently approved under OMB No. 0581–0078 by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The Agricultural Marketing Service has notified the Office of Management and Budget of this change in burden.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

The Committee's meeting was widely publicized throughout the Walla Walla sweet onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 15, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Further, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

An interim final rule concerning this action was published in the **Federal Register** on October 16, 2000. A copy of the rule was mailed to Committee staff, who handled the distribution of copies to Committee members and sweet onion producers and handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. The rule provided a 60-day comment period that ended December 15, 2000. No comments were received.

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

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (65 FR 61080, October 16, 2000) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 956

Marketing agreements, Onions, Reporting and recordkeeping requirements.

PART 956—SWEET ONIONS GROWN IN THE WALLA WALLA VALLEY OF SOUTHEAST WASHINGTON AND NORTHEAST OREGON

Accordingly, the interim final rule amending 7 CFR part 956 which was published at 65 FR 61080 on October 16, 2000, is adopted as a final rule without change.

Dated: February 28, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–5318 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Docket No. FV00–966–1 FIR]

Tomatoes Grown in Florida; Change in Size Designation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule that increased the maximum diameter of the 6x6 numeric size designation prescribed under the Florida tomato marketing order (order). The order regulates the handling of tomatoes grown in Florida and is administered locally by the Florida Tomato Committee (Committee). This rule continues in effect a maximum diameter increase of 2/32 of an inch, from 2 27/32 inches to 2 29/32 inches for tomatoes designated 6x6. This change allows handlers to pack slightly larger tomatoes in a 6x6 container, and provides them with greater flexibility when packing tomatoes. The increased flexibility is expected to increase the number and availability of containers of 6x6 tomatoes, which are often in short supply.

EFFECTIVE DATE: April 5, 2001.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (863) 299–4770, Fax: (863) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 125 and Marketing Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes grown in certain designated counties in Florida, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department is issuing this rule in conformance with Executive Order 12866.

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

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

Under the order, tomatoes produced in the production area and shipped to fresh market channels outside the regulated area are required to meet grade, size, inspection, and container requirements. These requirements apply during the period October 10 through June 15 each year. Current requirements include a minimum grade of U.S. No. 2 and a minimum size of 2 9/32 inches in diameter. Current pack and container requirements outline the types of information that need to appear on a container, weight restrictions, and other requirements containers must meet.

Section 966.52 of the order provides authority for the modification, suspension, and termination of regulations. It includes the authority to establish and modify size and pack requirements for tomatoes grown in the defined production area and handled under the order.

Section 966.323 of the order's rules and regulations specifies the handling regulations for Florida tomatoes. Section 966.323(a)(2)(i) currently specifies that all tomatoes packed by a registered handler must meet a minimum size requirement of 2 9/32 inches in diameter. That section also requires that all such tomatoes must be sized with proper equipment in one of three numeric size designations with specified ranges of diameter. Tomatoes designated as ''6x67'' must be a minimum of 2 9/32 inches in diameter and a maximum of 2 19/32. These are the smallest tomatoes marketed. Tomatoes, other than producer field-packed tomatoes, designated as ''6x66'' must be a minimum of 2 17/32 inches in diameter and, prior to the issuance of the interim final rule, a maximum of 2 27/32 inches in diameter. The interim final rule changed that maximum to 2 29/32. Tomatoes designated as ''5x6'' must be a minimum of 2 25/32 inches in diameter with no maximum size requirement. These are the largest size marketed. To allow for variation incident to proper sizing, not more than a total of 10 percent, by count, of the tomatoes in the lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

This rule continues in effect the increase in the maximum diameter prescribed for size 6x66 tomatoes by 2/32 of an inch, from 2 27/32 inches to 2 29/32 inches. This will allow handlers the option of packing slightly larger tomatoes in a 6x66 container. This increased flexibility in packing tomatoes is expected to allow handlers to pack some of the smaller 5x6 tomatoes into 6x66 containers. This is expected to increase the number and availability of containers of 6x66 tomatoes, which are often in short supply, and improve the uniformity of the 5x6-sized tomatoes. The Committee unanimously recommended this change at a meeting held on September 8, 2000.

Based on an analysis of markets and demands of buyers, the Committee believes that the increase in the maximum diameter for size 6x66 tomatoes will improve the marketing of Florida tomatoes, provide handlers with additional flexibility in packing tomatoes, and help improve grower returns. Recent industry trends have been toward shipping larger tomatoes. In response to a strong consumer demand, new commercial tomato varieties have been planted to produce bigger tomatoes and have resulted in more large sized tomatoes being shipped. Because of this demand, production of larger tomatoes has been a popular method of improving returns among producers as it also increases total yields. Increasing the 6x66 maximum diameter provides handlers the option of shifting the smallest sized tomatoes in a 5x6 pack to a 6x66 pack. By making this shift, handlers will be

able to increase the average size in both the 6x66 and the 5x6 pack.

The 2/32 inch increase in the maximum diameter of the 6x66-size designation results in a 4/32 overlap in the maximum diameter of the 6x66 and the minimum size for the 5x6. Tomatoes at the bottom of the 5x6 size can either be packed as 5x6 tomatoes or as 6x66 tomatoes. According to the Committee, this will provide for greater distribution of tomato shipments throughout the two size designations, enabling handlers to make better decisions on which size of tomatoes to pack. Such packing decisions could depend on specific buyer or market demands, on general crop size, or on prices.

Shifting the smallest sizes from the 5x6 pack to the 6x66 pack would increase the average size in both the 6x66 and the 5x6 packs. It would move larger tomatoes into the 6x66 pack while providing space for additional larger tomatoes in the 5x6 pack. This would lower the count of tomatoes for each pack as well. In its discussions, the Committee recognized that buyers prefer larger tomatoes and a lower count per box. With buyer preferences trending toward larger sized tomatoes, the Committee believes that having this option could help grower returns.

This change also makes more tomatoes available to fill the 6x66 pack. In past years, there have been shortages of this pack due to tomato size. Committee members stated that during the past season there were periods when the tomatoes were sizing so well they were having trouble packing many 6x66 packs. The Committee recognized that there is a strong demand for the 6x66 pack and that it brings a favorable price, occasionally equal to or above the price for a 5x6 pack. Therefore, the Committee believes that it is important to continue to supply this market. With the option of shifting slightly larger tomatoes into the 6x66 pack, handlers have more flexibility to move tomatoes to meet market demand. This will be particularly beneficial when the majority to tomatoes are sizing well.

In addition, the Committee also believes that raising the maximum diameter for the 6x6 pack could improve the uniformity of tomatoes in the 5x6 pack. While increasing the maximum diameter of the 6x6 pack does increase the size range, the increase is only by 2/32 of an inch. Further, shifting the smaller sizes from a 5x6 pack to the 6x6 pack could improve the uniformity of the 5x6 pack, which is expected to be viewed as a benefit to buyers.

Because there is no upper limit on size for a 5x6 pack, there can be a considerable variation in size. With newer tomato varieties producing larger fruit, the size variance in containers of 5x6 tomatoes has grown. This size variation is particularly evident with the smaller sizes in the pack. By having the opportunity to shift the smaller sizes to the 6x6 pack, handlers will be able to improve the uniformity of their 5x6 packs. This is particularly important because the 5x6 pack usually commands the best price in the market, faces the most competition, and is the most popular size.

During the 1999–2000 season, approximately 58 percent of the Florida tomatoes sold were 5x6 packs, and about 28 percent were sold as 6x6's. Increasing the maximum diameter size of the 6x6 by 2/32 inch will give handlers the flexibility to reduce the number of smaller sized tomatoes packed in the 5x6-size designation.

A study conducted by Dr. John J. VanSickle at the University of Florida indicates that increasing the maximum diameter could result in an increase in the prices received for Florida tomatoes. The study indicates that if 1 percent of the smallest 5x6 size tomatoes are shifted into the smaller size categories, then prices for 5x6 size tomatoes could increase by .25 percent. With regard to 6x6 size tomatoes, the study indicates that the prices could increase by .15 percent. The increase in price would occur because of the redistribution of larger sized tomatoes into the smaller size designations, which is a response to consumer demand for a more consistent pack and slightly larger tomatoes.

Committee members do not believe that this change will create any confusion on the part of buyers. Rather, they stated that this change allows handlers more opportunity to address the demands of their buyers.

Consumers and buyers are demanding a slightly larger tomato. Smaller tomatoes with a less uniform pack have poor consumer acceptance, especially in chain stores. This change provides handlers with some flexibility to adjust the size composition and uniformity of their packs to address the needs of their customers.

This change does not affect the current exemption provided to producer field packed tomatoes as long as the containers are designated as 6x6 and larger. Specifically, field packed tomatoes designated as size 6x6 and larger are not subject to the maximum diameter specified in the order's rules and regulations for 6x6 sized tomatoes (65 FR 8247, February 18, 2000).

Section 8e of the Act requires that whenever grade, size, quality, or maturity requirements are in effect for certain commodities under a domestic marketing order, including tomatoes, imports of that commodity must meet the same or comparable requirements. However, the Act does not authorize the imposition of container requirements on imports, when such requirements are in effect under a domestic marketing order. Florida tomatoes must be packed in accordance with three specified size designations, and tomatoes falling into different size designations may not be commingled in a single container. These pack restrictions do not apply to imported tomatoes. Therefore, no change is necessary in the tomato import regulation as a result of this action.

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

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

There are approximately 70 handlers of Florida tomatoes who are subject to regulation under the marketing order and approximately 130 tomato producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000 (13 CFR 121.201).

Committee data indicates that approximately 20 percent of the Florida tomato handlers handle 80 percent of the total volume. Based on the industry and Committee data, the average annual price for fresh Florida tomatoes during the 1999–2000 season was $6.89 per 25-pound carton or equivalent, and total fresh shipments for the 1999–2000 season were 58,006,721 25-pound equivalent cartons of tomatoes. Based on this information, the majority of handlers would be classified as small entities as defined by the SBA. The majority of producers of Florida tomatoes may also be classified as small entities.

This rule continues in effect an increase in the maximum diameter requirement for size 6x6 tomatoes prescribed in the order's handling

regulations from 2 27/32 inches to 2 29/32 inches, and will allow handlers the option of packing slightly larger tomatoes in a 6x6 container. With this increased flexibility, handlers will be able to better meet consumer demand for larger tomatoes, while providing greater returns to growers. The Committee unanimously recommended this change. Authority for this action is provided in § 966.52.

If handlers take advantage of the increased packing flexibility, they would incur direct costs associated with the purchase of new sizing belts. Sizing belts convey and size fruit during the packing process. Depending on the amount of use, sizing belts can last a season or may need to be replaced two to three times a season. Estimated prices associated with these purchases could range from $450.00 for a small handler to $19,000 for very large handlers. While there are short-term costs associated with the maximum diameter of the 6x6 sizing designation, the benefits are expected to outweigh the costs. Moreover, changing sizing belts is a routine action since they have to be regularly replaced depending on use. These costs are expected to be minimal relative to the benefits expected, and in relation to normal operating costs and procedures.

A study conducted by Dr. John J. VanSickle at the University of Florida estimates that a shift of 1 percent of 5x6 tomatoes into the smaller size categories would increase the prices for 5x6-size tomatoes by .25 percent. For 6x6's, the price could increase by .15 percent. The increase in price would occur in response to consumer demand for packs with slightly larger tomatoes.

This change is designed to provide handlers with more flexibility as to how sizes are packed. Because of this, handlers can choose to continue to pack as they have without making any adjustments due to this rule change. Purchasing new equipment is not necessary to remain in compliance with order provisions. Therefore, this rule places the decision with the individual handler as to whether the costs are outweighed by the benefits.

Individual seasons and different periods during the same season can present a fair amount of variability in production and size. This change provides handlers with some additional flexibility when packing for size to allow handlers to make some adjustments in order to maximize returns and to service customer demand. This rule provides the opportunity for handlers to make adjustments based on market conditions. This should have a positive effect on returns.

The Committee recommended these changes to improve the marketing of Florida tomatoes. The opportunities and benefits of this rule are expected to be equally available to all tomato handlers and growers regardless of their size of operation. This action will have a beneficial impact on producers and handlers since it will allow tomato handlers more flexibility in making tomatoes available to meet consumer needs consistent with crop and market conditions.

The Committee discussed alternatives to this recommendation, including leaving the regulations as currently issued. All Committee members agreed that this change would be helpful in improving pack appearance and in providing handlers some additional flexibility. Therefore, the Committee voted to make this change rather than leave the size designation for 6X6 unchanged.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

Further, the Committee's meeting was widely publicized throughout the tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the September 8, 2000, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Also, the Committee has a number of appointed subcommittees to review certain issues and make recommendations to the Committee. The Committee's Marketing Subcommittee met on August 21, 2000, and discussed this issue in detail. That meeting was also a public meeting and both large and small entities were able to participate and express their views.

An interim final rule concerning this action was published in the **Federal Register** on November 6, 2000. Copies of the rule were mailed by the Committee's staff to all Committee members and tomato handlers. In addition, the Office of the Federal Register made the rule available through the Internet. That rule provided for a 60-day comment period, which ended January 5, 2001. No comments were received.

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

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (65 FR 66492, November 6, 2000) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

PART 966—TOMATOES GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR part 966 which was published at 65 FR 66492 on November 6, 2000, is adopted as a final rule without change.

Dated: February 28, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–5317 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. FV01–982–1 IFR]

Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 2000–2001 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule establishes interim and final free and restricted percentages for domestic inshell hazelnuts for the 2000–2001 marketing year under the Federal marketing order for hazelnuts grown in Oregon and Washington. The percentages allocate the quantity of domestically produced hazelnuts which may be marketed in the domestic inshell market. The percentages are intended to

stabilize the supply of domestic inshell hazelnuts to meet the limited domestic demand for such hazelnuts and provide reasonable returns to producers. This rule was recommended unanimously by the Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the marketing order.

DATES: *Effective Date:* This interim final rule is effective March 7, 2001 through June 30, 2001.

Applicability Date: This interim final rule applies during the period July 1, 2000, through June 30, 2001. Comments received by May 7, 2001 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698, or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202)720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 115 and Marketing Order No. 982, both as amended (7 CFR part 982), regulating the handling of hazelnuts grown in Oregon and Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is intended that this action apply to all merchantable hazelnuts handled during the 2000–2001 marketing year (July 1, 2000, through June 30, 2001). This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule establishes marketing percentages which allocate the quantity of inshell hazelnuts that may be marketed in domestic markets. The Board is required to meet prior to September 20 of each marketing year to compute its marketing policy for that year, and compute and announce an inshell trade demand if it determines that volume regulations would tend to effectuate the declared policy of the Act. The Board also computes and announces preliminary free and restricted percentages for that year.

The inshell trade demand is the amount of inshell hazelnuts that handlers may ship to the domestic market throughout the marketing season. The order specifies that the inshell trade demand be computed by averaging the preceding three ''normal'' years' trade acquisitions of inshell hazelnuts, rounded to the nearest whole number. The Board may increase the three-year average by up to 25 percent, if market conditions warrant an increase. The Board's authority to recommend volume regulations and the computations used to determine the percentages are specified in § 982.40 of the order.

The quantity to be marketed is broken down into free and restricted percentages to make available hazelnuts which may be marketed in domestic inshell markets (free) and hazelnuts which must be exported, shelled or otherwise disposed of by handlers (restricted). Prior to September 20 of each marketing year, the Board must compute and announce preliminary free and restricted percentages. The preliminary free percentage releases 80 percent of the inshell trade demand to the domestic market. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary percentage is to guard against an underestimate of crop size. The preliminary free percentage is expressed as a percentage of the total supply subject to regulation (supply) and is based on the preliminary crop estimate.

The National Agricultural Statistics Service (NASS) has estimated hazelnut production at 25,000 tons for the Oregon and Washington area. The majority of domestic inshell hazelnuts are marketed in October, November, and December. By November, the marketing season is well under way.

The Board initially adjusted the crop estimate down to 24,153 tons by taking into consideration the average crop disappearance over the preceding three years (8.32 percent) and the undeclared carry-in (1,234 tons.) The Board computed the adjusted inshell trade demand of 3,163 tons by taking the difference between the average of the past three years' sales (4,347 tons) and the declared carry-in from last year's crop (1,184 tons.)

The Board computed and announced preliminary free and restricted percentages of 10 percent and 90 percent, respectively, at its August 31, 2000, meeting. The Board computed the preliminary free percentage by multiplying the adjusted trade demand by 80 percent and dividing the result by the adjusted crop estimate (3,163 tons × 80 percent/24,153 tons = 10 percent.) The preliminary free percentage thus initially released 2,530 tons of hazelnuts from the 2000 supply for domestic inshell use, and the restricted percentage withheld 21,738 tons for the export and kernel market.

Under the order, the Board must meet again on or before November 15 to recommend interim final and final percentages. The Board uses current crop estimates to calculate interim final and final percentages. The interim final percentages are calculated in the same way as the preliminary percentages and release the remaining 20 percent (to

total 100 percent of the inshell trade demand) previously computed by the Board. Final free and restricted percentages may release up to an additional 15 percent of the average of the preceding three years' trade acquisitions to provide an adequate carryover into the following season (*i.e.,* desirable carryout). The order requires that the final free and restricted percentages shall be effective 30 days prior to the end of the marketing year, or earlier, if recommended by the Board and approved by the Secretary. Revisions in the marketing policy can be made until February 15 of each marketing year, but the inshell trade demand can only be revised upward, consistent with § 982.40(e).

The Board met on November 14, 2000, and reviewed and approved an amended marketing policy and recommended the establishment of interim final and final free and restricted percentages. The interim final free and restricted percentages were recommended at 14 percent free and 86 percent restricted. Final percentages, which included an additional 15 percent of the average of the preceding three-years' trade acquisitions for desirable carry-out, were recommended at 17 percent free and 83 percent restricted effective May 1, 2001. The final free percentage releases 3,815 tons of inshell hazelnuts from the 2000 supply for domestic use.

The final marketing percentages are based on the Board's final production estimate and the following supply and demand information for the 2000–2001 marketing year:

	Tons
Inshell Supply:	
(1) Total production (Board's estimate)	23,000
(2) Less substandard, farm use (disappearance)	1,914
(3) Merchantable production (Board's adjusted crop estimate; Item 1 minus Item 2)	21,086
(4) Plus undeclared carry-in as of July 1, 2000, subject to regulation	1,233
(5) Supply subject to regulation (Item 3 plus Item 4)	22,319
Inshell Trade Demand:	
(6) Average trade acquisitions of inshell hazelnuts for three prior years	4,347
(7) Less declared carry-in as of July 1, 2000, not subject to regulation	1,184
(8) Adjusted Inshell Trade Demand (Item 6 minus Item 7)	3,163
(9) Desirable carry-out on August 31, 2001 (15 percent of Item 6)	652
(10) Adjusted Inshell Trade Demand plus desirable carry-out (Item 8 plus Item 9)	3,815

Percentages	Free	Restricted
(11) Interim final percentages (Item 8 divided by Item 5) × 100	14	86
(12) Final percentages (Item 10 divided by Item 5) × 100	17	83

In addition to complying with the provisions of the order, the Board also considered the Department's 1982 ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market has available a quantity equal to 110 percent of prior years' shipments before secondary market allocations are approved. This provides for plentiful supplies for consumers and for market expansion, while retaining the mechanism for dealing with oversupply situations. The established final percentages are based on the final inshell trade demand, and will make available an additional 652 tons for desirable carry-out effective May 1, 2001. The total free supply for the 2000–2001 marketing year is 4,999 tons of hazelnuts, which is the sum of the final trade demand of 4,347 tons and the 652 ton desirable carry-out. This amount is 115 percent of prior years' sales and exceeds the goal of the Guidelines.

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

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

There are approximately 800 producers of hazelnuts in the production area and approximately 22 handlers subject to regulation under the order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. Using these criteria, virtually all of the producers are small agricultural producers and an estimated 19 of the 22 handlers are small agricultural service firms. In view of the foregoing, it can be concluded that the majority of hazelnut producers and handlers may be classified as small entities.

Board meetings are widely publicized in advance of the meetings and are held in a location central to the production area. The meetings are open to all industry members and other interested persons who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry.

Many years of marketing experience led to the development of the current volume control procedures. These procedures have helped the industry solve its marketing problems by keeping inshell supplies in balance with domestic needs. The current volume control procedures fully supply the domestic inshell market while preventing oversupplies in that market.

Inshell hazelnuts sold to the domestic market provide higher returns to the industry than are obtained from shelling. The inshell market is inelastic and is characterized as having limited demand and being prone to oversupply.

Industry statistics show that total hazelnut production has varied widely over the last 10 years, from a low of 15,500 tons in 1998 to a high of 47,000

tons in 1997. Average production has been around 29,800 tons. While crop size has fluctuated, the volume regulations contribute toward orderly marketing and market stability, and help moderate the variation in returns for all producers and handlers, both large and small. For instance, production in the shortest crop year (1998) was 55 percent of the 10-year average (1990–1999). Production in the biggest crop year (1997) was 158 percent of the 10-year average. The percentage releases provide all handlers with the opportunity to benefit from the most profitable domestic inshell market. That market is available to all handlers, regardless of handler size.

As an alternative, the Board discussed not regulating the 2000–2001 hazelnut crop. However, without any regulations in effect, the Board believes that the industry would oversupply the inshell domestic market.

While the level of benefits of this rulemaking is difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain and expand markets even though hazelnut supplies fluctuate widely from season to season.

Hazelnuts produced under the order comprise virtually all of the hazelnuts produced in the United States. This production represents, on average, less than 5 percent of total U.S. tree nut production, and less than 5 percent of the world's hazelnut production.

This volume control regulation provides a method for the U.S. hazelnut industry to limit the supply of domestic inshell hazelnuts available for sale in the United States. Section 982.40 of the order establishes a procedure and computations for the Board to follow in recommending to the Secretary release of preliminary, interim final, and final quantities of hazelnuts to be released to the free and restricted markets each marketing year. The program results in plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations.

Currently, U.S. hazelnut production can be successfully allocated between the inshell domestic and secondary markets. One of the best secondary markets for hazelnuts is the export market. Inshell hazelnuts produced under the marketing order compete well in export markets because of quality. Europe, and Germany in particular, is historically the primary world market for U.S. produced inshell hazelnuts. A third market is for shelled hazelnuts (kernels) sold domestically. Domestically produced kernels generally command a higher price in the domestic market than imported kernels. The industry is continuing its efforts to develop and expand secondary markets, especially the domestic kernel market. Small business entities, both producers and handlers, benefit from the expansion efforts resulting from this program.

There are some reporting, recordkeeping, and other compliance requirements under the order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The information collection requirements have been previously approved by the Office of Management and Budget under OMB No. 0581–0178. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other marketing order programs, reports and forms are periodically reviewed to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This interim final rule does not change those requirements. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this regulation.

Further, the Board's meeting was widely publicized throughout the hazelnut industry and all interested persons were invited to attend the meeting and participate in Board deliberations. Like all Board meetings, the November 14, 2000, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

This rule invites comments on the establishment of interim and final free and restricted percentages for the 2000–2001 marketing year under the hazelnut order. Any comments received will be considered prior to finalization of this rule.

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

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The 2000–2001 marketing year began July 1, 2000, and the percentages established herein apply to all merchantable hazelnuts handled from the beginning of the crop year; (2) handlers are aware of this rule, which was recommended at an open Board meeting, and need no additional time to comply with this rule; and (3) interested persons are provided a 60-day comment period in which to respond, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 982 is amended as follows:

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR Part 982 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 982.248 is added to read as follows:

Note: This section will not be published in the annual Code of Federal Regulations.

§ 982.248 Free and restricted percentages—2000–2001 marketing year.

(a) The interim final free and restricted percentages for merchantable hazelnuts for the 2000–2001 marketing year shall be 14 and 86 percent, respectively.

(b) On May 1, 2001, the final free and restricted percentages for merchantable hazelnuts for the 2000–2001 marketing year shall be 17 and 83 percent, respectively.

Dated: February 28, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–5319 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1210

[FV–00–703 FR]

Watermelon Research and Promotion Plan; Redistricting and Adding Two Importer Members to the National Watermelon Promotion Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the boundaries of all seven districts under the Watermelon Research and Promotion Plan (Plan) to apportion producer and handler membership on the National Watermelon Promotion Board (Board). This will make all districts equal according to the assessments collected in each district. Pursuant to the provisions of the Plan and regulations, this rule will also add two importer members to the Board to ensure that representation of importers is proportionate to the percentage of assessments importers pay to the Board. These changes are based on a review of the production and assessments paid in each district and the amount of watermelon import assessments, which the Plan requires at least every five years.

EFFECTIVE DATE: April 5, 2001.

FOR FURTHER INFORMATION CONTACT: Kathie Birdsell, Research and Promotion Branch, FV, AMS, USDA, Room 2535–S, Stop 0244, Washington, DC 20250–0244; telephone (202) 720–6930 or (888) 720–9917 (toll free); e-mail to *kathie.birdsell@usda.gov*.

SUPPLEMENTARY INFORMATION: This final rule is issued under the Watermelon Research and Promotion Plan (Plan) (7 CFR part 1210). The Plan is authorized under the Watermelon Research and Promotion Act (Act) (7 U.S.C. 4901–4916). Prior document in this proceeding: A proposed rule published in the October 16, 2000, issue of the **Federal Register** (65 FR 61122).

Question and Answer Overview

Why is this action being taken?

Section 1210.320 (d) of the Plan requires the National Watermelon Promotion Board (Board) to review the alignment of the seven districts and importer representation every five years. The Board conducted a review in 1999 and made recommendations to the U.S. Department of Agriculture (USDA). USDA published those recommendations as a proposed rule in the October 16, 2000, issue of the **Federal Register**. No comments were received on the proposed rule. Therefore, this rule implements the Board's recommendations.

What is the size and composition of the Board?

The Plan divides the United States into seven districts of comparable watermelon production. Each district is allocated two producer members and two handler members. The Plan also requires the number of importer members on the Board to be proportionate to the percentage of assessments paid by importers. In addition, one public member should serve on the Board. The Board currently has 33 members: 14 producers, 14 handlers, 4 importers, and 1 public member. However, two importer positions and the public member position are currently vacant.

What data was used by the Board to conduct the review?

The Board is required to base its recommendations on the most recent three years of USDA production reports or Board assessment reports. In this instance, the Board used assessment reports for 1996, 1997, and 1998 because USDA production reports were available for only 16 of the 35 states in which watermelons are produced.

What was the outcome of the 1999 redistricting review?

The 1999 review indicated that the boundaries of the districts needed to be adjusted in order for there to be an equal amount of assessments paid by the producers and handlers in the districts and that two additional importers needed to be added to the Board.

How will this action change the size and composition of the Board?

The number of producer and handler members will not be changed. However, the number of importer positions on the Board will be increased from four to six.

Will this action affect the current assessment rates paid by importers? By producers and handlers?

This action will not have any impact on the assessment rates paid by producers, handlers, and importers.

Executive Orders 12886 and 12988

This rule has been determined ''not significant'' for purposes of Executive Order (E.O.) 2866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

In addition, this rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have retroactive effect and will not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

The Act allows producers, producer-packers, handlers, and importers (if covered by the program) to file a written petition with the Secretary of Agriculture (Secretary) if they believe that the Plan, any provision of the Plan, or any obligation imposed in connection with the Plan, is not established in accordance with law. In any petition, the person may request a modification of the Plan or an exemption from the Plan. The petitioner will have the opportunity for a hearing on the petition. Afterwards, an Administrative Law Judge (ALJ) will issue a decision. If the petitioner disagrees with the ALJ's ruling, the petitioner has 30 days to appeal to the Judicial Officer, who will issue a ruling on behalf of the Secretary. If the petitioner disagrees with the Secretary's ruling, the petitioner may file, within 20 days, an appeal in the U.S. District Court for the district where the petitioner resides or conducts business.

Regulatory Flexibility Act and Paperwork Reduction Act

Final Regulatory Flexibility Analysis. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), AMS has examined the economic impact of this rule on the small producers, handlers, and importers that will be affected by this rule.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $500,000 and small agricultural service firms (handlers and importers) as those having annual receipts of no more than $5 million. Under these definitions, the majority of the producers, handlers, and importers that would be affected by this rule would be considered small entities. Producers of less than 10 acres of watermelons are exempt from this program. Importers of less than 150,000 pounds of watermelons per year are also exempt.

According to the Board, there are approximately 2,219 non-exempt producers, 619 handlers, and 278 importers who are eligible to serve on the Board.

The Plan requires producers to be nominated by producers, handlers to be nominated by handlers, and importers to be nominated by importers. This will not change. Because some current

members are in states or counties which will be moved to other districts under this rule, at least one producer member vacancy in Districts 1, 6, and 7 and one handler member vacancy in District 6 will be created. Nomination meetings will need to be held in the new districts to fill these vacancies.

The overall impact will be favorable for producers and handlers because the new district boundaries will provide more equitable representation for the producers and handlers who pay assessments in the various districts. For importers, too, the overall impact will be favorable because they will be provided two additional seats on the Board and more equitable representation on the Board.

The Board considered several alignments of the districts in an effort to provide balanced representation for each district. The Board selected the alignment described in this rule as it will provide proportional representation on the Board of producers, handlers, and importers.

The addition of two importer seats on the Board will mean four additional nominees. This is because two nominees must be submitted for each position. The estimated additional annual cost of providing nomination information by four persons eligible to be nominated to serve as importer members on the Board will be $6.00 or $1.50 per importer. The increase of .06 hours has been added to the burden previously approved under OMB No. 0505–0001.

There are no federal rules that duplicate, overlap, or conflict with this rule.

Paperwork Reduction Act. This rule will increase the information collection burden previously approved by OMB for the Board nominee background information form under OMB Number 0505–0001. This is because there will be two additional importers on the Board. Since two nominees must be submitted to the Secretary for each position, there is the potential for four additional background forms to be submitted under this final rule. As required by OMB regulations (5 CFR part 1320), the revised burden, as described below, has been submitted to OMB.

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number: 0505–0001.

Expiration Date of Approval: July 31, 2001.

Type of Request: Revision of a currently approved information collection for research and promotion programs.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act. The increase in burden associated with the background form is as follows:

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.50 hours per response.

Respondents: Importers.

Estimated Number of Respondents: 4.

Estimated Number of Responses per Respondent: 1 every 3 years (0.3).

Estimated Total Annual Burden on Respondents: 0.6 hours.

The estimated additional annual cost of providing nomination information by four persons eligible to be nominated to serve as importer members on the Board is $6.00 or $1.50 per importer. The increase of .06 hours has been added to the burden previously approved under OMB No. 0505–0001.

Background

Under the Plan, the Board administers a nationally coordinated program of research, development, advertising, and promotion designed to strengthen the watermelon's position in the market place and to establish, maintain, and expand markets for watermelons. This program is financed by assessments on producers growing 10 acres or more of watermelons, handlers of watermelons, and importers of 150,000 pounds of watermelons or more per year. The Plan specifies that handlers are responsible for collecting and submitting both the producer and handler assessments to the Board, reporting their handling of watermelons, and maintaining records necessary to verify their reporting(s). Importers are responsible for payment of assessments to the Board on watermelons imported into the United States through the U.S. Customs Service.

Domestic membership on the Board is determined on the basis of two producers and two handlers for each of the seven districts established by the Plan. The Board should also include at least one representative of importers and one public member. There are currently four importer positions on the Board.

The current U.S. districts were established in 1994. They are:

District 1—South Florida, including all south areas of State Highway 50.

District 2—North Florida, including all north areas of State Highway 50.

District 3—Alabama, Georgia, and Mississippi.

District 4—Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, D.C., and West Virginia.

District 5—Alaska, Arkansas, Colorado, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, and Wisconsin.

District 6—Arkansas, Louisiana, and Texas.

District 7—Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

The Plan provides that two years after its effective date (June 8, 1989), and at least every five years thereafter, the Board should review the districts to determine whether realignment of the districts is necessary.

When making a review, the Plan specifies that the Board should consider factors such as the most recent three years of USDA production reports or Board assessment reports if USDA production reports are unavailable, shifts and trends in quantities of watermelons produced, and any other relevant factors. In reviewing importer representation, the Board should review a three-year average of watermelon import assessments.

The Plan further specifies that, as a result of a review, the Board may recommend realignment of the districts and a change in the number of importer members subject to the approval of the Secretary. Any realignment should be recommended by the Board at least six months prior to the date of the call for nominations and should become effective at least 30 days prior to this date.

On November 8, 1999, the Board appointed a subcommittee to begin reviewing the U.S. districts and to determine whether realignment was necessary based on production and assessment collections in the current districts. During the review, as prescribed by the Plan, the subcommittee reviewed USDA's Annual Crop Summary reports for 1996 through 1998, which provide figures for the top 16 watermelon producing states, and the Board's assessment collection records for 1996 through 1998, including assessments collected at the county level for California and Florida.

The subcommittee recommended to the Board that the boundaries of Districts 3 through 7 be changed and that Districts 1 and 2 be defined by Florida counties, rather than using Route 50 as the boundary line.

The subcommittee also determined that assessments on imports represented 20 percent of the Board's assessment income during 1996–1998. The Plan

requires that importers have proportionate representation on the Board. Therefore, importers should have 20 percent of the seats on the Board. Currently, the four importer positions represent only 12.5 percent of the 32 industry seats on the Board. Adding two more importer member positions will give importers approximately 20 percent of the seats on the Board. Because the Plan and regulations are self-executing in this regard, no change to the regulations is needed.

Subsequently, the realignment was approved by Board at its February 15–16, 2000, meeting, with slight modification. Under the realignment, each district will represent, on average, 14 percent of total U.S. production.

Therefore, this final rule will realign the districts as follows:

District 1—The Florida counties of Brevard, Broward, Collier, Dade, Glades, Hardee, Hendry, Highlands, Indian River, Lee, Martin, Monroe, Okeechobee, Osceola, Palm Beach, Polk, and St. Lucie.

District 2—The Florida counties of Alachula, Baker, Bay, Bradford, Calhoun, Charlotte, Citrus, Clay, Columbia, Desoto, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Hillsborough, Holmes, Jackson, Jefferson, Lafayette, Lake, Leon, Levy, Liberty, Madison, Manatee, Marion, Nassau, Okaloosa, Orange, Pasco, Pinnellas, Putnam, Santa Rosa, Sarasota, Seminole, St. Johns, Sumter, Suwannee, Taylor, Union, Volusia, Wakulla, Walton, and Washington.

District 3—Alabama, Arkansas, Georgia, Louisiana, Mississippi, South Carolina, and Tennessee.

District 4—Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Maryland, Maine, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, Washington, D.C., West Virginia, and Wisconsin.

District 5—Alaska, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming and the California counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Inyo, Kern, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Toulumne, Venture, Yolo, and Yuba.

District 6—Texas.

District 7—Arizona, New Mexico, and the California counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

With these district boundaries: (1) South Carolina and Tennessee will be moved from District 4 to District 3; (2) Arkansas and Louisiana will be moved from District 6 to District 3; (3) Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin will be moved from District 5 to District 4; (4) four California counties will be moved from District 7 to District 5; and (5) only Texas will remain in District 6.

This will create one producer vacancy in Districts 1, 6, and 7 and one handler in District 6. Current Board members will be affected because their states or counties will be moved to other districts. Nomination meetings will be held in the new districts to fill the vacancies.

List of Subjects in 7 CFR Part 1210

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Reporting and recordkeeping requirements, Watermelon promotion.

For the reasons set forth in the preamble, Part 1210, Chapter XI of Title 7 is amended as follows:

PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

1. The authority citation for 7 CFR Part 1210 continues to read as follows:

Authority: 7 U.S.C. 4901–4916.

2. Section 1210.501 is revised to read as follows:

§ 1210.501 Realignment of districts.

Pursuant to § 1210.320(c) of the Plan, the districts shall be as follows:

District 1—The Florida counties of Brevard, Broward, Collier, Dade, Glades, Hardee, Hendry, Highlands, Indian River, Lee, Martin, Monroe, Okeechobee, Osceola, Palm Beach, Polk, and St. Lucie.

District 2—The Florida counties of Alachula, Baker, Bay, Bradford, Calhoun, Charlotte, Citrus, Clay, Columbia, Desoto, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Hillsborough, Holmes, Jackson, Jefferson, Lafayette, Lake, Leon, Levy, Liberty, Madison, Manatee, Marion, Nassau, Okaloosa, Orange, Pasco, Pinnellas, Putnam, Santa Rosa, Sarasota, Seminole, St. Johns, Sumter, Suwannee, Taylor, Union, Volusia, Wakulla, Walton, and Washington.

District 3—Alabama, Arkansas, Georgia, Louisiana, Mississippi, South Carolina, and Tennessee.

District 4—Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Maryland, Maine, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, Washington, D.C., West Virginia, and Wisconsin.

District 5—Alaska, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming, and the California counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Inyo, Kern, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Toulumne, Venture, Yolo, and Yuba.

District 6—Texas.

District 7—Arizona, New Mexico, and the California counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino and San Diego.

Dated: March 1, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–5419 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1421

RIN 0560–AG22

Grazing Payments for 2001 Wheat, Barley, or Oats

AGENCY: Commodity Credit Corporation; USDA.

ACTION: Final rule.

SUMMARY: This rule implements provisions of the Agricultural Risk Protection Act of 2000 (ARPA) related to grazing payments in lieu of loan deficiency payments (LDP's), for the 2001 crop year only, to include producers who elect to use acreage planted to wheat, barley, or oats for the grazing by livestock and forgo any other harvesting of such acreage.

EFFECTIVE DATE: March 6, 2001.

FOR FURTHER INFORMATION CONTACT: Raellen Erickson, Program Specialist, Price Support Division, Farm Service Agency (FSA), USDA, STOP 0512, 1400 Independence Avenue, SW., Washington, DC 20250–0540, telephone: (202) 720–7320.

SUPPLEMENTARY INFORMATION:

Notice and Comment

Section 263 of the ARPA requires that these regulations be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. These regulations are thus issued as final.

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and has been determined to be significant and has been reviewed by the Office of Management and Budget.

Federal Assistance Programs

The titles and numbers of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies is Commodity Loan Deficiency Payments—10.051.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because USDA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates

The provisions of Title II of the Unfunded Mandates Reform Act of 1995 are not applicable to this rule because the USDA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Small Business Regulatory Enforcement Fairness Act of 1996

Section 263 of the Act of 2000 requires that the regulations necessary to implement Title II, Subtitle A of the Act of 2000 be issued as soon as practicable and without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) related to the notice of proposed rulemaking and public participation in rulemaking. It also requires the Secretary to use the provisions of 5 U.S.C. 808 (the Small Business Regulatory Enforcement Act (SBREFA), which provide that a rule may take effect at such time as the agency may determine if the agency finds for good cause that public notice is impracticable, unnecessary, or contrary to the public purpose and thus does not have to meet the requirements of section 801 of SBREFA requiring a 60-day delay for Congressional review of a major regulation before the regulation can go into effect. This final rule is considered major for the purposes of SBREFA. Based on the foregoing authorities, however, it has been determined that it would be contrary to the public interest to delay the implementation of this rule. This rule, accordingly, has been made effective immediately.

Paperwork Reduction Act

Section 263 of the Act of the ARPA also requires that these regulations be promulgated and the program administered without regard to the Paperwork Reduction Act. This means the information to be collected from the public to implement these programs and the burden, in time and money, the collection of the information would have on the public, does not have to be approved by the Office of Management and Budget.

Background

Producers of certain commodities are allowed by the provisions under section 135 of the Agricultural Market Transition Act (7 U.S.C. 7235) and related provisions to obtain, upon harvest, market assistance loans, or, in lieu of those loans, ''loan deficiency payments'' (LDP's). Section 205 of ARPA, however, provides additional relief for farmers in a form which in effect amounts to the equivalent of an LDP. Under section 205 of ARPA, a farmer who is otherwise eligible for a wheat, barley, or oat LDP under section 135 of AMTA can graze the acreage instead and still receive a payment if the producer enters into an agreement with the Secretary to forgo any other harvesting of the wheat, barley, or oats on that acreage. That section (Section 205 of ARPA) provides further that the amount of the payment shall be determined using the loan deficiency payment rate determined under section 135(c) of the Agricultural Market Transition Act (7 U.S.C. 7235(c)) in effect, as of the date of the agreement, for the county in which the farm is located. That rate, the statute provides, will be multiplied by the payment quantity. The payment quantity, the law provides, is determined by multiplying (for the commodity involved) the quantity of the grazed acreage involved by the higher of the farm's established yield or the county's average yield. Further, section 205 provides that the payment shall be made at the same time and in the same manner as loan deficiency payments. Still further, the statute specifies that the payment shall be made not later than September 30, 2001. Also, section 205 provides that, in operating this program, the Secretary shall establish an availability period for the payment consistent with the availability period for wheat, barley, and oats established for AMTA marketing assistance loans. Section 205 further specifies that the Secretary shall promulgate such regulations as are needed to administer the payments in a fair and equitable manner with respect to those producers of wheat and feed grains that will not receive the new payments.

This rule implements those provisions by regulations that will be codified in a new subpart in 7 CFR part 1421. In so doing, however, several important determinations had to be made. Among those, was a determination with respect to limitations on payments. LDPs under section 135 of AMTA are, by the provisions of section 1001 of the Food Security Act of 1985, 7 U.S.C. 1308, as amended, payment-limited. That is, the amount that any one ''person'' (as defined in rules in 7 CFR part 1400) can receive in any one program year, in the form of LDPs, is limited to a set amount. By the terms of section 1001 of the Food Security Act, the limit applies to payments under section 135 of AMTA, and does not, for that reason, cover these new grazing payments, as such, in section 205 of ARPA. That follows because section 205 does not, as such, amend section 135 of AMTA. Rather,

section 205 is a stand-alone source of authority for making the new payments. Nonetheless, as indicated above, Congress, by the terms of section 205, instructs the agency to make the payment ''in the same manner'' as section 135 of AMTA and further instructs the agency to make the payments in such a way as to be fair with respect to farmers who will not be making use of the new authority. For those reasons, it seems clear that the payments should be treated as limited as well and, in order to do so, it is provided in these rules that a farmer will be considered to be eligible to receive, or retain, payments under section 205 of ARPA only to the extent that the farmer would have a remaining eligibility for payments under section 135 of AMTA taking into account the payment limit that applies to payment under that section. That is, if the producer had for example hit the payment limit under that section by receiving LDP's up to that limit, then the producer would not be eligible for grazing payments under the new program and would, if payments for grazing had already been received, be required to return those payments with interest. This conclusion—linking the two payments—is consistent with still another provision in section 205 of ARPA that being the provision which specifies that the producer will only be eligible for payments under section 205 to the extent that the farmer would be eligible for a payment under section 135. While that provision does not directly address the situation where the producer was eligible for the payment when it was received and only later hits the LDP payment limit, it would not make sense to have the rules allow the farmer retain the grazing as such would change the connection between the two programs from being a matter of substance to being one of timing only. Presumably, placing form over substance was not intended. Accordingly, once it has been determined that the grazing payment will in effect be tied to the same payment limit it follows that this rule will apply regardless of which payments were requested first. As indicated, this seems to be fully consistent with the idea of the statute which appear to be that the LDP program should not force farmers to harvest forage of certain crops just to utilize their LDP eligibility. Provision has been made in the rule to assure that the connection between the two programs will be enforced irrespective of whether the normal rules of offset would allow a charge-off between the two programs.

Other provisions in the new regulations specify that producers will not be eligible for the payment if the crop could not be harvested anyway because of weather or other reasons. Also, the rules provide that applications cannot be filed before the date on which mechanical harvesting of the crop would, otherwise, have first been possible. This provision is consistent with the timing provisions of the statute as described above. Also, there are provisions, requiring consistency between the producer's grazing reports and others that might be filed, and a number of other aspects of the program as well. Further, since the grazing payments allowed by the new rules only apply where the producer could otherwise have obtained LDP for the crop, the new rules will only apply to wheat, barley and oats crops produced by the applicant on a farm on which that person has an existing and valid production flexibility contract (PFC). That is because wheat, barley, and oats are so-called ''contract commodities'' and, by statute, generally, contract commodities are eligible for LDP only if produced on a PFC farm. The PFC program is a program in which farmers with certain crop bases under older programs can receive certain special payments it they agreed to abide by certain limited conditions with respect to the operation of their farms. The PFC program is administered under 7 CFR part 12. For the 2000 crop only, Congress has severed the tie between PFC's and LDP's. However, as the new grazing payment program applies only to the 2001 crops wheat, barley, and oats, the existence of a PFC contract will continue to be an eligibility requirement for the new payment. Should the requirements for LDP's be modified again, it would have to be determined whether such a change would also expand eligibility for the new grazing payment provided for in these new rules.

List of Subjects in 7 CFR Part 1421

Loan programs/Agriculture, Loan Deficiency Payment, Grazing Payments for 2001 Crop of Wheat, Barley, or Oats, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 1421 is amended to read as follows:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1. The authority citation for part 1421 is revised to read as follows:

Authority: 7 U.S.C. 7213–7235, 7237; 15 U.S.C. 714b, 714c; Sec. 813, Pub. L. 106–78, 113 Stat. 1182; Secs. 205 and 206, Pub. L. 106–224 (7 U.S.C. 1421 note).

2. Part 1421 is amended by adding Subpart—Grazing Payments for 2001 Crop of Wheat, Barley, or Oats to read as follows:

Subpart—Grazing Payments for 2001 Crop of Wheat, Barley, or Oats

Sec.
1421.300 Applicability.
1421.301 Administration.
1421.302 Definitions.
1421.303 Eligible producer and eligible land.
1421.304 Time and method for application.
1421.305 Payment amount.
1421.306 Misrepresentation and scheme or device.
1421.307 Refunds; joint and several liability.

§ 1421.300 Applicability.

(a) The regulations in this subpart are applicable to 2001 crops of eligible acreage planted to wheat, barley, or oats that is grazed by livestock and not harvested in any other manner. This subpart sets forth the terms and conditions under which a grazing payment in lieu of a loan deficiency payment can be made by the Commodity Credit Corporation (CCC).

(b) The form that is used in administering these payments is available in State and county FSA offices and shall be prescribed by CCC.

§ 1421.301 Administration.

(a) This subpart shall be administered by the Farm Service Agency (FSA) under the general direction and supervision of the Executive Vice President, CCC or designee. The program shall be carried out in the field by State and county FSA employees under the general direction and supervision of the State and county FSA committees.

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part, as amended or supplemented.

(c) The State committee shall take any action required by this part which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations of this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with the regulations of this part.

(d) No delegation herein to a State or county committee shall preclude the

Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator for Farm Programs (DAFP), FSA, may authorize State and county committees to waive or modify deadlines and other program requirements in cases where timeliness or failure to meet such other requirements does not adversely affect the operation of the program. In addition, DAFP may establish other conditions for payments that will assist in achieving the goals of the program and may include such provisions in the program agreement or other program documents.

§ 1421.302 Definitions.

The definitions set forth in this section shall be applicable for all purposes of program administration under this subpart:

COC means the FSA county office committee.

CCC means the Commodity Credit Corporation.

Department means the United States Department of Agriculture.

Deputy Administrator means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA) or a designee of that person.

FSA means the Farm Service Agency of the Department.

Secretary means the Secretary of the United States Department of Agriculture, or the Secretary's delegate.

STC means the FSA State committee.

§ 1421.303 Eligible producer and eligible land.

(a) To be an eligible producer for purposes of this subpart, the person must be a producer of an eligible crop which the producer agrees under the terms of this part to graze in lieu of any other harvesting. The only crops which are eligible for this program are the 2001 crops of wheat, barley or oats, and then only if all other conditions for eligibility under this part have met. For this purpose and all purposes of this subpart, the ''person'' may be an individual, partnership, association, corporation, estate, trust, or State or political subdivision or agency thereof, or other legal entity. The crop year will be determined using the normal designations that apply in connection with farm commodity programs operated under this chapter. Also, to be an eligible producer, the person must meet all other qualifications for payment that are set out in this subpart, set out in the program agreement, set out under other provisions of this title, including regulations that appeal in parts 12, 718, 1400, and 1405 of this title, or otherwise set out. A person will not be considered the ''producer'' of the crop unless that person was responsible for the planting of the crop and had the risk of loss in the crop at all times material to the request for payment, including, but not limited to, the time of planting and the time of the request for, and payment of benefits under, this part.

(b) A minor may participate in the program if the right of majority has been conferred on the minor by court order or by statute, or if the minor participates through a guardian authorized to act on the minor's behalf in these matters. Alternatively, a minor may participate if the program documents are all signed by an acceptable (to CCC) guarantor or if bond, acceptable to CCC, is provided by a surety.

(c) For the crop to be eligible, the crop, in addition to other standards that may apply, must be grown on land that is classified as ''cropland'' in FSA farm records or on land that FSA determines has been cropped in the last 3 years except that the land may also qualify if the land is committed to a crop rotation, normal for the locality, that includes harvesting the subject crop for grain. These rules are designed to assure, to the extent practicable, the available payment did not produce plantings that otherwise would not have occurred and the CCC may deny payments in any instance in which there is reason to believe that the planting was done for that purpose. To that end, if the commodity involved has not been previously grown by the producer or is not one which is not predominately produced locally, the producer must submit evidence of seed purchases for planting the commodities and other evidence deemed needed or appropriate by the COC in order to assure that the program goals are made and that the land was not planted to an eligible commodity simply to obtain a payment. Also, the land to be eligible must, for the year involved, be grazed and cannot, during the crop year, be harvested at any time for any purpose, except as determined by the Deputy Administrator to accommodate producers with a history of double-cropping when the crop to be harvested is not the crop for which a payment is to be made under this subpart. Land will be considered grazed only to the extent that the crop on the land is consumed in the field as live plants by livestock for the normal period of time for grazing in the area.

(d) Further, the producers must have, to be eligible at the time the crop is grown and used, full right of possession in the property with the consent of the landowner and must have, but for an agreement made to receive payments under this subpart, the right to harvest and market the crop as grain and, as that time the crop is grazed, the right and ability to obtain a loan deficiency payment (LDP) under this title. Further, the producer must, at the time of the agreement made under this part to obtain a payment, meet all other eligible criteria for LDP's including the general statutory requirement that the producer will eligible for LDP for ''contract commodities'' only if they were produced by that person on the farm on which there is a ''production flexibility contract'' (PFC) under the PFC program administered under 7 CFR part 1412. As wheat, barley and oats are contract commodities, this means that no grazing payments will be made under this subpart unless the wheat, barley or oat crop which is, or will be, grazed, was produced by the person seeking the payment on land on which there is PFC to which such person is party. In the event, that Congress, as it did for the 2000 crop, change the requirements for LDP's so as to eliminate the tie to an existing PFC, CCC shall determine whether that waiver will also expand the eligibility of producers for grazing payments under this subpart.

(e) In addition, no payment will be made if the crop could not have been harvested and used to obtain LDP's because of weather or other conditions that may have occurred or because of any legal restrictions against harvesting the crop, or because of promises made in connection with other programs, or because of any promise to any person, or because of any other reason. The producer must, in addition, to be considered eligible to receive a grazing payment on the commodity under this subpart, retain the control, title and risk of loss in the commodity for which the payment is sought from the date of planting through the date on which no mechanical harvesting of the crop is still possible. However, nothing in the prior sentence shall prevent a person from receiving a payment merely because the producer has granted a licence or permission to some other party to graze their animals upon the property. In addition, the producer can receive no payment for any crop on any land for which, for the relevant crop year, the producer reported to anyone for any purpose, harvesting the crop for grain. This prohibition and others under the program only apply to land for which

the payment is sought (that is, the part of the farm on which the crop is to be grazed) and does not extend to other parts of the farm. Any condition that applies under this subpart as a condition of payment, shall also be considered to be a condition for retaining payment.

§ 1421.304 Time and method for application.

Application for the program must be received, at the county office that is responsible for administering programs for the farm, no earlier than the date on which eligible crops would, for the 2001 crop, normally be harvested and no later than August 31, 2001. The application must describe the land to be grazed and, in accordance with standards set by CCC, the tract/field location. The COC will determine the first harvest date which shall take into account the date on which such crops are, locally, normally harvested for any purpose. Where multiple producers are involved, the form must reflect each producer's share in the crop. No producer must receive payments under this subpart except to the extent that the payments are commensurate with that share. Should a person who is entitled to receive a payment under this subpart die, that payment, as earned, may be made to other persons as provided for in the rules set out in part 707. Third parties may also receive payments to the extent provided for in that part for other situations involving an incapacitation of the producer. Refusals to allow CCC to verify information on any form or report utilized for this subpart can result in program ineligibility and producers must provide CCC and its agent to the property involved and to all records as may be relevant to the making of payments under this subpart. Further, false statements will disqualify the producer from the program and may be subject to other sanctions including criminal sanctions.

§ 1421.305 Payment amount.

(a) Eligible persons growing an eligible crop and agreeing to the restrictions provided for in this subpart may (if all other conditions of eligibility are met) receive a payment under this subpart. That payment for purposes of this section shall be referred to as a ''grazing payment''. The grazing payment shall be made at the per/unit LDP rate for the relevant crop. The LDP rate that applies shall be that which is current on the date on which the producer submits a complete program application or is deemed, by CCC, to have submitted a completed application. The rate shall be the rate for the relevant county in which the farm is located. The ''LDP rate'' for this purpose means the rate for ''loan deficiency payments'' under this subpart. The LDP rate shall be applied against the payable units of production as determined under this section.

(b) The payable units of production shall be computed by multiplying the eligible grazed acres by the applicable yield determined under paragraph (c) of this section.

(c) The yield shall be either the farm's established yield for the crop as determined under part 1412 by the FSA or the relevant average county yield as determined by the FSA. The average county yield must be established by the COC by August 31, 2001, but shall be valid only if the STC concurs. That yield shall, if acceptable data is available, be based on NASS data using an Olympic average for the 1996 through 2000 crop years. If that data is not available, or STC does not concur, other sources may be used.

(d) No payment may be received or retained under this subpart to the extent that the payment, were they considered to be LDP's, would place that person over the per person per year payment limit that applies to LDP's. The producer agrees that the CCC may collect any payment considered to be an overpayment by reason of this subsection by withholding LDP payments until the matter is resolved, by treating the LDP as being not payable to the extent that a grazing refund would otherwise be due , by setoff, or by any other means available to CCC.

(e) Payments can be withheld until the actual grazed acreage is verified and justified in connection with any other reports filed with FSA with respect to the farm (or filed with some other person or agency) and until all other necessary information is obtained. The CCC may require such other verification as it deems appropriate to assure that the program goals are met.

(f) To receive the payment, the eligible producer must submit a request for payment on the FSA-approved form. That form will be ''CCC–633 Grazing (Grazing Payment Program Application)''. The form may be obtained from the county FSA office. Also, a copy may be obtained at http://www.fsa.usda.gov/dafp/psd. The form must be submitted to the county by the close of business on August 31, 2001.

(g) The producer will ineligible for payments under this subpart if any discrepancies between the reported acreage on the program form and other reports of acreage by the producer are not resolved by a date set by the CCC.

(h) Unless otherwise authorized by the Deputy Administrator, all payment shall be made no later than September 28, 2001.

§ 1421.306 Misrepresentation and scheme or device.

(a) A producer shall be ineligible to receive payments under this subpart if it is determined by DAFP, the State committee, or the county committee to have:

(1) Adopted any scheme or device which tends to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this subpart to a producer engaged in a misrepresentation, scheme, or device, or to any other person as a result of the producer's actions, shall be refunded with interest together with such other sums as may become due. Any producer engaged in acts prohibited by this section and any person receiving payment under this subpart, as a result of such acts, shall be jointly and severally liable for any refund due under this section and for related charges. The remedies provided in this subpart shall be in addition to other civil, criminal, or administrative remedies which may apply.

§ 1421.307 Refunds; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under this application, or this subpart, and if any refund of a payment to CCC shall become due for that or other reason in connection with the application, or this subpart, all payments made under this subpart to any producer shall be refunded to CCC together with interest as determined in accordance with paragraph (c) of this section and late-payments charges as provided for in part 1402 of this chapter.

(b) All persons listed on an application shall be jointly and severally liable for any refund due in connection with that application and for any related charges which may be determined to be due for any reason.

(c) Interest shall be applicable to refunds required of the producer. Such interest shall be charged at the rate of interest which the United States Treasury charges CCC for funds, as of the date CCC made such benefits available. Such interest shall accrue from the date such benefits were made available to the date of repayment but the interest rate shall increase to reflect

any increase in the rate charged to CCC by Treasury for any percent of time for which the interest assessment is collected. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the producer.

(d) Late payment interest shall be assessed on refunds in accordance with the provisions of, and subject to the rates in 7 CFR part 1403.

(e) Producers must refund to CCC any excess payments made by CCC with respect to any application in which they have an interest. Such refund shall be subject to interest at the same rate that applies to other refunds.

Signed at Washington, D.C., on March 1, 2001.

Diane Sharp,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 01–5492 Filed 3–2–01; 3:18 pm]

BILLING CODE 3410–05–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG70

List of Approved Spent Fuel Storage Casks: VSC–24 Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the Pacific Sierra Nuclear Associates (PSNA) VSC–24 listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 3 to the Certificate of Compliance (CoC). This amendment changes the Technical Specifications 1.2.1 and 1.2.6 to modify the fuel specifications for Combustion Engineering 16x16 spent fuel stored in the VSC–24 cask system, modifies the text in TS 1.2.7 for accuracy, modifies the text in Certificate Section 2.b. to remove ambiguity, modifies Certificate Section 3 to be consistent with TS 1.1.4, modifies Certificate Section 4 for consistency with TS 1.1.3, and modifies Certificate Section 5 to remove ambiguity.

DATES: The final rule is effective May 21, 2001, unless significant adverse comments are received by April 5, 2001. If either the rule is withdrawn or the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 am and 4:15 pm on Federal workdays.

All publicly available documents related to this rulemaking, as well as all public comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking website at *http://ruleforum.llnl.gov.* You may also provide comments via this website by uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher (301) 415–5905; e-mail CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may also be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. For more information, contact the NRC's Public Document Room Reference staff at 1–800–397–4209, (301) 415–4737 or by e-mail to pdr@nrc.gov.

Documents created or received at the NRC after November 1, 1999 are also available electronically at the NRC Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. An electronic copy of the proposed CoC and preliminary safety evaluation report (SER) can be found under ADAMS Accession No. ML003733556. For more information, contact the NRC's Public Document Room Reference Staff at 1–800–397–4209, 301–415–4737 or by e-mail at pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Stan Turel, telephone (301) 415–6234, e-mail, spt@nrc.gov, of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that ''[t]he Secretary [of the Department of Energy (DOE)] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR Part 72 entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR Part 72, entitled ''Approval of Spent Fuel Storage Casks'' containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on April 7, 1993 (58 FR 17948), that approved the VSC–24 cask design, added it to the list of NRC-approved cask designs in § 72.214, and issued Certificate of Compliance Number (CoC No.) 1007.

Discussion

On March 29, 2000, PSNA (the certificate holder) submitted an application to the NRC to amend CoC No. 1007 to change Technical Specifications (TS) 1.2.1 and 1.2.6. This change modifies the fuel specifications for Combustion Engineering 16x16 spent fuel stored in the VSC–24 cask system. Amendment 3 also modifies the text in TS 1.2.7 for accuracy, modifies the text in Certificate Section 2.b. to remove ambiguity, modifies Certificate Section 3 to be consistent with TS 1.1.4, modifies Certificate Section 4 for consistency with TS 1.1.3, and modifies Certificate Section 5 to remove ambiguity and removes the ''Basis'' section from all TSs in accordance with revised NRC TS format. The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request. The NRC staff found that the changes stated above do not reduce the safety margin. In addition, the NRC staff has determined that changes do not pose any increased risk to public health and safety. A full discussion of the NRC staff's evaluation is presented in its SER that can be found under ADAMS Accession No. ML003733556.

This direct final rule revises the PSNA VSC–24 cask system listing within the list of NRC-approved casks

for spent fuel storage in § 72.214 by adding Amendment No. 3 to CoC No. 1007. Amendment No. 3 applies to any VSC–24 cask loaded after May 21, 2001.

Amendment No. 3 to CoC No. 1007 and the underlying SER, and the Environmental Assessment and Finding of No Significant Impact are available for inspection and comment at the NRC Public Document Room (PDR), 11555 Rockville Pike, Rockville, Maryland 20852. Single copies of the CoC and SER may be obtained from Stan Turel, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6195, email spt@nrc.gov

Discussion of Amendments by Section

Section 72.214 List of Approved Spent Fuel Storage Casks

Certificate No. 1007 will be revised indicating the addition of Amendment No. 3 and its effective date.

Procedural Background

This rule is limited to the changes contained in Amendment No. 3 to CoC 1007 and does not include other aspects of the VSC–24 cask system design. The NRC is using the ''direct final rule procedure'' to promulgate this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial; adequate protection of public health and safety continues to be ensured. This amendment is not considered to be a significant amendment by the NRC staff. The amendment to the rules will become effective on May 21, 2001. However, if the NRC receives significant adverse comments by April 5, 2001, then the NRC will publish a document that withdraws this action and will address the comments received in response to the proposed amendments published elsewhere in this issue of the **Federal Register**. These comments will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements by a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

Plain Language

The Presidential Memorandum dated June 1, 1998, entitled ''Plain Language in Government Writing,'' directed that the Federal Government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in Subpart A of 10 CFR Part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule will amend the CoC for the VSC–24 cask system within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. This amendment revises Technical Specifications 1.2.1 and 1.2.6 to modify the fuel specifications for Combustion Engineering 16x16 spent fuel stored in the VSC–24 cask system and makes other minor clarifying changes to the CoC and TS. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Electronic copies of the environmental assessment and finding of no significant impact can be found in the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* Single copies are available from Stan Turel, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6234, email spt@nrc.gov.

Paperwork Reduction Act Statement

This direct final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150–0132.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC will revise the VSC–24 cask system design list in § 72.214 (List of NRC-approved spent fuel storage cask designs). This action does not constitute the establishment of a standard that establishes generally-applicable requirements.

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR Part 72 to provide for the storage of spent nuclear fuel under a general license in cask system designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On April 7, 1993 (58 FR 17948), the NRC issued an amendment to Part 72 that approved the VSC–24 cask design, added it to the list of NRC-approved cask designs in § 72.214, and issued CoC No. 1007. On March 29, 2000, the certificate holder submitted an application to the NRC to amend CoC No. 1007 to change Technical Specifications 1.2.1 and 1.2.6 to modify the fuel specifications for Combustion Engineering 16x16 spent fuel stored in the VSC–24 cask system. The amendment also makes other minor clarifying changes to the CoC and TSs.

The alternative to this action is to withhold approval of this amended cask system design and issue an exemption to each general license. This alternative would cost both the NRC and the

utilities more time and money because each utility would have to pursue an exemption.

Approval of the direct final rule will eliminate the problems described above and is consistent with previous Commission actions. Further, the direct final rule will have no adverse effect on public health and safety. This direct final rule has no significant identifiable impact or benefit on other Government agencies.

Based on this discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the operation of nuclear power plants, independent spent fuel storage facilities, and NAC. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is adopting the following amendments to 10 CFR Part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 10d–48b, sec. 7902, 10b Stat. 31b3 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1007 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1007.

Initial Certificate Effective Date: May 7, 1993.

Amendment Number 1 Effective Date: May 30, 2000.

Amendment Number 2 Effective Date: September 5, 2000.

Amendment Number 3 Effective Date: May 21, 2001.

SAR Submitted by: Pacific Sierra Nuclear Associates.

SAR Title: Final Safety Analysis Report for the Ventilated Storage Cask System.

Docket Number: 72–1007.

Certificate Expiration Date: May 7, 2013.

Model Number: VSC–24.

* * * * *

Dated at Rockville, Maryland, this 8th day of February, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–5399 Filed 3–5–01; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Regulation E; Docket No. R–1077]

Electronic Fund Transfers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing revisions to Regulation E, which implements the Electronic Fund Transfer Act. The revisions implement amendments to the act contained in the Gramm-Leach-Bliley Act that require the disclosure of certain fees associated with automated teller machine (ATM) transactions. The amendments require ATM operators that impose a fee for providing electronic fund transfer services to post a notice in a prominent and conspicuous location on or at the ATM. The operator must also disclose that a fee will be imposed and the amount of the fee, either on the screen of the machine or on a paper notice, before the consumer is committed to completing the transaction. In addition, when the consumer contracts for an electronic fund transfer service, financial institutions are required to provide initial disclosures, including a notice that a fee may be imposed for electronic fund transfers initiated at an ATM operated by another entity.

DATES: This rule is effective March 9, 2001; however, to provide adequate time to make any necessary systems changes, mandatory compliance date is delayed until October 1, 2001.

FOR FURTHER INFORMATION CONTACT: John C. Wood, Counsel, or David A. Stein, Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–2412 or (202) 452–3667.

SUPPLEMENTARY INFORMATION:

I. The Electronic Fund Transfer Act

The Electronic Fund Transfer Act (EFTA or Act), 15 U.S.C. 1693 *et seq.*,

enacted in 1978, provides a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund transfer (EFT) systems. The Board's Regulation E (12 CFR part 205) implements the Act. Types of transfers covered by the Act and regulation include transfers initiated through an ATM, point-of-sale terminal, automated clearinghouse, telephone bill-payment plan, or home-banking program. The Act and regulation prescribe restrictions on the unsolicited issuance of ATM cards and other access devices; disclosure of terms and conditions of an EFT service; documentation of EFT services by means of terminal receipts and periodic account statements; limitations on consumer liability for unauthorized transfers; procedures for error resolution; and certain rights related to preauthorized EFT services.

The Official Staff Commentary (12 CFR part 205 (Supp. I)) interprets the regulation, and provides guidance to financial institutions in applying the regulation to specific transactions. The commentary is a substitute for individual staff interpretations; it is updated periodically, as necessary, to address significant questions that arise.

EFTA coverage is not limited to traditional financial institutions holding consumers' asset accounts. For EFT services made available by entities other than an account-holding financial institution, the act directs the Board to assure, by regulation, that the provisions of the act are made applicable.

II. The Gramm-Leach-Bliley Amendments to the EFTA

The Gramm-Leach-Bliley Act (GLBA), Pub. L. 106–102, 113 Stat. 1338, amended the EFTA. Sections 702, 703, and 705 of the GLBA require disclosure of ATM fees (sometimes referred to as ''surcharges'') imposed by ATM operators. Many ATM operators—including financial institutions that impose such a fee—currently disclose information about the fee to satisfy existing regulatory and network requirements.

Section 702 of the GLBA amends section 904(d) of the EFTA regarding services provided by entities other than the account-holding institution. An ATM operator that imposes a fee on a consumer for EFT services is required to post a notice of that fact in a prominent and conspicuous location on or at the ATM. The ATM operator must also disclose that a fee will be imposed and the amount of the fee, either on the screen of the ATM or on a paper notice, before the consumer is committed to completing the transaction. No fee may be imposed unless proper notice is provided and the consumer elects to complete the transaction.

Section 703 of the GLBA amends section 905(a) of the EFTA regarding the disclosure of terms and conditions at the time a consumer signs up for EFT services. The financial institution holding the consumer's account must include in its initial disclosures a notice that a fee may be imposed by (1) An ATM operator not holding the consumer's account, or (2) any national, regional, or local network used to complete the transaction.

Section 705 of the GLBA amends section 910 of the EFTA regarding liability of financial institutions. ATM operators are not liable for failing to comply with the requirement to post notice if the notice posted at an ATM is subsequently removed, damaged, or altered by any person other than the ATM operator.

III. Revisions to Regulation E Implementing the GLBA Amendments to the EFTA

In July 2000, the Board published proposed revisions to Regulation E to implement the EFTA amendments made by the GLBA. (65 FR 44481, July 18, 2000.) The proposal paralleled the statutory provisions for the most part. The Board received approximately 50 comment letters. The majority of comments on the proposed revisions were from financial institutions and industry associations. Several commenters requested action outside the scope of the Board's authority, such as deleting the statutory requirement to post a sign about fees at the ATM as unnecessary and burdensome or prohibiting ATM surcharges.

In general, most commenters supported the Board's proposed revisions. Many industry commenters, however, requested a longer period than 30 days after issuance to comply with a final rule. They stated that while the proposed revisions will not require extensive software or other system changes, ATM operators will need more than 30 days to implement them. In response to comments received, the mandatory compliance date for the final rule is October 1, 2001.

Pursuant to its authority under section 904(a) of the EFTA, the Board is adopting a final rule amending Regulation E to implement sections 702 and 703 of the GLBA. The final rule is substantially similar to the proposal with some technical and editorial revisions. To facilitate compliance, a new § 205.16 addresses in a single location most of the rules related to disclosure of fees by ATM operators. Below is a section-by-section analysis of the final rule.

IV. Section-by-Section Analysis of the Final Rule

Section 205.3—Coverage

3(b) Electronic Fund Transfer

Section 205.3(b) generally defines the term ''electronic fund transfer.'' The GLBA treats a balance inquiry as an EFT for purposes of the ATM fee disclosure requirement. Therefore, the proposed rule added balance inquiries at ATMs to the list of examples of an EFT in paragraph (b), but only for purposes of ATM fee disclosure requirements. Based on comments, the final rule does not include a balance inquiry as an example of an ''electronic fund transfer,'' since such an inquiry does not fit within the literal definition of a ''fund transfer.''

Section 205.7—Initial Disclosures

7(b) Content of Disclosures

Section 205.7(b) is revised substantially as proposed to implement section 703 of the GLBA. At the time a consumer contracts for an EFT service or before the first EFT, a financial institution is required to provide initial disclosures related to the EFT service, such as fees imposed and a summary of the consumer's liability for unauthorized transfers. Section 703 of the GLBA amends section 905(a) of the EFTA by adding to the initial disclosures a notice that a fee may be imposed for an EFT or balance inquiry at an ATM by an ATM operator or by a national, regional, or local network used to complete the transfer.

The Board solicited specific comment on whether national, regional, or local networks separately impose fees and thus should be distinguished, or whether it is sufficient to refer to ''any network'' in the disclosures as an alternative to the statutory language. Many commenters, including network owners, indicated that while networks currently charge an interchange fee to a financial institution whose customers use the network, they do not separately impose a fee on the consumer.

Commenters requested clarification that reference to network-imposed fees may be excluded from the disclosure in paragraph § 205.7(b)(11), if networks are not imposing fees on consumers. Disclosures are generally required only to the extent applicable. Therefore, an institution may omit any reference to a network fee if the disclosure does not apply to the consumer's account. Model language in appendix A–2 regarding ATM fees is amended to reflect this flexibility. If networks begin to impose

fees on consumers to complete an EFT or a balance inquiry, institutions that choose to exclude the reference to network fees from their section 7(b) disclosures will be required to send a change-in-terms notice to account holders who contract for EFT services on or after October 1, 2001.

Section 205.16—Disclosures at Automated Teller Machines

A new § 205.16 is added, as proposed, to implement section 702 of the GLBA. Section 205.16(a) defines ATM operator. The ATM disclosure requirements are set forth in §§ 205.16(b) and (c).

Some ATM operators only impose a fee for a specific type of transfer such as a cash withdrawal, and not for a balance inquiry. In such cases, the notice in § 205.16(b)(1) may contain a general statement that a fee will be imposed for providing EFT services or may specify the type of service for which a fee is imposed. If a financial institution provides a specific notice, and subsequently imposes fees on a broader category of transactions, the notice must be revised to reflect changes in an ATM operator's practice. Comment 16(b)(1)–1 is added to provide this guidance.

Several commenters requested guidance on how the requirements in § 205.4(a), that disclosures be clear and readily understandable and in a form the consumer may keep, apply to the ATM disclosure requirements. The notice required to be posted on or at the ATM under § 205.16(c)(1) must be placed in a prominent and conspicuous location. The ''clear and readily understandable'' standard applies to the content of the notice.

Regulation E provides that disclosures required to be given to a consumer must generally be in a retainable format. The notices posted on the screen (and, of course, those provided on or at the ATM) need not be in retainable format. If a paper notice is provided to comply with § 205.16(c)(2), the notice must be provided in a form that may be retained by the consumer.

Based on the comments received, § 205.16(c) is revised from the proposed language to clarify that two notices are required—one on or at the ATM and another on the screen or in paper form. Editorial changes are for clarity; no substantive change is intended.

Section 205.16(d) provides, in accordance with the statute, that the requirement for a disclosure on the screen or on a paper notice does not apply—through December 31, 2004—to any ATM that lacks the technical capability to provide such information. Commenters noted that many ATM operators are already providing notices about ATM fees in compliance with state law or network rules and guidelines. A few commenters urged the Board to eliminate the temporary exemption. The exemption is statutory and is adopted as proposed. The burden of proof rests on any ATM operator relying on the temporary exemption.

Appendix A to Part 205—Model Disclosure Clauses and Forms

Model language added to Appendix A–2 reflects the new disclosure in § 205.7(b)(11) regarding fees that may be imposed by an ATM operator and by any network. Brackets indicate that institutions may omit terms and conditions not applicable to the consumer's account, such as fees imposed directly by networks.

V. Revisions to the Official Staff Commentary

Section 205.7—Initial Disclosures

Comment 7(b)(5)–3 to § 205.7(b)(5), which addresses interchange system fees, is revised to provide a cross-reference to § 205.7(b)(11).

Section 205.9—Receipts at Electronic Terminals; Periodic Statements

Section 205.9(a)(1) requires financial institutions that include in the transaction amount a fee for completing an EFT at an electronic terminal to disclose the amount of the fee on the receipt and to display it on or at the terminal. Comment 9(a)(1)–1, which provides guidance on complying with the disclosure requirement, is revised to provide a cross-reference to the notice requirements in § 205.16 for ATM operators. The cross-reference is intended to alert financial institutions of additional requirements in § 205.16. In addition, a new comment 9(a)(1)–2 is added to give guidance on the relationship between § 205.9(a)(1) and § 205.16.

Section 205.16—Disclosures at Automated Teller Machines

Comment 16(b)(1)–1 is added to clarify that an institution may state generally that a fee will be imposed for providing EFT services or may specify the type of service for which a fee is imposed.

VI. Regulatory Flexibility Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act and section 904(a)(2) of the EFTA, the Board has reviewed the amendments to Regulation E. The amendments impose disclosure requirements on ATM operators and account-holding financial institutions about ATM fees. In accordance with the GLBA, the final rule exempts ATMs lacking technical capabilities from certain notice requirements until December 31, 2004.

The amendments are not expected to have any significant impact on small entities. Many financial institutions that impose a fee for carrying out a transaction at an ATM already disclose the fee to satisfy existing requirements under § 205.9(a)(1). The amendment would require that a disclosure regarding the fee be posted at the terminal and on the screen. The notice is generic, however, and can easily be programmed for display on the screen and at the terminal.

VII. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget (OMB). The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, an information collection unless it displays a currently valid OMB number. The OMB control number for Regulation E is 7100–0200.

The information collection requirements relevant to this rulemaking are in 12 CFR part 205 and Appendix A. This information collection is mandatory (15 U.S.C. 1693 *et seq.*) to evidence compliance with the requirements of Regulation E and the Electronic Fund Transfer Act (EFTA). The revised requirements help ensure adequate disclosure of fees imposed for electronic fund transfers at ATMs owned by a party other than the account-holding financial institution. The respondents/recordkeepers are for-profit financial institutions, including small businesses. Institutions are required to retain records for 24 months. This regulation applies to all types of financial institutions, not just state member banks; however, under Paperwork Reduction Act regulations, the Federal Reserve accounts for the burden of the paperwork associated with the regulation only for state member banks. Other agencies account for the paperwork burden on their respective constituencies under this regulation.

The revisions are not expected to increase the ongoing annual burden of Regulation E. With respect to state member banks, it is estimated that there are 884 respondents/recordkeepers and an average frequency of about 85,800 responses per respondent each year. The current annual burden is estimated to be approximately 480,786 hours. The Federal Reserve estimates that there

would be associated start-up cost of $3,500 with a range from $1,600 to $5,000 per respondent, depending on size and location, for changing disclosures (or disclosure producing software) to include disclosures relating to ATM surcharges and for posting a notice regarding the surcharge on or at the ATM and on the screen of the ATM.

Because the records would be maintained at state member banks and the notices are not provided to the Federal Reserve, no issue of confidentiality under the Freedom of Information Act arises; however, any information obtained by the Federal Reserve may be protected from disclosure under exemptions (b)(4), (6), and (8) of the Freedom of Information Act (5 U.S.C. 522(b)(4), (6) and (8)). The disclosures and information about error allegations are confidential between institutions and the customer.

The Board has a continuing interest in the public's opinion of the Federal Reserve's collections of information. Comments regarding the burden estimates, or any other aspect of this collection of information, including suggestions for reducing the burden estimate, may be sent at any time to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100–0200), Washington, DC 20503.

List of Subjects in 12 CFR Part 205

Consumer protection, Electronic fund transfers, Federal Reserve System, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board amends Regulation E, 12 CFR part 205, as set forth below:

PART 205—ELECTRONIC FUND TRANSFERS (REGULATION E)

1. The authority citation for part 205 would continue to read as follows:

Authority: 15 U.S.C. 1693–1693r.

2. Section 205.7 is amended by adding a new paragraph (b)(11) to read as follows:

§ 205.7 Initial disclosures.

* * * * *

(b) *Content of disclosures.* * * *

(11) *ATM fees.* A notice that a fee may be imposed by an automated teller machine operator as defined in § 205.16(a)(1), when the consumer initiates an electronic fund transfer or makes a balance inquiry, and by any network used to complete the transaction.

* * * * *

3. A new § 205.16 is added to read as follows:

§ 205.16 Disclosures at automated teller machines.

(a) *Definition. Automated teller machine operator* means any person that operates an automated teller machine at which a consumer initiates an electronic fund transfer or a balance inquiry and that does not hold the account to or from which the transfer is made, or about which an inquiry is made.

(b) *General.* An automated teller machine operator that imposes a fee on a consumer for initiating an electronic fund transfer or a balance inquiry shall:

(1) Provide notice that a fee will be imposed for providing electronic fund transfer services or a balance inquiry; and

(2) Disclose the amount of the fee.

(c) *Notice requirement.* An automated teller machine operator must comply with the following:

(1) *On the machine.* Post the notice required by paragraph (b)(l) of this section in a prominent and conspicuous location on or at the automated teller machine; and

(2) *Screen or paper notice.* Provide the notice required by paragraphs (b)(1) and (b)(2) of this section either by showing it on the screen of the automated teller machine or by providing it on paper, before the consumer is committed to paying a fee.

(d) *Temporary exemption.* Through December 31, 2004, the notice requirement in paragraph (c)(2) of this section does not apply to any automated teller machine that lacks the technical capability to provide such information.

(e) *Imposition of fee.* An automated teller machine operator may impose a fee on a consumer for initiating an electronic fund transfer or a balance inquiry only if

(1) The consumer is provided the notices required under paragraph (c) of this section, and

(2) The consumer elects to continue the transaction or inquiry after receiving such notices.

4. Under Appendix A, A–2 is amended by adding a new paragraph (j) to read as follows:

Appendix A to Part 205—Model Disclosure Clauses and Forms

* * * * *

A–2—Model Clauses for Initial Disclosures (§ 205.7(B))

* * * * *

(j) *ATM fees (§ 205.7(b)(11)).* When you use an ATM not owned by us, you may be charged a fee by the ATM operator [or any network used] (and you may be charged a fee for a balance inquiry even if you do not complete a fund transfer).

* * * * *

5. In Supplement I to Part 205, the following amendments would be made:

a. Under Section 205.7—Initial Disclosures, under Paragraph 7(b)(5)—Fees, paragraph 3. is revised;

b. Under Section 205.9—Receipts at Electronic Terminals; Periodic Statements, under Paragraph 9(a)(1)—Amount, paragraph 1. is revised and a new paragraph 2 is added; and

c. A new Section 205.16—Disclosures at Automated Teller Machines is added.

The additions and revision read as follows:

Supplement I to Part 205—Official Staff Interpretations

* * * * *

Section 205.7—Initial Disclosures

* * * * *

7(b) Content of Disclosures

* * * * *

Paragraph 7(b)(5)—Fees

* * * * *

3. *Interchange system fees.* Fees paid by the account-holding institution to the operator of a shared or interchange ATM system need not be disclosed, unless they are imposed on the consumer by the account-holding institution. Fees for use of an ATM that are debited directly from the consumer's account by an institution other than the account-holding institution (for example, fees included in the transfer amount) need not be disclosed. (See § 205.7(b)(11) for the general notice requirement regarding fees that may be imposed by ATM operators and by a network used to complete the transfer.)

* * * * *

Section 205.9—Receipts at Electronic Terminals; Periodic Statements

* * * * *

Paragraph 9(a)(1)—Amount

1. *Disclosure of transaction fee.* The required display of a fee amount on or at the terminal may be accomplished by displaying the fee on a sign at the terminal or on the terminal screen for a reasonable duration. Displaying the fee on a screen provides adequate notice, as long as a consumer is given the option to cancel the transaction after receiving notice of a fee. (See § 205.16 for the notice requirements applicable to ATM operators that impose a fee for providing EFT services.)

2. *Relationship between § 205.9(a)(1) and § 205.16.* The requirements of §§ 205.9(a)(1) and 205.16 are similar but not identical.

i. Section 205.9(a)(1) requires that if the amount of the transfer as shown on the receipt will include the fee, then the fee must be disclosed either on a sign on or at the terminal, or on the terminal screen. Section 205.16 requires disclosure both on a sign on or at the terminal (in a prominent and conspicuous location) and on the terminal

screen. Section 205.16 permits disclosure on a paper notice as an alternative to the on-screen disclosure.

ii. The disclosure of the fee on the receipt under § 205.9(a)(1) cannot be used to comply with the alternative paper disclosure procedure under § 205.16, if the receipt is provided at the completion of the transaction because, pursuant to the statute, the paper notice must be provided before the consumer is committed to paying the fee.

iii. Section 205.9(a)(1) applies to any type of electronic terminal as defined in Regulation E (for example, to POS terminals as well as to ATMs), while § 205.16 applies only to ATMs.

* * * * *

Section 205.16—Disclosures at Automated Teller Machines

16(b) General

Paragraph 16(b)(1)

1. *Specific notices.* An ATM operator that imposes a fee for a specific type of transaction such as a cash withdrawal, but not a balance inquiry, may provide a general statement that a fee will be imposed for providing EFT services or may specify the type of EFT for which a fee is imposed.

* * * * *

By order of the Board of Governors of the Federal Reserve System, February 28, 2001.

Jennifer J. Johnson,

Secretary to the Board.

[FR Doc. 01–5295 Filed 3–5–01; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–17–AD; Amendment 39–12133; AD 2001–04–14]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS350B, AS350B1, AS350B2, AS350B3, AS350BA, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, and AS355N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) for Societe Nationale Industrielle Aerospatiale (currently Eurocopter France) Model AS350 and AS355 series helicopters that currently requires inspecting the fuselage frame (frame) for a crack at the fuselage-to-tailboom interface and replacing or repairing, as necessary. That AD also requires a fastener torque check and retorquing, as necessary. This amendment retains the requirements of the existing AD but would increase the inspection interval from 1,200 hours time-in-service (TIS) to 2,500 hours or 6 years TIS, whichever occurs first. This amendment revises the time interval for inspecting the frame at the fuselage-to-tailboom interface to coincide with the inspection interval specified in the maintenance manual. The actions specified by this AD are intended to eliminate confusion and unnecessary costs and to prevent a cracked frame, tailboom failure, and subsequent loss of control of the helicopter.

EFFECTIVE DATE: April 10, 2001.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5490, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 85–14–06, Amendment 39–5089 (50 FR 28561, July 15, 1985) and AD 85–14–06 R1, Amendment 39–5121 (50 FR 37173, September 12, 1985), which apply to Societe Nationale Industrielle Aerospatiale (currently Eurocopter France) Model AS350 and AS355 series helicopters, was published in the **Federal Register** on December 8, 2000 (65 FR 76953). That action proposed the same actions as the existing AD's and also proposed increasing the inspection interval from 1,200 hours TIS to 2,500 hours or 6 years TIS, whichever occurs first, to coincide with the maintenance manual and eliminate confusion and unnecessary costs. To compensate for the increase in the inspection interval, reducing the initial inspection interval from 100 hours TIS to 30 hours TIS and changing the visual inspection to a dye-penetrant inspection were also proposed.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 475 helicopters of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $228,000, assuming no cracked frames are discovered.

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 FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–5089 (50 FR 28561, July 15, 1985) and Amendment 39–5121 (50 FR 37173, September 12, 1985), and by adding a new airworthiness directive (AD), Amendment 39–12133, to read as follows:

2001–04–14 Eurocopter France: Amendment 39–12133. Docket No. 2000–SW–17–AD. Supersedes AD 85–14–06, Amendment 39–5089, and AD 85–14–06 R1, Amendment 39–5121, Docket No. 85–ASW–15.

Applicability: Model AS350B, AS350B1, AS350B2, AS350B3, AS350BA, AS350C, AS350D, AS350D1, AS355E, AS355F,

AS355F1, AS355F2, and AS355N helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters 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 eliminate confusion and unnecessary costs and to prevent a cracked fuselage frame (frame), tailboom failure, and subsequent loss of control of the helicopter, accomplish the following:

(a) Inspect the fuselage-to-tailboom attachment bolts in accordance with paragraph (d) for this AD within 30 hours time-in-service (TIS).

(b) Inspect the fuselage-to-tailboom attachment bolts in accordance with paragraph (d) for this AD within 30 hours TIS of replacing or reinstalling a tailboom.

(c) Repeat the inspection in accordance with paragraph (d) of this AD at intervals not to exceed 2500 hours or 6 years TIS, whichever occurs first.

(d) Inspect the fuselage-to-tailboom attachment bolts for proper torque range and the frame, part number 350A21–1247–00, for a crack at the fuselage-to-tailboom interface.

(1) Procedure for inspecting proper torque range:

(i) Using a fine-point felt tip pen, mark the position of the nut relative to the assembly.

(ii) One at a time, slightly loosen each nut. Do not allow the corresponding bolt to rotate relative to the assembly.

(iii) Tighten the nut with a properly calibrated torque wrench until the mark on the nut lines up with the mark on the assembly.

(iv) Record the torque value required to line up the two marks.

(2) Interpretation of the recorded torque values for each nut:

(i) If the torque value is less than 0.3 mdaN (26 in-lbs) on any nut:

(A) Remove the tailboom.

(B) Perform a dye-penetrant inspection for a crack in the bending radius of the frame.

(C) If a crack is found, repair or replace the frame with an airworthy frame before further flight.

(ii) If the torque value is between 0.3 mdaN and 1 mdaN (26 to 88 in-lbs), re-torque to 0.75 mdaN to 0.9 mdaN (67 to 79 in-lbs).

(iii) If the torque value is equal to or greater than 1 mdaN (88 in-lbs), remove the nut and bolt and replace them with a new nut and bolt. Torque the nut to 0.75 mdaN to 0.9 mdaN (67–79 in-lbs).

Note 2: Aerospatiale Service Bulletins AS 355 No. 05.14 and AS 350 No. 05.16 pertain to the subject of this AD.

(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, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

(f) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(g) This amendment becomes effective on April 10, 2001.

Issued in Fort Worth, Texas, on February 20, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–5167 Filed 3–5–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–26–AD; Amendment 39–12135; AD 2001–04–15]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8–31, DC–8–32, DC–8–33, DC–8–41, DC–8–42, DC–8–43, DC–8–51, DC–8–52, DC–8–53, DC–8–55, DC–8–61, DC–8–61F, DC–8–62, DC–8–62F, DC–8–63, DC–8–63F, DC–8F–54, and DC–8F–55 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8–31, DC–8–32, DC–8–33, DC–8–41, DC–8–42, DC–8–43, DC–8–51, DC–8–52, DC–8–53, DC–8–55, DC–8–61, DC–8–61F, DC–8–62, DC–8–62F, DC–8–63, DC–8–63F, DC–8F–54, and DC–8F–55 series airplanes. This action requires modification of the flow control system by rerouting the bleed air ducts to warm the pitot tube lines. This action is necessary to prevent the pitot lines from freezing, which could result in erroneous or total loss of airspeed indications to the flight crew, and consequent loss of control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 21, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 21, 2001.

Comments for inclusion in the Rules Docket must be received on or before May 7, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–26–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–26–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from National Aircraft Service, Inc., 9133 Tecumseh-Clinton Road, Tecumseh, Michigan 49286. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Chicago Aircraft Certification Office, 2330 East Devon Avenue, Room 323, Des Plaines, Illinois; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Roy Boffo, Aerospace Engineer, Systems and Flight Test Branch, ACE–117C, FAA, Chicago Aircraft Certification Office, 2350 East Devon Avenue, Room 323, Des Plaines, Illinois 60018; telephone (847) 294–7564; fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: The FAA has received reports of erroneous airspeed readings, including those from the airspeed indicator and Machmeter, after a McDonnell Douglas Model DC–8 series airplane had flown through visible moisture. The original airplane design included a turbo compressor system. The turbo compressors generated enough heat to prevent freezing of any trapped moisture in the lines running from the pitot tubes. The turbo compressors were removed during installation of Supplemental Type Certificate (STC) ST466CH, which incorporated a flow control system that

uses bleed air from the engines. However, the flow control system did not generate enough heat in the area of the pitot tube lines to prevent freezing. Frozen pitot lines could generate erroneous or total loss of airspeed indications to the flight crew, which could result in loss of control of the airplane

A modification to positively address this unsafe condition was subsequently developed, and applicable parts and procedures were provided to operators of the affected airplanes. However, a recent fleetwide inspection revealed that not all of those airplanes had been modified.

Explanation of Relevant Service Information

National Aircraft Service, Inc., issued Service Bulletin SB–98–01R1, dated January 26, 1999, which the FAA reviewed and approved. The service bulletin describes procedures to modify the flow control system by rerouting the bleed air ducts to warm the pitot tube lines. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent the pitot lines from freezing, which could result in erroneous or total loss of airspeed indications to the flight crew, and consequent loss of control of the airplane. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Difference Between AD and Service Bulletin

The service bulletin recommends the modification within 500 flight hours after March 1, 1999; this AD requires the modification within 30 days after the effective date of this AD. In light of the urgency of the unsafe condition and the fact that the revised service bulletin has been available to affected operators for nearly two years, the FAA finds that the required compliance time represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Determination of Rule's Effective Date

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

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket 2001–NM–26–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–04–15 McDonnell Douglas: Amendment 39–12135. Docket 2001–NM–26–AD.

Applicability: The following Model DC–8 series airplanes that have been modified in accordance with Supplemental Type Certificate (STC) ST466CH, certificated in any category:

DC–8–31	DC–8–55
DC–8–32	DC–8–61
DC–8–33	DC–8–61F
DC–8–41	DC–8–62
DC–8–42	DC–8–62F
DC–8–43	DC–8–63
DC–8–51	DC–8–63F
DC–8–52	DC–8F–54
DC–8–53	DC–8F–55

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the pitot lines from freezing, which could result in erroneous or total loss of airspeed indications to the flight crew, and consequent loss of control of the airplane, accomplish the following:

Modification

(a) Within 30 days after the effective date of this AD, modify the flow control system to reroute the bleed air ducts, in accordance with National Aircraft Service, Inc., Service Bulletin SB–98–01R1, dated January 26, 1999.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago 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, Chicago ACO.

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

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with National Aircraft Service, Inc., Service Bulletin SB–98–01R1, dated January 26, 1999. 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 National Aircraft Service, Inc., 9133 Tecumseh-Clinton Road, Tecumseh, Michigan 49286. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Chicago Aircraft Certification Office, 2330 East Devon Avenue, Room 323, Des Plaines, Illinois; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on March 21, 2001.

Issued in Renton, Washington, on February 22, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–4933 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–56–AD; Amendment 39–12130; AD 2001–04–11]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Pratt & Whitney (PW) JT9D series turbofan engines. This amendment requires initial and repetitive detailed eddy current inspections for cracks in 1st stage high pressure turbine (HPT) disks, and, if necessary, replacement with serviceable parts. This amendment is prompted by the discovery of a crack in the web of one cooling air hole on a 1st stage HPT disk. The actions specified by this AD are intended to prevent 1st stage HPT disk cracking, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective May 7, 2001. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone 860–565–8770, fax 860–565–4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wego Wang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: 781–238–7134, fax: 781–238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to certain PW JT9D series turbofan engines was published in the **Federal Register** on March 7, 2000 (65 FR 11940). That action proposed to require initial and repetitive detailed eddy current inspections for cracks in 1st stage HPT disks, and, if necessary, replacement with serviceable parts.

Comments Received

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

Support for the Rule as Proposed

Two commenters state their support of the notice of proposed rulemaking (NPRM) as written.

Economic Analysis Question

One commenter states that the cost incurred due to premature engine removal is not captured in the NPRM economic analysis. This cost would adversely impact operators when an engine must be removed prematurely in order to perform disk inspections. The cost would specifically impact this operator when an engine that is not under its maintenance program is acquired and is inducted into its system.

The FAA does not agree. The NPRM cost analysis is based on the costs of parts and labor to U.S. operators needed to perform the required initial inspections, and is not specific to any particular maintenance system. However, the economic analysis is corrected to clarify that the cost totals are for initial inspection only.

Two Types of Compliance Times

Two commenters state that the NPRM's proposed compliance times are

inconsistent with the compliance times referenced in PW Alert Service Bulletins (ASB's) JT9D A6376, dated July 28, 1999 and JT9D–7R4–A72–563, dated July 28, 1999. Specifically, for disks that have had a prior fluorescent penetrant inspection, the NPRM proposed reinspections based on cycles-since-new (CSN) intervals. The ASB's, however, require reinspections based on cycles-in-service (CIS) intervals.

The FAA agrees. The compliance is corrected as follows:

- In the JT9D series engines section, in paragraph (a)(4)(ii) and (a)(4)(iii), the compliance time type is changed from CSN to CIS.
- In the JT9D–7R4 series engines section, in paragraph (b)(4)(ii) and (b)(4)(iii), the compliance time type is changed from CSN to CIS.

Incorrect Aircraft Model Applicability

One commenter states that under the Applicability section in the NPRM, the reference to Airbus Industrie A300 series aircraft is incorrect, and should read Airbus Industrie A310 series aircraft.

The FAA agrees. The Applicability section is corrected in this amendment.

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

Economic Analysis

There are approximately 330 engines of the affected design in the worldwide fleet. The FAA estimates that 220 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 4.5 work hours per engine to accomplish the initial inspection, and that the average labor rate is $60 per work hour. Required parts would cost approximately $165,000 per engine. Based on these figures, the total initial inspection cost impact of the proposed AD on U.S. operators is estimated to be $36,359,400.

Regulatory Impact

This 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 rule.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under 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:

2001–04–11, Pratt & Whitney: Amendment 39–12130. Docket No. 99–NE–56–AD.

Applicability: Pratt & Whitney (PW) JT9D–7R4D, –7R4D1, –7R4E, –7R4E1 (AI–500), –7, –7A, –7AH, –7H, –7F, and –20 series turbofan engines, installed on but not limited to Boeing 747 and 767 series, McDonnell Douglas DC–10 series, and Airbus Industrie A310 series aircraft.

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: Required as indicated, unless accomplished previously.

To prevent 1st stage high pressure turbine (HPT) disk cracking, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

JT9D Series

(a) For PW JT9D–7, –7A, –7AH, –7H, –7F, and –20 series turbofan engines, with 1st stage HPT disks, part numbers (P/Ns) 761401, 811401, 823401, 825601, 826001, and 826301:

Initial Inspection

(1) Perform the initial detailed eddy current inspection (ECI) for cracks in accordance with the Accomplishment Instructions of PW Alert Service Bulletin (ASB) No. JT9D A6367, dated July 28, 1999.

(2) Inspect at the following compliance times, depending on whether parts have had prior fluorescent penetrant inspections (FPI) or not.

Initial Compliance Times

No Prior FPI

(3) The following are the initial compliance times for parts that have had no prior FPI:

(i) For disks with more than 8,000 total part cycles-since-new (CSN) on the effective date of this AD, inspect within 250 cycles-in-service (CIS) after the effective date of this AD.

(ii) For disks with at least 6,000 CSN though no more than 8,000 total part CSN on the effective date of this AD, inspect within 1,000 CIS after the effective date of this AD.

(iii) For disks with at least 4,000 CSN though no more than 5,999 total part CSN on the effective date of this AD, inspect within 2,000 CIS after the effective date of this AD.

(iv) For disks with less than 4,000 total part CSN on the effective date of this AD, inspect prior to accumulating 6,000 total part CSN.

Prior FPI Accomplished

(4) The following are the initial compliance times for parts that have had a previous FPI:

(i) For disks with more than 8,000 CIS since last FPI on the effective date of this AD, inspect within 250 CIS after the effective date of this AD.

(ii) For disks with at least 6,000 CIS though no more than 8,000 CIS since last FPI on the effective date of this AD, inspect within 1,000 CIS after the effective date of this AD.

(iii) For disks with at least 4,000 CIS though no more than 5,999 CIS since last FPI on the effective date of this AD, inspect within 2,000 CIS after the effective date of this AD.

(iv) For disks with less than 4,000 CIS since last FPI on the effective date of this AD, inspect prior to accumulating 6,000 CIS since last FPI on the effective date of this AD.

Repetitive Inspections

(5) Thereafter, perform detailed ECI for cracks:

(i) At intervals not to exceed 6,000 CIS since last ECI.

(ii) Inspect in accordance with the Accomplishment Instructions of PW ASB No. JT9D A6367, dated July 28, 1999.

Cracked Disks

(6) Prior to further flight, replace cracked disks with serviceable parts.

JT9D–7R4 Series

(b) For PW JT9D–7R4D, –7R4D1, –7R4E, and –7R4E1 (AI–500) series turbofan engines, with 1st stage HPT disks, P/N 825601:

Initial Inspection

(1) Perform the initial detailed ECI for cracks in accordance with the Accomplishment Instructions of PW ASB No. JT9D–7R4–A72–563, dated July 28, 1999.

(2) Inspect at the following compliance times, depending on whether parts have had prior FPI or not.

Initial Compliance Times

No Prior FPI

(3) The following are the initial compliance times for parts that have had no prior FPI:

(i) For disks with more than 10,000 total part CSN on the effective date of this AD, inspect within 250 CIS after the effective date of this AD.

(ii) For disks with at least 8,000 CSN though no more than 10,000 total part CSN on the effective date of this AD, inspect within 1,000 CIS after the effective date of this AD.

(iii) For disks with at least 6,000 CSN though no more than 7,999 total part CSN on the effective date of this AD, inspect within 2,000 CIS after the effective date of this AD.

(iv) For disks with less than 6,000 total part CSN on the effective date of this AD, inspect prior to accumulating 8,000 total part CSN.

Prior FPI Accomplished

(4) The following are the initial compliance times for parts that have had a previous FPI:

(i) For disks with more than 10,000 CIS since last FPI on the effective date of this AD, inspect within 250 CIS after the effective date of this AD.

(ii) For disks with at least 8,000 CIS though no more than 10,000 CIS since last FPI on the effective date of this AD, inspect within 1,000 CIS after the effective date of this AD.

(iii) For disks with at least 6,000 CIS though no more than 7,999 CIS since last FPI on the effective date of this AD, inspect within 2,000 CIS after the effective date of this AD.

(iv) For disks with less than 6,000 CIS since last FPI on the effective date of this AD, inspect prior to accumulating 8,000 CIS since last FPI on the effective date of this AD.

Repetitive Inspections

(5) Thereafter, perform detailed ECI for cracks:

(i) At intervals not to exceed 8,000 CIS since last ECI.

(ii) Inspect in accordance with the Accomplishment Instructions of PW ASB No. JT9D–7R4–A72–563, dated July 28, 1999.

Cracked Disks

(6) Prior to further flight, replace cracked disks with serviceable parts.

Alternative Methods of Compliance

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

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

Ferry Flights

(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 inspection requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions required by this AD must be done in accordance with the following Pratt & Whitney Alert Service Bulletins:

Document No.	Pages	Revision	Date
JT9D A6367 ..... Total pages: 12.	1–12	Original	July 28, 1999.
JT9D–7R4–A72–563 ..... Total pages: 37.	1–37	Original	July 28, 1999.

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 Pratt & Whitney, 400 Main Street, East Hartford, CT 06108; telephone: 860 565–6600, fax: 860 565–4503. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on May 7, 2001.

Issued in Burlington, Massachusetts, on February 21, 2001.

David A. Downey,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–4890 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–38–AD; Amendment 39–12136; AD 2001–04–16]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–50 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to General Electric Company (GE) CF6–50 series turbofan engines. That AD currently requires visual inspection of the stage 2 low pressure turbine (LPT) nozzle lock assemblies, and replacement of the borescope plug with a new design plug.

This amendment is prompted by a report of an uncontained engine failure on an engine that had complied with the current AD. This amendment requires additional inspections and provides interim and terminating corrective actions. The actions specified in this AD are intended to detect cracked, loose or missing stage 2 LPT nozzle lock assembly studs that could lead to failure of the locks, nozzle segment rotation, LPT case machining, and subsequent uncontained failure of the engine. The actions also provide for modifications of nozzle lock assemblies if the nozzle lock studs are found cracked, loose, or missing.

DATES: Effective March 21, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 21, 2001.

Comments for inclusion in the Rules Docket must be received on or before May 7, 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–38–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov.'' Comments sent via the Internet must contain the docket number in the subject line. The service information referenced in this AD may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: 781–238–7192, fax: 781–238–7199.

SUPPLEMENTARY INFORMATION: On September 21, 2000, the FAA issued AD 2000–20–02, Amendment 39–11913 (65 FR 58645, October 2, 2000) to require visual inspection of the stage 2 LPT nozzle lock studs, and replacement of the borescope plug with a new design plug. That action was prompted by three uncontained engine failures resulting from stage 2 LPT lock stud failures, nozzle segment rotation, and LPT case machining. That condition, if not corrected, could result in failure of the stage 2 LPT nozzle lock assemblies. Since AD 2000–20–02 was issued, there has been one more uncontained engine failure, on February 4, 2001, that has been attributed to the failure of stage 2 Waspalloy LPT nozzle lock assembly studs. That engine is reported to have been in compliance with AD 2000–20–02, at the time of failure. Because of this report, and because of the recent issuance of three GE service bulletins (SB's), two of which are alert service bulletins (ASB's), the FAA has determined that it is necessary to supersede AD 2000–20–02. The GE SB's provide for

- Stage 2 Waspalloy LPT nozzle lock ultrasonic inspection (previously allowed as an alternative method of compliance (AMOC) to AD 2000–20–02),
- LPT case modification and new nozzle lock incorporation (previously allowed as an AMOC to AD 2000–20–02), and,
- Stage 2 LPT additional nozzle lock incorporation.

The methods for complying with AD 2000–20–02 that were previously approved as AMOCS to that AD have been incorporated into this AD.

This AD incorporates by reference, one SB and one ASB as-written. This AD also incorporates by reference another inspection ASB, but with two exceptions. Because of the recent engine failure, the inspection ASB is incorporated with a reduction in the stage 2 LPT Waspalloy nozzle lock ultrasonic inspection thresholds, but does not include the requirement to inspect the stages 3 and 4 LPT nozzle locks.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of the following:

- GE ASB CF6–50 72–A1197, dated December 14, 2000, that describes procedures for on-wing or off-wing initial and repetitive ultrasonic inspections of stage 2 LPT Waspalloy nozzle lock studs for cracks. This ASB also defines initial and repetitive visual inspections of stage 2 LPT Rene nozzle lock studs.
- GE ASB CF6–50 72–A1201, dated December 22, 2000, and CF6–50 72–A1201, Revision 1, dated February 6, 2001, describe procedures for LPT case modification and incorporation of new design nozzle locks. Accomplishment of this ASB constitutes terminating action for the inspection requirements of this AD.
- GE SB CF6–50 72–1203, dated November 22, 2000, and CF6–50 72–1203 Revision 1, dated February 7, 2001, describe procedures for incorporating additional stage 2 LPT nozzle locks when an engine is found to have a reject condition as described in GE ASB CF6–50 72–A1197, dated December 14, 2000, and the required compliance cannot be addressed by an immediate shop visit.

Differences Between the Manufacturer's Service Information and This AD

Although GE ASB CF6–50 72–A1197, dated December 14, 2000, requires ultrasonic inspections of stage 2 LPT Waspalloy nozzle lock studs to be done at specified times, the FAA has determined that more stringent initial and repetitive ultrasonic inspection time intervals are required to meet the necessary level of safety, and have incorporated those intervals in this amendment. Also, although that ASB requires the stages 3 and 4 LPT nozzle locks to be inspected, the FAA has determined that an unsafe condition is not likely to occur as a result of a stage 3 or 4 lock stud failure and therefore this AD requires only the stage 2 LPT nozzle locks to be inspected.

Actions Required by This AD

Since an unsafe condition has been identified that is likely to exist or develop on other GE CF6–50 series turbofan engines of the same type design, this AD supersedes AD 2000–20–02 to require:

- Installation of the solid borescope plug for engines that have not already complied with paragraph (e) of AD 2000–20–02.
- On-wing or off-wing initial and repetitive ultrasonic inspections of stage 2 Waspalloy LPT nozzle lock assembly studs for cracks.
- On-wing or off-wing initial and repetitive visual inspections of stage 2 LPT nozzle lock assembly studs for loose or missing studs.
- Replacement of all of the stage 2 LPT lock assemblies with new design assemblies before further flight if a cracked, loose, or missing stud is found, OR,
- Incorporation of additional stage 2 LPT nozzle locks if no indications of nozzle rotation are found, as an interim action to allow time to arrange for a shop visit, within 3,500 cycles-in-service.
- Inspection of the area surrounding the borescope plug for evidence of buckling or cracks whenever the nozzle lock studs are inspected.
- Inspection for loose or missing added nozzle locks and LPT case cracking in the areas of the added nozzle locks, every 750 hours time-in-service.
- Replacement of the LPT lock assemblies with new design assemblies before further flight if any LPT case buckling or cracks are found, or if nozzle segment rotation is found.

Immediate Adoption of This AD

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

Comments Received

Interested persons were afforded an opportunity to participate in the making of Amendment 39–11913. Due consideration has been given to the comments received.

Change Inspection Thresholds and Intervals

One commenter requests that the inspection thresholds and intervals be changed to coincide with scheduled

aircraft ''A-Check'' intervals, or the manufacturer's recommended engine repetitive maintenance intervals.

The FAA disagrees. As the commenter stated in their request, the ''A-Check'' interval can vary from operator to operator. ''A-Check'' intervals as low as 200 hours to as high as 700 hours have been reported. To provide an equivalent level of safety for all operators, the inspection thresholds and intervals must therefore be defined in this AD.

Extend 30 Day Compliance Requirement for Borescope Plug Replacement

One commenter requests that the 30 day compliance requirement for the borescope plug installation be extended to 90 days or next ''A-Check'', due to limited parts availability.

The FAA disagrees. The manufacturer provided evidence that sufficient parts had been procured and distributed to support the 30 day requirement.

Editorial Correction

One commenter requests that the word ''place'' in paragraph (d) of AD 2000–20–02 be changed to read ''replace''.

The FAA agrees. A correction was published in the **Federal Register** on October 16, 2000 (65 FR 61216).

Comments on New Amendment Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000NE–38–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order No. 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 rule.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of Title 14 of the Code of Federal 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 39–11913 (65 FR 58645, October 2, 2000), and by adding a new airworthiness directive (AD), Amendment 39–12136, to read as follows:

2001–04–16 General Electric Company: Amendment 39–12136. Docket No. 2000–NE–38–AD. Supersedes AD 2000–20–02, Amendment 39–11913.

Applicability. This airworthiness directive (AD) is applicable to General Electric Company (GE) CF6–50 series turbofan engines. These engines are installed on, but not limited to, Airbus Industries A300, Boeing Airplane Company 747, and McDonnell Douglas Corporation DC10 airplanes.

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

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

To detect cracked, loose, or missing stage 2 low pressure turbine (LPT) nozzle lock assembly studs that could lead to failure of the locks, segment rotation, LPT case machining, and subsequent uncontained failure of the engine, do the following:

Installation of Solid Borescope Plug

(a) For engines that have not already complied with paragraph (e) of AD 2000–20–02, install a stage 2 LPT solid borescope inspection plug part number (P/N) 2083M99P01, or a plug with the alternate P/N's 305–381–303–0 or 2110M79P01, before further flight, unless paragraph (e)(1) (GE Alert Service Bulletin (ASB) CF6–50 72–A1201, or CF6–50 72–A1201, Revision 1) of this AD has already been accomplished.

Visual Inspection of Stage 2 Nozzle Lock Assemblies

(b) For engines with stage 2 LPT Rene 41 nozzle lock assemblies, visually inspect locks for loose or missing studs, in accordance with Paragraph 3.B., Accomplishment Instructions of GE ASB CF6–50 72–A1197, dated December 14, 2000, within the following times:

TABLE 1.—RENE 41 STAGE 2 NOZZLE LOCK ASSEMBLIES

Time on Rene 41 lock assembly	Inspect within	Repetitive inspect within
(1) Less than 4,000 hours time-since-new (TSN) on the effective date of this AD.	750 hours after accumulating 4,000 hours TSN.	750 hours time-since-last inspection (TSLI).
(2) 4,000 hours TSN or greater, or if TSN is not known, on the effective date of this AD.	750 hours TIS after the effective date of this AD.	750 hours TSLI.

(c) For engines with stage 2 LPT Waspalloy nozzle lock assemblies, visually inspect for loose or missing studs within the following times:

TABLE 2.—WASPALLOY STAGE 2 NOZZLE LOCK ASSEMBLIES

Time on Stage 2 Waspalloy lock assembly	Initial inspect within	Repetitive inspect within
(1) Less than 1,250 hours TSN on the effective date of this AD	750 hours after accumulating 1,250 hours TSN.	750 hours TSLI.
(2) Greater than or equal to 1,250 hours TSN, but less than 4,000 hours TSN on the effective date of this AD.	750 hours TIS after the effective date of this AD.	750 hours TSLI.
(3) 4,000 hours TSN or greater, on the effective date of this AD, or, if hours unknown.	250 hours TIS after the effective date of this AD.	750 hours TSLI.

Ultrasonic Inspection of Stage 2 LPT Waspalloy Nozzle Lock Assemblies

(d) For engines with stage 2 LPT Waspalloy nozzle lock assemblies with no loose or missing studs found in accordance with paragraph (c) of this AD, ultrasonically inspect studs for cracks in accordance with Paragraph 3.A., Accomplishment Instructions of GE ASB CF6–50 72–A1197, dated December 14, 2000, within the times identified in paragraph (c) of this AD.

Corrective Action

(e) For engines with either stage 2 LPT Rene 41 or Waspalloy nozzle lock assemblies where the assembly studs are found loose or missing, do one of the following:

(1) Prior to further flight, modify the LPT case and install new design nozzle locks as specified in GE ASB CF6—50 72-A1201, dated December 22, 2000, or CF6—50 72-A1201, Revision 1, dated February 6, 2001; or

(2) Prior to further flight, as an interim on-wing action for stage 2 LPT nozzle locks only, modify the LPT case and install seven additional nozzle locks as specified in GE service bulletin CF6–50 72–1203, dated November 22, 2000, or CF6–50 72–1203, Revision 1, dated February 7, 2001, providing the following conditions are met prior to modification:

(i) There are no cracks or distortion in the stage 2 borescope plug area of the LPT case.

(ii) The borescope plug is able to be removed.

(iii) There is no evidence of stage 2 nozzle segment rotation, as evidenced by a borescope inspection that reveals that no nozzle segment circumferential gap is greater than 0.250 inch.

(f) For engines with stage 2 LPT nozzle lock assemblies modified in accordance with paragraph (e)(2) of this AD, perform the following inspections every 750 hours TIS, until the engine is modified in accordance with paragraph (e)(1) of this AD:

(1) Repetitive visual inspections of the seven additional nozzle locks for loose or missing locks.

(2) Repetitive visual inspections of the LPT case in the area of the additional locks for cracks.

(3) Repetitive visual inspections of the LPT case in the area of the borescope plug for cracks.

Note 2: Modification of the LPT case and installation of the additional locks per paragraph (e)(2) of this AD should not be performed by the same individual for all engines installed on the same airplane prior to the same flight.

(g) Engines rejected by the inspections in paragraph (f) of this AD are not serviceable and must be modified in accordance with paragraph (e)(1) of this AD prior to further flight.

(h) Modification of the LPT case in accordance with paragraph (e)(2) of this AD establishes a life limit for LPT case P/N's 2083M38G01, 2083M38G02, 2083M38G03, 2083M38G04, 2083M38G05, 2083M38G06, 2083M38G07, and 2083M38G08, of 3,500 CIS since modification.

(i) Except as required in paragraph (j) of this AD, for engines with stage 2 LPT Waspalloy nozzle lock assemblies where one or more studs are found cracked by the inspections in paragraph (d) of this AD, but where no two cracked studs are located adjacent to each other, continued operation for an additional 25 hours time-in-service, maximum, is allowed prior to performing one of the corrective actions in paragraph (e) of this AD.

(j) For engines with two or more adjacent stage 2 LPT Waspalloy nozzle lock studs found cracked by the inspections in paragraph (d) of this AD, do one of the corrective actions in paragraph (e) of this AD prior to further flight.

Note 3: After installation of new design nozzle locks in accordance with paragraph (e)(1) of this AD, any solid borescope plug may be replaced with the standard borescope plug if the operator so chooses.

Terminating Action

(k) Accomplishment of Paragraphs 3.A. through 3.E.(2) of GE ASB CF6–50 72–A1201, dated December 22, 2000, or CF6–50 72–A1201, Revision 1, dated February 6, 2001 (modification of the LPT case and installation of new design nozzle locks per paragraph (e)(1) of this AD), is terminating action for the inspection requirements of this AD.

Alternative Methods of Inspection

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(m) 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.

Incorporation by Reference Material

(n) The actions required by this AD shall be done in accordance with the following General Electric Co. alert service bulletins (ASB) and service bulletin (SB):

Document	Pages	Revision	Date
ASB CF6–50 72–A1197 Total pages: 28	1–28	Original	December, 14, 2000.
ASB CF6–50 72–A1201 Total pages: 21	1–21	Original	December 22, 2000.
ASB CF6–50 72–A1201 Total pages: 22	1–22	1	February 6, 2001.
SB CF6–50 72–1203 Total pages: 9	1–9	Original	November 22, 2000.
SB CF6–50 72–1203 Total pages: 12	1–12	1	February 7, 2001.

The incorporations by reference were 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 General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Effective Date

(o) This amendment becomes effective on March 21, 2001.

Issued in Burlington, Massachusetts, on February 23, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–4939 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–01–AD; Amendment 39–12134; AD 2001–03–51]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76B and S–76C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2001–03–51, which was sent previously to all known U.S. owners and operators of Sikorsky Aircraft Corporation (Sikorsky) Model S–76B and S–76C helicopters by individual letters. This AD requires, for certain main rotor shafts, initial and recurring fluorescent penetrant inspections. Replacing each affected main rotor shaft (shaft) on or before reaching 1,000 hours time-in-service (TIS) is also required. This amendment is prompted by four reports of shaft cracks. The actions specified by this AD are intended to prevent failure of the shaft and subsequent loss of control of the helicopter.

DATES: Effective March 21, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2001–03–51, issued on January 30, 2001, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 21, 2001.

Comments for inclusion in the Rules Docket must be received on or before May 7, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–01–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov.

The applicable service information may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 386–3001, fax (203) 386–5983. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wayne Gaulzetti, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7156, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On January 30, 2001, the FAA issued Emergency AD 2001–03–51 for Sikorsky Model S–76B and S–76C helicopters, which requires, for certain shafts, initial and recurring fluorescent penetrant inspections. Replacing each affected shaft on or before reaching 1,000 hours TIS is also required. That action was prompted by four reports of shaft cracks. This condition, if not corrected, could result in failure of the shaft and subsequent loss of control of the helicopter.

The FAA has reviewed Sikorsky Alert Service Bulletin (ASB) No. 76–66–32A, Revision A, dated January 17, 2001, which specifies identifying main gear box assemblies containing certain shafts, conducting a recurring fluorescent penetrant inspection (FPI), and removing certain main gear box assemblies containing certain shafts.

Since the unsafe condition described is likely to exist or develop on other Sikorsky Model S–76B and S–76C helicopters of the same type designs, the FAA issued Emergency AD 2001–03–51 to prevent failure of the shaft and subsequent loss of control of the helicopter. The AD requires, for certain main rotor shafts, an FPI before further flight and thereafter at intervals not to exceed 20 hours TIS or 80 landings, whichever occurs first. Replacing each affected shaft on or before reaching 1,000 hours TIS is also required. The actions must be accomplished in accordance with the ASB described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity of the helicopter. Therefore, FPI's and removal of each affected shaft are required at the specified time intervals, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on January 30, 2001, to all known U.S. owners and operators of

Sikorsky Model S–76B and S–76C helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons.

The FAA estimates that 7 helicopters of U.S. registry will be affected by this AD. It will take approximately 4 work hours per helicopter to accomplish each FPI and 5 work hours to replace each shaft. The average labor rate is $60 per work hour. Required parts will cost approximately $25,000 per shaft. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $178,780 (assuming 1 FPI per helicopter and 1 shaft replacement on each helicopter). Additional FPI's would cost $240 per inspection and additional shaft replacements would cost $25,300 per helicopter.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2001–SW–01–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2001–03–51 Sikorsky Aircraft Corporation: Amendment 39–12134. Docket No. 2001–SW–01–AD.

Applicability: Model S–76B and S–76C helicopters, with main rotor shaft assembly (shaft), part number (P/N) 76351–09630 all dash numbers, serial number (S/N) C213–00274, C213–00275, C213–00276, C213–00277, C213–00278, C213–00279, C213–00280, C213–00282, C213–00292, C213–00294, C213–00295, C213–00296, C213–00297, C213–00299, and C213–00300, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters 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 (d) 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 failure of the shaft and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight and thereafter at intervals not to exceed 20 hours time-in-service (TIS) or 80 landings, whichever occurs first, conduct a fluorescent penetrant inspection (FPI) in the area above the uppers shaft output seal and below the lower hub attachment flange in accordance with the Accomplishment Instructions, paragraphs 3.B.(1) through 3.B.(5), of Sikorsky Aircraft Corporation (Sikorsky) Alert Service Bulletin (ASB) No. 76–66–32A, Revision A, dated January 17, 2001. Contacting Sikorsky is not required by this AD. If a crack is found, replace the shaft with an airworthy shaft before further flight.

Note 2: Accomplishing the FPI before further flight is not required if previously accomplished in accordance with the Accomplishment Instructions, paragraphs 3.C.(1) through 3.C.(5), of Sikorsky ASB No. 76–66–31B, Revision B, dated November 7, 2000.

(b) On or before 1000 hours TIS, replace each affected shaft with an airworthy shaft.

(c) This AD revises the Limitations section of the maintenance manual by establishing a retirement life of 1000 hours TIS for the affected shafts.

(d) 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, Boston Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Boston Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Boston Aircraft Certification Office.

(e) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished if the FPI or a visual inspection, using a 10X or higher magnifying glass, does not reveal a crack.

(f) The FPI shall be done in accordance with the Accomplishment Instructions, paragraphs 3.B.(1) through 3.B.(5), of Sikorsky Aircraft Corporation Alert Service Bulletin No. 76–66–32A, Revision A, dated January 17, 2001. This incorporation by

reference was approved 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 Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 386–3001, fax (203) 386–5983. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on March 21, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2001–03–51, issued January 30, 2001, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on February 20, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–5165 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–01–AD; Amendment 39–12141; AD 2001–05–05]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This action requires repetitive detailed visual inspections to find discrepancies of the installation of the midspar fuse pins of the inboard and outboard struts, and follow-on actions, if necessary. This action also provides for an optional terminating modification for the repetitive inspections. This action is necessary to find and fix discrepancies of the installation of the midspar fuse pins, which could result in loss of the secondary retention capability of the fuse pins, migration of the fuse pins, and consequent loss of the strut and engine from the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 21, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 21, 2001.

Comments for inclusion in the Rules Docket must be received on or before May 7, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–01–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–01–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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

FOR FURTHER INFORMATION CONTACT: Tamara Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received several reports indicating that, during routine maintenance, loose primary retention nuts of the midspar fuse pins of the inboard and outboard struts were found on certain Boeing Model 747 series airplanes. One report indicated that the primary retention nut migrated into the secondary retention washer. The cause of these discrepancies was determined to be inadequate run-on torque of the primary retention nut. Such conditions, if not fixed, could result in the loss of secondary retention capabilities of the fuse pins, migration of the fuse pins, reduction of the joint capability of the midspar fittings to carry the design loads, and consequent loss of the strut and engine from the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, which describes procedures for repetitive detailed visual inspections to find discrepancies (incorrect thread protrusion, which is less than two threads protruding from the nut between the nut and the secondary retention washer; incorrect gap between the fuse pin primary nut and secondary retention washer; cracked or broken torque stripe) of the installation of the midspar fuse pins of the inboard and outboard struts, and follow-on actions, if necessary.

If the primary nut has backed off and is contacting the secondary retention washer; the follow-on actions include, but are not limited to:

- Inspection of the fuse pin threads for damage,
- Installation of a new primary nut,
- Replacement of damaged fuse pins with new pins, and
- Installation of a torque stripe.

If the primary nut has backed off and is not contacting the secondary retention washer, follow-on actions consist of repeating the inspection of the fuse pin installation at a reduced inspection interval.

The service bulletin also provides for an optional terminating modification which consists of replacement of the primary nut of the midspar fuse pin with a new nut and installation of the torque stripe, a detailed visual inspection of the fuse pin threads for damage, and replacement of the fuse pin, if necessary, Doing these actions ends the repetitive inspections.

Other Relevant Rulemaking

This AD is related to AD 95–10–16, amendment 39–9233 (60 FR 27008, May 22, 1995); AD 95–13–05, amendment 39–9285 (60 FR 33333, June 28, 1995); AD 95–13–06, amendment 39–9286 (60 FR 33338, June 28, 1995); AD 95–13–07, amendment 39–9287 (60 FR 33336, June 28, 1995), and AD 99–10–10, amendment 39–11163 (64 FR 25197, May 11, 1999). The replacement of fuse pins in the upper link, midspar fittings, and diagonal brace of the nacelle strut with new corrosion-resistant pins is required by those AD's as part of the modification of the nacelle strut/wing structure for earlier Model 747 series airplanes. The actions required by this AD are to be done if any of the AD's specified above, or the production equivalent, has been accomplished.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, this AD requires accomplishment of the actions specified in the service bulletin described previously.

Interim Action

This is considered to be interim action. The FAA is currently considering requiring the optional terminating modification, which will constitute terminating action for the repetitive inspections required by this AD action. However, the planned compliance time for the installation of the modification is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Determination of Rule's Effective Date

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

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–01–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–05–05 Boeing: Amendment 39–12141. Docket 2001–NM–01–AD.

Applicability: Model 747 series airplanes, as listed in Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, 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 per paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To find and fix discrepancies of the installation of the midspar fuse pins of the inboard and outboard strut, which could result in loss of the secondary retention capability of the fuse pins, migration of the fuse pins, and consequent loss of the strut and engine from the airplane; accomplish the following:

Inspections/Follow-On Actions

(a) At the latest of the times specified in paragraphs (a)(1) and (a)(2) of this AD, as applicable: Do a detailed visual inspection to find discrepancies (incorrect thread protrusion, which is less than two threads protruding from the nut between the nut and the secondary retention washer; incorrect gap between the fuse pin primary nut and secondary retention washer; cracked or broken torque stripe) of the installation of the midspar fuse pins of the inboard and outboard struts, per Figure 2 of Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001.

(1) For airplanes not modified per one of the AD's listed in Table 1 of this AD: Do the inspection at the later of the times specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD:

(i) Before the accumulation of 8,000 total flight hours, or within 24 months since manufacture of the airplane, whichever occurs first.

(ii) Within 90 days after the effective date of this AD.

(2) For airplanes modified per one of the AD's listed in Table 1 of this AD: Do the inspection at the later of the times specified

in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD. Table 1 follows:

TABLE 1

AD No.	Amendment No.
AD 95–16–16	39–9233
AD 95–13–05	39–9285
AD 95–13–06	39–9286
AD 95–07	39–9287
AD 99–10–10	39–11163

(i) Within 8,000 flight hours, or within 24 months since doing the modification, whichever occurs first.

(ii) Within 90 days after the effective date of this AD.

Note 2: Where there are differences between the AD and the service bulletin, the AD prevails.

Note 3: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(A) If no discrepancy is found: Repeat the inspection at intervals not to exceed 8,000 flight hours or 24 months, whichever is first, until you do the terminating modification specified in paragraph (b) of this AD.

(B) If any discrepancy is found, and the primary nut has backed off and contacts the secondary retention washer: Before further flight, do the terminating modification specified in paragraph (b) of this AD.

(C) If any discrepancy is found, and the primary nut does not contact the secondary retention washer: Repeat the inspection at intervals not to exceed 90 days. Within 18 months after the initial finding, or the effective date of this AD, whichever occurs later, do the terminating modification specified in paragraph (b) of this AD.

Note 4: Inspections accomplished prior to the effective date of this AD per Boeing Alert Service Bulletin 747–54A2206, dated October 19, 2000, are acceptable for compliance with the inspections required by paragraph (a) of this AD.

Optional Terminating Action

(b) Doing the terminating modification (replacement of the primary nut of the midspar fuse pin with a new nut, installation of torque stripe, a detailed visual inspection of the fuse pin threads for damage, and replacement, if necessary) per Figure 3 of Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, ends the repetitive inspections required by this AD.

Note 5: Accomplishment of the terminating action specified in Boeing Alert Service Bulletin 747–54A2206, dated October 19, 2000, is acceptable for compliance with the terminating action specified in paragraph (b) of this AD.

Alternative Methods of Compliance

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

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done per Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001. This incorporation by reference was approved by the Director of the Federal Register per 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on March 21, 2001.

Issued in Renton, Washington, on February 26, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–5168 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for three approved new animal drug applications (NADA's) from PM Ag Products, Inc., to Sweetlix, LLC.

DATES: This rule is effective March 6, 2001.

FOR FURTHER INFORMATION CONTACT: Norman J. Turner, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0214.

SUPPLEMENTARY INFORMATION: PM Ag Products, Inc., 1055 West 175th St., Homewood, IL 60430, has informed FDA that it has transferred ownership of, and all rights and interests in NADA 033–773 for Sweetlix Bloat Guard Block, NADA 109–471 for Staley Sweetlix with Rumensin®, and NADA 136–214 for Enproal Bloat Blox to Sweetlix, LLC, 175 South Main St., suite 150, Salt Lake City, UT 84111. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the transfer of ownership. The agency is removing the sponsor name for PM Ag Products, Inc., because the firm no longer is the holder of any approved NADA's, and the drug labeler code assigned to PM Ag Products, Inc., is being retained as the drug labeler code for Sweetlix, LLC.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for ''PM Ag Products, Inc.'' and by alphabetically adding an entry for ''Sweetlix, LLC '' and in the table in paragraph (c)(2) by revising the entry for ''036904 '' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * * *	
Sweetlix, LLC, 175 South Main St., suite 150, Salt Lake City, UT 84111	036904
* * * * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * * * *	
036904	Sweetlix, LLC, 175 South Main St., suite 150, Salt Lake City, UT 84111
* * * * * * *	

Dated: February 8, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–5311 Filed 3–5–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8944]

RIN 1545–AX41

Grouping Rules for Foreign Sales Corporation Transfer Pricing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations and amendments to temporary regulations that provide guidance to taxpayers that have made an election to be treated as a foreign sales corporation (FSC). These regulations permit the grouping of transactions for purposes of applying the administrative pricing (including marginal costing) rules to determine FSC transfer prices and provide a time for filing for the election to group transactions.

DATES: *Effective date:* These regulations are effective March 2, 2001.

Applicability: For dates of applicability, see § 1.925(a)–1(c)(8)(i).

FOR FURTHER INFORMATION CONTACT: Christopher J. Bello (202) 874–1490 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1987, the IRS and Treasury published temporary regulations (TD 8126, 1978–1 C.B. 184) in the **Federal Register** (52 FR 6428) to provide (among other things) rules for grouping transactions for purposes of applying the FSC transfer pricing rules. A notice of proposed rulemaking (INTL–153–86, 1987–1 C.B. 799) cross-referencing the temporary regulations and inviting comments and requests for a public hearing was published on the same day in the **Federal Register** (52 FR 6467). Written comments concerning the proposed regulations were received and a public hearing was held.

On March 3, 1998, the IRS and Treasury amended the above temporary regulations by publishing temporary regulations (TD 8764, 1998–1 C.B. 844) in the **Federal Register** (63 FR 10305) that (among other things) modified the time for filing the election to group transactions for purposes of applying the administrative pricing (including marginal costing) rules to determine FSC transfer prices. A notice of proposed rulemaking (REG–102144–98, 1998–1 C.B. 860) cross-referencing the temporary regulations and notice of public hearing was published on the same day in the **Federal Register** (63 FR 10351). Written comments concerning the proposed regulations were received and, on June 24, 1998, a public hearing was held.

After consideration of all the comments, certain proposed regulations relating to grouping of transactions for FSC transfer pricing are adopted as revised by this Treasury decision.

Explanation of Provisions

Section 927(d)(2)(B) of the Internal Revenue Code provides generally that FSCs and their related suppliers may, to the extent provided in regulations, elect to apply the FSC transfer pricing provisions under section 925 on the basis of groups of transactions based on product lines or recognized industry or trade usage, rather than on a transaction-by-transaction basis. Sections 1.925(a)–1T(c)(8)(i) and 1.925(b)–1T(b)(3)(i) of the temporary regulations permit taxpayers, at their annual choice, to group transactions in applying the administrative pricing (including marginal costing) rules to determine FSC transfer prices. Such grouping elections must be evidenced on a Schedule P of the FSC's timely filed (including extensions) U.S. income tax return for the taxable year. No untimely or amended returns are allowed to make a grouping election, change a grouping basis, or change from a grouping basis to a transaction-by-transaction basis (collectively ''grouping redeterminations'').

Section 1.925(a)–1T(c)(8)(i) of the temporary regulations also contains a transition rule that requires grouping redeterminations for any taxable year beginning before January 1, 1998, to be made no later than the due date of the FSC's timely filed (including extensions) U.S. income tax return for the FSC's first taxable year beginning after December 31, 1997 (transition rule).

Conforming changes are reflected in §§ 1.925(a)–1T(e)(4) and 1.925(b)–1T(b)(3)(i) of the temporary regulations.

Commentators requested that the rule limiting grouping elections to timely filed returns be removed to allow taxpayers to maximize FSC benefits and correct grouping errors. Other commentators requested that the time limit for grouping elections be replaced by a case-by-case analysis that would disallow only those grouping redeterminations that are abusive. Commentators also suggested alternative time limits that would allow taxpayers to file amended returns to reflect grouping redeterminations within a

specified time limit (for example, one year from the extended due date of the original return). In response to these comments, the Treasury and the IRS have revised the time limits for filing grouping elections under § 1.925(a)–1T(c)(8)(i). Accordingly, these regulations permit grouping redeterminations no later than one year after the due date of the FSC's timely filed (including extensions) U.S. income tax return for taxable years beginning after December 31, 1999. For any taxable year beginning before January 1, 2000, a grouping redetermination may be made no later than the due date of the FSC's timely filed (including extensions) U.S. income tax return for the FSC's first taxable year beginning on or after January 1, 2000.

Commentators also suggested that the transition rule be extended by two or more years to enable taxpayers to assemble data and determine the most advantageous groupings for taxable years beginning before January 1, 1998. In response, the IRS on May 17, 1999, published Notice 99–24 (1999–1 C.B. 1069). Notice 99–24 notified taxpayers that the IRS and Treasury intended to extend by one year the transition rule for such years. These regulations provide a further extension of the transition rule time limit.

These regulations also provide an additional time period for certain taxpayers to make grouping redeterminations notwithstanding the time limits for filing grouping redeterminations otherwise specified in these regulations. In particular, a grouping redetermination may be made at any time during the one-year period commencing upon notification of the related supplier by the Internal Revenue Service of an examination, provided that both the FSC and the related supplier agree to extend their respective statutes of limitations for assessment by one year. The IRS and Treasury anticipate the IRS and taxpayers to plan and conduct examinations in a manner consistent with the foregoing provision so as to facilitate efficient and fair administration of the FSC grouping rules for transfer pricing.

Finally, these regulations provide that the requirements under § 1.925(a)–1T(e)(4) with respect to redeterminations other than grouping also apply to grouping redeterminations.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the temporary regulations and notice of proposed rule-making preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Christopher J. Bello of the Office of the Associate Chief Counsel (International). Other personnel from the IRS and Treasury Department also participated in the development of these regulations.

List of Subjects 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirement.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order for section 1.925(a)–1 to read as follows:

Authority: 26 U.S.C. 7805 * * *.

Section 1.925(a)–1 also issued under 26 U.S.C. 925(b)(1) and (2) and 927(d)(2)(B). * * *

Par. 2. Section 1.925(a)–1 is added to read as follows:

§ 1.925(a)–1 Transfer pricing rules for FSCs.

(a) through (c)(7) [Reserved] For further guidance, see § 1.925(a)–1T(a) through (c)(7).

(c)(8) *Grouping transactions.* (i) The determinations under this section are to be made on a transaction-by-transaction basis. However, at the annual choice made by the related supplier if the administrative pricing methods are used, some or all of these determinations may be made on the basis of groups consisting of products or product lines. The election to group transactions shall be evidenced on Schedule P of the FSC's U.S. income tax return for the taxable year. No untimely or amended returns filed later than one year after the due date of the FSC's timely filed (including extensions) U.S. income tax return will be allowed to elect to group, to change a grouping basis, or to change from a grouping basis to a transaction-by-transaction basis (collectively ''grouping redeterminations''). The rule of the previous sentence is applicable to taxable years beginning after December 31, 1999. For any taxable year beginning before January 1, 2000, a grouping redetermination may be made no later than the due date of the FSC's timely filed (including extensions) U.S. income tax return for the FSC's first taxable year beginning on or after January 1, 2000. Notwithstanding the time limits for filing grouping redeterminations otherwise specified in the previous three sentences, a grouping redetermination may be made at any time during the one-year period commencing upon notification of the related supplier by the Internal Revenue Service of an examination, provided that both the FSC and the related supplier agree to extend their respective statutes of limitations for assessment by one year. In addition, any grouping redeterminations made under this paragraph must meet the requirements under § 1.925(a)–1T(e)(4) with respect to redeterminations other than grouping. The language ''or grouping of transactions'' is removed from the fourth sentence of § 1.925(a)–1T(e)(4), applicable to taxable years beginning after December 31, 1997. See also § 1.925(b)–1T(b)(3)(i).

(c)(8)(ii) through (f) [Reserved] For further guidance, see § 1.925(a)–1T(c)(8)(ii) through (f).

(g) *Effective date.* The provisions of this section apply on or after March 2, 2001.

Par. 3. Section 1.925(a)–1T is amended as follows:

1. Paragraph (c)(8)(i) is revised.

2. The last sentence of paragraph (e)(4) is removed.

The revision reads as follows:

§ 1.925(a)–1T Temporary regulations; transfer pricing rules for FSCs.

* * * * *

(c) * * *

(8) * * * (i) * * * [Reserved] For further guidance, see § 1.925(a)–1(c)(8)(i).

§ 1.925(b)–1T [Amended]

Par. 4. Section 1.925(b)–1T is amended by removing the last sentence of paragraph (b)(3)(i).

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Dated: February 28, 2001.

Pamela F. Olson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 01–5428 Filed 3–2–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8941]

RIN 1545–AX87

Obligations of States and Political Subdivisions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final and temporary regulations.

SUMMARY: This document contains a correction to final and temporary regulations, TD 8941, which were published in the **Federal Register** on Thursday, January 18, 2001 (66 FR 4661). These regulations provide guidance to issuers of tax-exempt bonds for output facilities.

DATES: This correction is effective January 19, 2001.

FOR FURTHER INFORMATION CONTACT: Rose M. Weber (202) 622–3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations that are the subject of this correction are under sections 141 and 142 of the Internal Revenue Code.

Need for Correction

As published, TD 8941 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of final and temporary regulations, TD 8941, which are the subject of FR Doc. 01–1412, is corrected as follows:

On page 4661, column 1, in the preamble under the paragraph heading ''*Paperwork Reduction Act*'' , last line of the first paragraph, the language ''number 1545–'' is corrected to read ''number 1545–1730''.

Cynthia Grigsby,

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

[FR Doc. 01–5282 Filed 3–5–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–445; RE: Notice No. 904]

RIN 1512–AA07

West Elks Viticultural Area (2000R–257P)

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area to be known as ''West Elks,'' located in Delta County, Colorado. This action is the result of a petition filed on behalf of several grape growers and winery owners in the area.

The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising allow wineries to designate the specific areas where the grapes used to make the wine were grown. This enables consumers to better identify the wines they may purchase.

EFFECTIVE DATE: May 7, 2001.

FOR FURTHER INFORMATION CONTACT: Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–9347).

SUPPLEMENTARY INFORMATION:

1. Background on Viticultural Areas

What Is ATF's Authority To Establish a Viticultural Area?

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624). This decision revised the regulations in 27 CFR part 4, Labeling and Advertising of Wine, to allow the establishment of definitive viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new part 9 to 27 CFR, American Viticultural Areas, for providing the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

What Is the Definition of an American Viticultural Area?

Section 4.25a(e)(1), title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Viticultural features such as soil, climate, elevation, topography, etc., distinguish it from surrounding areas.

What Is Required To Establish a Viticultural Area?

Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

- Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;
- Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;
- Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) that distinguish the viticultural features of the proposed area from surrounding areas;
- A description of the specific boundaries of the viticultural area, based on features that can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and
- A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

2. West Elks Petition

ATF received a petition from Barbara E. Heck proposing to establish a viticultural area in Delta County, Colorado, known as ''West Elks.'' The area encompasses approximately 75 square miles. Over 84 acres of vineyards are currently planted in West Elks and the area presently boasts eighteen vineyard and/or winery businesses.

Notice of Proposed Rulemaking

In response to the petition, ATF published a notice of proposed rulemaking, Notice No. 904, in the **Federal Register** on October 16, 2000, (65 FR 61129), proposing the establishment of the West Elks viticultural area. The notice requested comments from interested persons by December 15, 2000.

Comments on Notice of Proposed Rulemaking

No comments were received as a result of Notice No. 904.

What Name Evidence Has Been Provided?

The West Elks viticultural area takes its name from the West Elk Mountains located just east of the area. Each vineyard in the area has a magnificent view of the West Elk Mountains. The petitioner submitted the following as evidence of name recognition:

- Brochure from the U.S. Department of Agriculture Forest Service indicating that the proposed ''West Elks'' viticulture area is known as West Elk Wilderness;
- Brochure from the Colorado State Historical Society and Delta County Tourism mapping the West Elk Loop which runs through the proposed ''West Elks'' viticultural area;
- Delta County Area Map on which the West Elk Mountains are prominently labeled; and
- United States Department of the Interior topographic map on which the West Elk Wilderness and the West Elk Mountains are prominently labeled.
- News article from the *Delta County Independent* which depicts a 1855 map on which the Elk Mountains are prominently labeled;
- Delta County Historical Society map which also shows the Elk Mountains.

What Boundary Evidence Has Been Provided?

The West Elks viticultural area is located on mesa lands. Its borders are the West Elk Mountains to the east and the higher Grand Mesa to the north. To the south, Crawford and Fruitland Mesa have a higher elevation and the plateau climbs until it reaches the north rim of the Black Canyon of the Gunnison. To the west lie the Adobe Badlands in which very little grows.

What Evidence Relating to Geographical Features Has Been Provided?

- *Soil:* The soils of the West Elks viticultural area distinguish it from the surrounding areas. The petitioner provided a General Soil Map which indicates that the West Elks viticultural area is comprised mostly of Aqua Fria-Saration soils, which are deep and moderately deep well-drained stony soils that formed in outwash alluvium derived from igneous rock. To the north of the viticultural area, the soils change to Delson-Cerro soils and to the east the soils are Fughes-Bulkley, Absarokee-Beenom and Delson-Cerro. Billings-Gullied land soils are found to the south of the viticultural area.
- *Elevation:* The boundaries of the West Elks viticultural area are defined by elevation. The far eastern boundary, Juanita Junction, sits at 5942 feet. The eastern line sits mainly at 6200 feet. The southern border of the viticultural area follows section lines of the U.S.G.S. maps that have elevations that range from 5300 to over 5800 feet. The northern border has an elevation range from 6900 to 5900 feet.

The elevations of the areas surrounding the West Elks viticultural area are much higher. Mountains surround the area to the east with elevations reaching 11,000 feet. The Grand Mesa is located to the north of the viticultural area with elevations reaching 10,000 feet at the top. To the south, Crawford and Fruitland Mesa have higher elevations and the plateau climbs until it reaches the north rim of the Black Canyon of the Gunnison. To the west, the Adobe Badlands, on which very little grows, and the Redlands Mesa, which sits above 6200 feet, separate the West Elks viticultural area from Delta, Cedaredge and the Surface Creek areas. The farming area to the east of Delta sits under 5000 feet elevation, which indicates a longer growing season than that of the West Elks viticultural area.

The high elevation of the viticultural area creates a fruit that has tremendous flavor. The area is completely protected and sheltered by lofty mesas and mountain ranges. The elevations of the surrounding areas help protect the viticultural area from severe storms and climatic disturbances, which often injure or destroy fruit.

- *Climate:* The climate of the West Elks viticultural area is rather mild. With over 300 full sun days a year, grape sugar contents are high. The West Elk Loop Scenic and Historical Byway brochure states ''. . . warm days, cool nights, and the so-called *Million Dollar Breeze* which flows down valley enhance the growing season.'' The areas surrounding the West Elks viticultural area are much cooler due to their higher elevation.

3. Regulatory Analyses and Notices

Is This a Significant Regulatory Action as Defined by Executive Order 12866?

It has been determined that this final rule is not a significant regulatory action as defined in Executive Order 12866. Accordingly, this final rule is not subject to the analysis required by this Executive Order.

How Does the Regulatory Flexibility Act Apply to This Rule?

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from a particular area. No new requirements are imposed. Accordingly, a regulatory flexibility analysis is not required.

Does the Paperwork Reduction Act Apply to This Rule?

The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because no requirement to collect information is imposed.

4. Drafting Information

The principal author of this document is Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Alcohol and alcoholic beverages, Consumer protection, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

Par. 2. Subpart C is amended by adding § 9.172 to read as follows:

§ 9.172 West Elks.

(a) *Name.* The name of the viticultural area described in this section is ''West Elks.''

(b) *Approved Maps.* The appropriate maps for determining the boundary of the West Elks viticultural area are four United States Geological Survey (U.S.G.S.) topographic maps (Scale: 1:250,000). They are titled:

(1) Lazear Quadrangle (Colorado-Delta Co. 1955 (photorevised 1978));

(2) Hotchkiss Quadrangle (Colorado-Delta Co. 1965 (photorevised 1979));

(3) Paonia Quadrangle (Colorado-Delta Co. 1965 (photorevised 1979); and

(4) Bowie Quadrangle (Colorado-Delta Co. 1965 (photorevised 1978).

(c) *Boundaries.* The West Elks viticultural area is located in eastern Delta County, Colorado. The beginning point is found on the ''Bowie Quadrangle'' U.S.G.S. map at the ¼

corner common to Sections 19 and 20, Township 13 South, Range 91 West (T. 13 S., R. 91 W.);

(1) The boundary proceeds east following the center subdivision lines of Sections 20 and 21 to its intersection with Colorado Highway 133;

(2) Then northeasterly following Colorado Highway 133 to its intersection with the N–S center subdivision line of Section 14, T. 13 S., R. 91 W., near Juanita Junction;

(3) Then south following the center subdivision line to its intersection with the North Fork of the Gunnison River;

(4) Then southwesterly following the North Fork of the Gunnison River to its intersection with the Stewart Ditch in the extreme southern part of Section 15, T. 13 S., R. 91 W.;

(5) Then southwesterly following the Stewart Ditch to its intersection with the section line common to Sections 21 and 28, T. 13 S., R. 91 W.;

(6) Then east following the section line common to Sections 21 and 28 to its intersection with the 6000 foot contour;

(7) Then southerly following the 6000 foot contour to its second intersection with the section line common to Sections 3 and 4, T. 14 S., R. 91 W., located on the Paonia, Colo. U.S.G.S. map;

(8) Then south following the section line common to Sections 3 and 4 to its intersection with the 6200 foot contour;

(9) Then southerly following the 6200 foot contour to its intersection with the section line common to Sections 16 and 17, T. 14 S., R. 91 W.;

(10) Then south following the section line common to Sections 16 and 17 to the point of intersection of Sections 16, 17, 20 and 21;

(11) Then west following the section line common to Sections 17 and 20 to the point of intersection of Sections 17, 18, 19 and 20;

(12) Then south following the section line common to Sections 19 and 20 to the N1/16 corner common to Sections 19 and 20;

(13) Then west following the subdivision line across Section 19 to the N1/16 corner common to Section 19, T. 14 S., R. 91 W. and Section 24, T, 14 S., R. 92 W.;

(14) Then south following the range line between R. 91 W. and R. 92 W. to the point of intersection between Sections 19 and 30, T. 14 S., R. 91 W. and Sections 24 and 25, T. 14 S., R. 92 W.;

(15) Then west following the section line common to Sections 24 and 25 to the point of intersection between Sections 23, 24, 25 and 26, located on the Hotchkiss, Colo. U.S.G.S. map;

(16) Then south following the section line common to Sections 25 and 26 to the point of intersection between Sections 25, 26, 35 and 36;

(17) Then west following the section lines common to Sections 26 and 35 and Sections 27 and 34 to the point of intersection between Sections 27, 28, 33 and 34;

(18) Then south following the section line common to Sections 33 and 34 to the point of intersection between Sections 33 and 34, T. 14 S., R. 92 W. and Sections 3 and 4, T. 15 S., R. 92 W.;

(19) Then west following the township line between T. 14 S. and T. 15 S. approximately three miles to the point of intersection between Section 31, T. 14 S., R. 92 W., Section 6, T. 15 S., R. 92 W., Section 1, T. 15 S., R. 93 W., and Section 36, T. 14 S., R. 93 W.;

(20) Then south following the range line between R. 92 W. and R. 93 W. to the point of intersection between Sections 6 and 7, T. 15 S., R. 92 W. and Sections 1 and 12, T. 15 S., R. 93 W.;

(21) Then west following the section lines common to Sections 1 and 12 and Sections 2 and 11 to its intersection with the North Fork of the Gunnison River, located on the Lazear, Colo. U.S.G.S. map;

(22) Then westerly following the North Fork of the Gunnison River to its intersection with Big Gulch in the extreme northeastern corner of Section 6, T. 15 S., R. 93 W.;

(23) Then northerly following Big Gulch to its intersection with the section line common to Sections 17 and 18, T. 14 S., R. 93 W.;

(24) Then north following the section lines common to Sections 17 and 18, Sections 7 and 8, and Sections 5 and 6 to the point of intersection between Sections 5 and 6, T. 14 S., R. 93 W. and Sections 31 and 32, T. 13 S., R. 93 W.;

(25) Then east following the township line between T. 13 S. and T. 14 S. approximately two miles to the point of intersection between Sections 3 and 4, T. 14 S., R. 93 W. and Sections 33 and 34, T. 13 S., R. 93 W.;

(26) Then south following the section line common to Sections 3 and 4 to the point of intersection between Sections 3, 4, 9 and 10;

(27) Then east following the section lines for approximately 6 miles to the point of intersection between Sections 3, 4, 9 and 10, T. 14 S., R. 92 W., located on the Hotchkiss, Colo. U.S.G.S. map;

(28) Then north following the section line common to Sections 3 and 4 to the point of intersection between Sections 3 and 4, T. 14 S., R. 92 W. and Sections 33 and 34, T. 13 S., R. 92 W.;

(29) Then east following the township line between T. 13 S. and T. 14 S. to its intersection with the Fire Mountain Canal in the southwestern corner of Section 35, T. 13 S., R. 92 W.;

(30) Then northeasterly following the Fire Mountain Canal through the extreme northwest corner of the Paonia, Colo. U.S.G.S. map to its intersection with the section line common to Sections 29 and 30, T. 13 S., R. 91 W., located on the Bowie, Colo. U.S.G.S. map;

(31) Then north following the section lines common to Sections 29 and 30 and Sections 19 and 20 to the 1/4 corner common to Sections 19 and 20, the point of beginning.

Dated: February 1, 2001.

Bradley A. Buckles,

Director.

Approved: February 15, 2001.

Timothy E. Skud,

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

[FR Doc. 01–5423 Filed 3–5–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–01–003]

RIN 2115–AE46

Special Local Regulations for Marine Events; Western Branch, Elizabeth River, Portsmouth, VA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations for the Crawford Bay Crew Classic, a marine event to be held on the waters of the Western Branch of the Elizabeth River, Portsmouth, Virginia. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Western Branch of the Elizabeth River during the event.

DATES: This rule is effective from 11 a.m. on March 23, 2001 to 6 p.m. on March 24, 2001.

ADDRESSES: Materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–01–003 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m.,

Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, telephone number (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a NPRM. The Coast Guard received confirmation of the request for special local regulations on January 16, 2001. We were notified of the need for special local regulations with insufficient time to publish a NPRM, allow for comments, and publish a final rule prior to the event.

Background and Purpose

On March 23 and March 24, 2001, Ports Events, Inc. will sponsor the Crawford Bay Crew Classic. The event will consist of intercollegiate crew rowing teams racing along a 2000 meter course on the waters of the Western Branch of the Elizabeth River. A fleet of spectator vessels is expected to gather near the event site to view the competition. To provide for the safety of participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the crew races.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Western Branch of the Elizabeth River. The temporary special local regulations will be enforced from 11 a.m. to 6 p.m. on March 23, 2001 and from 6:30 a.m. to 6 p.m. on March 24, 2001. The effect will be to restrict general navigation in the regulated area during the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. The Patrol Commander will allow non-participating vessels to transit the regulated area between races. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

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 temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation prevents traffic from transiting a portion of the Western Branch of the Elizabeth River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Additionally, vessel traffic will be allowed to transit through the regulated area in between races.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), 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 will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Western Branch of the Elizabeth River during the event.

Although this regulation prevents traffic from transiting a portion of the Western Branch of the Elizabeth River during the event, the effect of this regulation will not be significant because of the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Additionally, vessel traffic will be allowed to transit through the regulated area in between races.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this temporary 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 address listed under **ADDRESSES**.

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

Collection of Information

This rule calls for no new collection of information 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 will not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive

Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Environment

We prepared an ''Environmental Assessment'' in accordance with Commandant Instruction M16475.1C and determined that this rule will not significantly affect the quality of the human environment. The ''Environmental Assessment'' and ''Finding of No Significant Impact'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A temporary section, § 100.35–T05–003 is added to read as follows:

§ 100.35–T05–003 Western Branch, Elizabeth River, Portsmouth, Virginia.

(a) *Regulated Area.* The waters of the Western Branch, Elizabeth River bounded by a line connecting the following points:

Latitude	*Longitude*
36°50′18″ North	076°23′06″ West, to
36°50′18″ North	076°21′42″ West, to
36°50′12″ North	076°21′42″ West, to
36°50′12″ North	076°23′06″ West, to
36°50′18″ North	076°23′06″ West

All coordinates reference Datum NAD 1983.

(b) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Hampton Roads.

(c) *Special Local Regulations:*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(d) *Effective Dates.* This section is effective from 11 a.m. on March 23, 2001 to 6 p.m. on March 24, 2001.

(e) *Enforcement Times.* This section will be enforced from 11 a.m. to 6 p.m. on March 23, 2001 and from 6:30 a.m. to 6 p.m. on March 24, 2001.

Dated: February 22, 2001.

T. C. Paar,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 01–5441 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09–01–001]

RIN–2115–AE47

Drawbridge Operation Regulations; Manitowoc River, Wisconsin

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule.

SUMMARY: By this direct final rule, the Coast Guard is revising the operating regulations governing the Eighth Street bridge (mile 0.29), Tenth Street bridge (mile 0.43), and Wisconsin Central Railroad (formerly Soo Line) bridge (mile 0.91), all over the Manitowoc River in Manitowoc, Wisconsin. This rule would re-establish the operating schedules published in 1983, and erroneously removed by another rule in 1984.

DATES: This rule is effective on June 4, 2001, unless a written adverse comment, or written notice of intent to submit adverse comment, reaches Commander, Ninth Coast Guard District, on or before May 7, 2001. If an adverse comment, or notice of intent to submit an adverse comment, is received, the Coast Guard will withdraw this direct final rule and publish a timely notice of withdrawal in the **Federal Register**.

ADDRESSES: Comments may be mailed or delivered to: Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Room 2019, Cleveland, OH 44199–2060 between 6:30 a.m. and 3 p.m., Monday through Friday, except federal holidays. The telephone number is (216) 902–6084.

The District Commander maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Scot M. Striffler, Project Manager, at (216) 902–6084.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting data, views or arguments for or against this rule. Persons submitting comments should include their name, address, identify this rulemaking (CGD09–01–001), the specific section of this rule to which each comment applies, and the reason(s) for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½″ × 11″ unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

Regulatory Information

The Coast Guard is publishing a direct final rule, the procedures of which are outlined in 33 CFR 1.05–55, because no adverse comments are anticipated. If no adverse comments or any written notice of intent to submit adverse comment are received within the specified comment period, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days prior to the effective date, the Coast Guard will publish a notice in the **Federal Register** stating that no adverse comment was received and announcing confirmation that this rule will become effective as scheduled. However, if the Coast Guard receives written adverse comment or written notice of intent to submit adverse comment, the Coast Guard will publish a notice in the final rule section of the **Federal Register** to announce withdrawal of all or part of this direct final rule. If adverse comments apply to only part of this rule, and it is possible to remove that part without defeating the purpose of this rule, the Coast Guard may adopt as final those parts of this rule on which no adverse comments were received. The part of this rule that was the subject of adverse comments will be withdrawn. If the Coast Guard decides to proceed with a rulemaking, a

separate Notice of Proposed Rulemaking (NPRM) will be published and a new opportunity for comment provided.

A comment is considered ''adverse'' if the comment explains why this rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change.

Background and Purpose

The Coast Guard published a final rule on September 22, 1983 (48 FR 43173), which completed a rulemaking to revise the bridge operating regulations for drawbridges on Manitowoc River, Wisconsin. The revised regulation was not included in the re-codified numbering of bridge regulations that occurred on April 24, 1984 (49 FR 17452). Commander, Ninth Coast Guard District, has reviewed the operating schedule adopted in 1983 and evaluated the present conditions of marine traffic and bridge operations in Manitowoc Harbor, WI, and determined that the adopted schedule adequately provides for the reasonable needs of navigation in the harbor. The adopted schedule has been enforced in Manitowoc for the past 17 years without any reported complaints or difficulties.

The Coast Guard has identified a minor change to the final rule of 1983; the Soo Line bridge at mile 0.9 is now owned by the Wisconsin Central railroad company. The bridge is correctly named in this direct final rule.

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

This determination is based on the Coast Guard review of impacts on commerce and marine activities in Manitowoc during the 17 years since the original final rule was published. There have been no reported problems or complaints with the bridge operating schedule.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

The revised bridge regulations have been employed for approximately seventeen years with no complaints or problems for known small entities.

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and 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.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132, and determined that this rule does not have federalism implications 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 having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not 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 34(g) of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. This rule changes a drawbridge regulation which has been found not to have a significant effect on the environment. A ''Categorical Exclusion Determination'' is not required.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For reasons set out in the preamble, 33 CFR part 117 is revised 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); § 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Revise § 117.1089 to read as follows:

§ 117.1089 Manitowoc River.

(a) The draws of the Eighth Street bridge, mile 0.29, and Tenth Street bridge, mile o.43, both at Manitowoc, shall open on signal except that:

(1) From April 1 through October 31, Monday through Friday, the bridges need not open from 6:50 a.m. to 7 a.m., 7:50 a.m. to 8 a.m., 11:55 a.m. to 12:10 p.m., and 12:45 p.m. to 1 p.m., except federal holidays. From 10:30 p.m. to 4:30 a.m. the draws shall open on signal if at least a 6 hour advance notice is given.

(2) From November 1 through March 31 the draws shall open on signal if at least a 12 hour advance notice is given.

(3) The opening signals for these bridges are:

(i) Eighth Street—one prolonged blast followed by one short blast.

(ii) Tenth Street—two short blasts followed by one prolonged blast.

(4) When signal is given by car ferry or other large vessel to pass either of the two bridges, the remaining bridge shall open promptly so that such vessels shall not be held between the two bridges.

(b) The draw of the Wisconsin Central railroad bridge, mile 0.91 at Manitowoc, shall open on signal except that:

(1) From April 1 through October 31 between the hours of 10:30 p.m. and 4:30 a.m., the draws shall open on signal if at least a 6 hour advance notice is given.

(2) From November 1 through March 31 the draw shall open on signal if at least a 12 hour advance notice is given.

(3) Opening signal for this bridge is two short blasts followed by one prolonged blast.

Dated: February 20, 2001.

James D. Hull,

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

[FR Doc. 01–5443 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AJ51

Revised Criteria for Monetary Allowance for an Individual Born With Spina Bifida Whose Biological Father or Mother Is a Vietnam Veteran

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the evaluation criteria that the Department of Veterans Affairs (VA) uses to determine the amount of the monthly monetary allowance that it pays to an individual born with spina bifida whose biological father or mother is a Vietnam veteran. The intended effect of this amendment is to clarify the criteria to ensure that they are applied consistently and to add a provision allowing the Director of the Compensation and Pension Service to adjust the payment level for individuals with disabling impairments due to spina bifida that are not addressed in the evaluation criteria.

DATES: *Effective Date:* This amendment is effective April 5, 2001.

FOR FURTHER INFORMATION CONTACT: Caroll McBrine, M.D., Consultant, Policy and Regulations Staff (211A), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273–7230.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 13, 2000 (65 FR 13254), we published a proposal to revise the criteria for determining the level of payment for an individual born with spina bifida whose biological father or mother is a Vietnam veteran. The proposed revisions were developed based on VA's review of a sample of adjudicated spina bifida claims to determine the effectiveness of the evaluation criteria and how they were applied, a further review of the medical literature, and suggestions from several veterans service organizations. The proposed evaluation criteria were based on certain medical impairments due to spina bifida and on the disabling effects of those impairments on ordinary day-to-day activities. We also proposed to allow the Director of the Compensation and Pension Service to increase the payment level for an individual with spina bifida who has such impairments as blindness, uncontrolled seizures, or renal failure.

In addition, we proposed to change the references to ''child'' and ''children'' to ''individual'' and ''individuals'' throughout 38 CFR 3.814 and to define the word ''individual'' to make it clear that the regulation applies to eligible individuals regardless of age.

We received one comment, which was from the Veterans of Foreign Wars.

Under VA's initial evaluation criteria for individuals with disabilities due to spina bifida, the effects of bowel and bladder impairment were evaluated as follows: Level I if ''continent of urine and feces''; Level II if ''requires drugs or intermittent catheterization or other mechanical means to maintain proper urinary bladder function, or mechanisms for proper bowel function''; and Level III if ''has complete urinary or fecal incontinence.'' We proposed that the effects of bowel and bladder impairment be evaluated as follows: Level I if ''continent of urine and feces without the use of medication or other means to control incontinence''; Level II if ''requires medication or other means to control the effects of urinary bladder impairment and is unable no more than two times per week to remain dry for at least three hours at a time during waking hours; or, requires bowel management techniques or other treatment to control the effects of bowel impairment but does not have fecal leakage severe or frequent enough to require daily wearing of absorbent materials''; and Level III if ''despite the use of medication or other means to control the effects of urinary bladder impairment, at least three times per week is unable to remain dry for three hours at a time during waking hours; or, despite bowel management techniques or other treatment to control the effects of bowel impairment, has fecal leakage severe or frequent enough to require daily wearing of absorbent materials; or, regularly requires manual evacuation or digital stimulation to empty the bowel.''

The commenter suggested that we change the Level III requirement for ''daily wearing of absorbent materials'' to ''wearing of absorbent materials on most days'' because a requirement for daily wearing of absorbent materials is too stringent, considering that constipation may occur intermittently and absorbent materials not be necessary for a day or two.

On further consideration, we agree that the commenter's suggested change would be an improvement, in view of the fact that when constipation is present, the individual might feel comfortable not wearing absorbent materials for a day or so, although they would ordinarily wear them on most days and be incontinent a substantial part of the time. We have therefore revised the criteria for Level III by changing ''daily wearing of absorbent materials'' to ''wearing of absorbent materials at least four days a week'' and revised the Level II criteria accordingly.

The commenter also felt that Level III should be assigned for those who undergo a surgical procedure that permanently alters the structure and/or function of the bowel or bladder, for example, a colostomy, because these surgical alterations and appliances disrupt day-to-day activities as much as the frequent need to wear absorbent materials.

We agree in part with the commenter. There are a number of surgical procedures and appliances that may be used to improve bowel and bladder function. At times they make an individual continent or at least decrease the extent or frequency of incontinence; however, they are not always successful. For example, an artificial bladder sphincter that is implanted for urinary incontinence might result in improved bladder function with diminished incontinence or no incontinence at all, but it might also fail to improve bladder function significantly. When an individual must use appliances or undergo surgical procedures, at least a Level II assignment would be warranted because such use or procedure is akin to the use of medication or other means to control the effects of urinary bladder impairment. If the device or surgery does not restore continence sufficiently,

a Level III assignment would be warranted. However, the presence of an appliance or history of a surgical procedure does not necessarily mean an individual will have the extent of functional impairment contemplated by the Level III criteria. If incontinence is diminished by a surgical procedure or appliance, day-to-day functioning should be improved, and a Level III payment would not be warranted. Therefore, no overall change in criteria is needed to assure the assignment of an appropriate payment level to individuals who must wear an appliance or who have undergone a surgical procedure that alters the structure of the bowel or bladder.

In the case of a colostomy, as with other procedures, some individuals are helped more than others. Some become continent of feces with a colostomy and may not need to wear a bag. In this case, the resulting impairment is contemplated by the criteria listed under Level II. Individuals who have a colostomy have required surgery but may not have fecal leakage severe or frequent enough to require wearing of absorbent materials on most days. In fact, they may not need to wear absorbent materials at all. Others with a colostomy remain incontinent and must wear a bag. In our judgment, the need to wear a bag is akin to the Level III criteria, specifically, the need to wear absorbent materials. To assure consistency of evaluations for a relatively common procedure with different possible outcomes, we have added ''a colostomy that requires wearing a bag'' to the Level III criteria and ''a colostomy that does not require wearing a bag'' to the Level II criteria. Impairment resulting from other procedures and the use of other appliances can be assessed using the existing criteria to determine whether Level II (which would be the minimum) or Level III is appropriate, according to the extent of urinary or fecal incontinence.

VA appreciates the comment submitted in response to the proposed rule, which is now adopted with the amendments noted above.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Executive Order 12866

This regulatory amendment has been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

(The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.)

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: February 15, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.814, the heading for the section and paragraphs (a), (c)(2), and (d) are revised to read as follows:

§ 3.814 Monetary allowance under 38 U.S.C. 1805 for an individual suffering from spina bifida whose biological father or mother is or was a Vietnam veteran.

(a) VA will pay a monthly allowance based upon the level of disability determined under the provisions of paragraph (d) of this section to or for an individual who it has determined is suffering from spina bifida and whose biological father or mother is or was a Vietnam veteran. Receipt of this allowance will not affect the right of the individual or any other related individual to receive any other benefit to which he or she may be entitled under any law administered by VA. An individual suffering from spina bifida is entitled to only one monthly allowance under this section, even if the individual's biological father and mother are or were both Vietnam veterans.

* * * * *

(c) * * *

(2) *Individual.* For the purposes of this section, the term ''individual'' means a person, regardless of age or marital status, whose biological father or mother is or was a Vietnam veteran and who was conceived after the date on which the veteran first served in the Republic of Vietnam during the Vietnam era. Notwithstanding the provisions of § . 3.204(a)(1), VA shall require the types of evidence specified in §§ 3.209 and 3.210 sufficient to establish in the judgment of the Secretary that an individual's biological father or mother is or was a Vietnam veteran.

* * * * *

(d)(1) Except as otherwise specified in this paragraph, VA will determine the level of payment as follows:

(i) *Level I.* The individual walks without braces or other external support as his or her primary means of mobility in the community, has no sensory or motor impairment of the upper extremities, has an IQ of 90 or higher, and is continent of urine and feces without the use of medication or other means to control incontinence.

(ii) *Level II.* Provided that none of the disabilities is severe enough to warrant payment at Level III, and the individual: walks with braces or other external support as his or her primary means of mobility in the community; or, has sensory or motor impairment of the upper extremities, but is able to grasp pen, feed self, and perform self care; or, has an IQ of at least 70 but less than 90; or, requires medication or other means to control the effects of urinary bladder impairment and no more than two times per week is unable to remain dry for at least three hours at a time during waking hours; or, requires bowel management techniques or other treatment to control the effects of bowel impairment but does not have fecal leakage severe or frequent enough to require wearing of absorbent materials at least four days a week; or, has a colostomy that does not require wearing a bag.

(iii) *Level III.* The individual uses a wheelchair as his or her primary means of mobility in the community; or, has sensory or motor impairment of the upper extremities severe enough to prevent grasping a pen, feeding self, and performing self care; or, has an IQ of 69 or less; or, despite the use of medication or other means to control the effects of urinary bladder impairment, at least three times per week is unable to remain

dry for three hours at a time during waking hours; or, despite bowel management techniques or other treatment to control the effects of bowel impairment, has fecal leakage severe or frequent enough to require wearing of absorbent materials at least four days a week; or, regularly requires manual evacuation or digital stimulation to empty the bowel; or, has a colostomy that requires wearing a bag.

(2) If an individual who would otherwise be paid at Level I or II has one or more disabilities, such as blindness, uncontrolled seizures, or renal failure that result either from spina bifida, or from treatment procedures for spina bifida, the Director of the Compensation and Pension Service may increase the monthly payment to the level that, in his or her judgment, best represents the extent to which the disabilities resulting from spina bifida limit the individual's ability to engage in ordinary day-to-day activities, including activities outside the home. A Level II or Level III payment will be awarded depending on whether the effects of a disability are of equivalent severity to the effects specified under Level II or Level III.

(3) VA may accept statements from private physicians, or examination reports from government or private institutions, for the purpose of rating spina bifida claims without further examination, provided the statements or reports are adequate for assessing the level of disability due to spina bifida under the provisions of paragraph (d)(1) of this section. In the absence of adequate medical information, VA will schedule an examination for the purpose of assessing the level of disability.

(4) VA will pay an individual eligible for a monetary allowance due to spina bifida at Level I unless or until it receives medical evidence supporting a higher payment. When required to reassess the level of disability under paragraph (d)(5) or (d)(6) of this section, VA will pay an individual eligible for this monetary allowance at Level I in the absence of evidence adequate to support a higher level of disability or if the individual fails to report, without good cause, for a scheduled examination. Examples of good cause include, but are not limited to, the illness or hospitalization of the claimant, death of an immediate family member, etc.

(5) VA will pay individuals under the age of one year at Level I unless a pediatric neurologist or a pediatric neurosurgeon certifies that, in his or her medical judgment, there is a neurological deficit that will prevent the individual from ambulating, grasping a pen, feeding himself or herself, performing self care, or from achieving urinary or fecal continence. If any of those deficits are present, VA will pay the individual at Level III. In either case, VA will reassess the level of disability when the individual reaches the age of one year.

(6) VA will reassess the level of payment whenever it receives medical evidence indicating that a change is warranted. For individuals between the ages of one and twenty-one, however, it must reassess the level of payment at least every five years.

Authority: 38 U.S.C. 501, 1805)

[FR Doc. 01–5450 Filed 3–5–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 19

RIN 2900–AK61

Appeals Regulations: Title for Members of the Board of Veterans' Appeals—Rescission

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: In a document published in the **Federal Register** on September 14, 2000 (65 FR 55461), we amended the Department of Veterans Affairs (VA) Appeals Regulations by providing that a Member of the Board of Veterans' Appeals (Board) may also be known as a Veterans Law Judge. Consistent with legal authority, we published the amendment without providing an opportunity for notice-and-comment.

On October 27, 2000, six veterans service organizations wrote to the Acting Secretary, opposing the amendment and arguing that they should have been provided an opportunity to comment before we made such a change. Under these circumstances, we agreed to rescind the amendment and propose to reestablish the amendment. Accordingly, this document rescinds the amendment. In a companion document in the ''Proposed Rules'' section of this issue of the **Federal Register**, we are proposing to amend the regulations to again provide that a Member of the Board may also be known as a Veterans Law Judge.

DATES: *Effective Date:* March 6, 2001.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals (01C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: This final rule concerns agency organization, procedure or practice and is not a substantive rule. Accordingly, this final rule is exempt from the notice-and-comment requirements and the delayed effective date provisions of 5 U.S.C. 553.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

List of Subjects in 38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

Dated: February 21, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 19 is amended as set forth below:

PART 19—BOARD OF VETERANS' APPEALS: APPEALS REGULATIONS

1. The authority citation for part 19 continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 19.2 is revised to read as follows:

§ 19.2 Composition of the Board.

The Board consists of a Chairman, Vice Chairman, Deputy Vice Chairmen, Members and professional, administrative, clerical and stenographic personnel. Deputy Vice Chairmen are Members of the Board who are appointed to that office by the Secretary upon the recommendation of the Chairman.

Authority: 38 U.S.C. 501(a), 512, 7101(a))

[FR Doc. 01–5451 Filed 3–5–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[CO–001–0056 and CO–001–0057; FRL–6951–1]

Standards of Performance for New Stationary Sources; Supplemental Delegation of Authority to the State of Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and delegation of authority.

SUMMARY: The purpose of this document is to inform the public that, on September 8, 2000, EPA updated its delegation of authority to the State of Colorado for implementation and enforcement of the Federal new source performance standards (NSPS) as in effect on July 1, 1996 and for the NSPS for hospital/medical/infectious waste incinerators for which construction is commenced after June 20, 1996 (40 CFR 60, subpart Ec, promulgated on September 15, 1997, 62 FR 48382). EPA granted delegation in response to requests dated June 27, 1997 and December 16, 1998 from the State of Colorado. EPA is also updating the table in 40 CFR part 60 regarding the NSPS delegation status for EPA Region VIII States. Last, EPA is updating the EPA Region VIII address and the State of Colorado's address listed in 40 CFR part 60.

EFFECTIVE DATE: This action will be effective April 5, 2001. The delegation of authority to Colorado became effective on September 8, 2000.

ADDRESSES: Copies of the documents relative to this delegation are available for inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Copies of the State documents relevant to this delegation are available for public inspection at the Air Pollution Control Division, Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80222–1530.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, EPA Region VIII, (303) 312–6445.

SUPPLEMENTARY INFORMATION:

I. What Is the Purpose of This Document?

EPA provides notice that, on September 8, 2000, we delegated authority to the State of Colorado to implement and enforce the NSPS of 40 CFR part 60 as in effect on July 1, 1996. EPA also delegated authority to Colorado to implement and enforce the NSPS for hospital/medical/infectious waste incinerators for which construction is commenced after June 20, 1996 in 40 CFR part 60, subpart Ec (as promulgated on September 15, 1997 at 62 FR 48382). In addition, EPA is updating the table in 40 CFR 60.4 regarding the NSPS delegation status for Region VIII States. Last, EPA is updating the EPA Region VIII address and the State of Colorado's address listed in 40 CFR 60.4.

EPA considers these changes to 40 CFR 60.4 to be minor amendments. Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. Because these regulatory changes are minor in nature, EPA has determined that there is good cause for making today's changes to 40 CFR 60.4 final without prior proposal and opportunity for comment. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

II. What Is EPA's Authority for Granting Delegation?

Sections 110, 111(c)(1) and 301, of the Clean Air Act (Act), as amended, authorize EPA to delegate authority to implement and enforce the NSPS standards set out in 40 CFR part 60.

III. How Was the Delegation of Authority Granted by EPA?

On June 27, 1997 and December 16, 1998, the State of Colorado submitted requests for delegation of authority for the NSPS in effect as of July 1, 1996 and for 40 CFR part 60, subpart Ec, as promulgated on September 15, 1997 (62 FR 48382). These delegation requests were submitted subsequent to the State revising its adoption of the Federal NSPS by reference in Colorado's Regulation No. 6. With this adoption of the NSPS, the State adopted two new NSPS subparts: hospital/medical/infectious waste incinerators for which construction is commenced after June 20, 1996 (Subpart Ec) and municipal solid waste landfills (Subpart WWW).

EPA granted delegation of authority to the State of Colorado to implement and enforce the NSPS in the following letter dated September 8, 2000:

Ref: 8P–AR

Honorable Bill Owens
Governor of Colorado, 136 State Capitol, Denver, Colorado 80203–1792

Dear Governor Owens:

On June 27, 1997 and on December 16, 1998, Margie Perkins, Director of the Colorado Air Pollution Control Division, requested delegation of authority for revisions to the New Source Performance Standards (NSPS) in Colorado's Regulation No. 6. The State revised its NSPS to adopt standards for two additional source categories. The State also updated its incorporation by reference of all the NSPS to reflect the July 1, 1996 version of the Federal regulations.

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

(A) Responsibility for all sources located, or to be located, in the State of Colorado subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60. The categories of new stationary sources covered by this delegation are as follows: hospital/medical/infectious waste incinerators for which construction is commenced after June 20, 1996 (Subpart Ec) and municipal solid waste landfills (Subpart WWW).

(B) Not all authorities of NSPS can be delegated to states under Section 111(c) of the Act, as amended. The EPA Administrator retains authority to implement those sections of the NSPS that require: (1) approving equivalency determinations and alternative test methods, (2) decision making to ensure national consistency, and (3) EPA rulemaking to implement. Therefore, of the NSPS of 40 CFR Part 60 being delegated in this letter, the following sections are not delegated to the State of Colorado:

(i) 40 CFR 60.56c(i) establishing operating parameters when using controls other than those listed in 40 CFR 60.56c(d) (Subpart Ec);

(ii) Alternative methods of demonstrating compliance under 40 CFR 60.8 (Subpart Ec); and (iii) 40 CFR 60.754(a)(5), pertaining to municipal solid waste landfills (Subpart WWW).

(C) As 40 CFR Part 60 is updated, Colorado should revise its regulations accordingly and in a timely manner.

This delegation is based upon and is a continuation of the same conditions as those stated in EPA's original delegation letter of August 27, 1975, except that condition 3, relating to Federal facilities, was voided by the Clean Air Act Amendments of 1977. Please also note that EPA retains concurrent enforcement authority as stated in condition 2. In addition, if at any time there is a

conflict between a State and Federal NSPS regulation, the Federal regulation must be applied if it is more stringent than that of the State, as stated in condition 10. EPA published its August 27, 1975 delegation letter in the notices section of the October 31, 1975 **Federal Register** (40 FR 50748), along with an associated rulemaking notifying the public that certain reports and applications required from operators of new or modified sources shall be submitted to the State of Colorado (40 FR 50718). Copies of the **Federal Register** are enclosed for your convenience.

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

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

Sincerely yours,
William P. Yellowtail,
Regional Administrator.

Enclosures.

cc: Margie Perkins, Director, Colorado Air Pollution Control Division.

IV. How Do I Know Which NSPS Subparts Have Been Delegated by EPA to the States?

We publish a table in 40 CFR 60.4 for Region VIII States that identifies, for each State, the NSPS subparts for which EPA has delegated authority to implement. In this document, we update that table to reflect the NSPS subparts delegated to Colorado.

V. What Are the Administrative Requirements Associated With This Document?

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely notifies the public of our delegation to Colorado and makes minor regulatory amendments. Thus, it imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely notifies the public of our delegation to the State to implement a Federal standard and makes minor regulatory changes. Thus, the rule does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2). This rule will be effective April 5, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 7, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 60

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

Dated: February 26, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

Part 60, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 60—AMENDED

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601 as amended by the Clean Air Act Amendments of 1990, Pub. L. 101–549, 104 Stat. 2399 (November 15, 1990; 402, 409, 415 of the Clean Air Act as amended, 104 Stat. 2399, unless otherwise noted).

Subpart A—General Provisions

2. Section 60.4 is amended by:

a. Revising the address listed for ''Region VIII'' in paragraph (a) to read as follows;

b. Revising the address listed ''State of Colorado'' in paragraph (b)(G) to read as follows; and

c. Amending the table entitled ''Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]'' by revising the entries for ''Ec—Hospital/Medical/Infectious Waste Incinerators'' and ''WWW—Municipal Solid Waste Landfills'' to read as follows:

§ 60.4 Address.

(a) * * *

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, 999 18th Street, Suite 300, Denver, CO 80222–2466.

* * * * *

(b) * * *

(G) State of Colorado, Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, CO 80222–1530.

* * * * *

(c) * * *

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS

[(NSPS) for Region VIII]

Subpart	CO	MT–A[1]	ND	SD–A[1]	UTA[1]	WY
* * * *	*		*		*	
Ec—Hospital/Medical/Infectious Waste Incinerators	(*)		(*)	(*)		
* * * *	*		*		*	
WWW—Municipal Solid Waste Landfills	(*)		(*)	(*)	(*)	(*)

(*) Indicates approval of State regulation.

[1] Indicates approval of State regulation as part of the State Implementation Plan (SIP).

[FR Doc. 01–5416 Filed 3–5–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 991008273-0070-02; I.D. 022801B]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

ACTION: Closure.

SUMMARY: NMFS closes the commercial hook-and-line fishery for Gulf king mackerel in the exclusive economic zone (EEZ) in the southern Florida west coast subzone. This closure is necessary to protect the overfished Gulf king mackerel resource.

DATES: The closure is effective 12:01 a.m., local time, March 2, 2001, through June 30, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, telephone: 727-570-5305, fax: 727-570-5583, e-mail: Mark.Godcharles@noaa.gov.

SUPPLEMENTARY INFORMATION: INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, on February 19, 1998 (63 FR 8353), NMFS implemented a commercial quota of 2.34 million lb (1.06 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. On April 27, 2000, NMFS divided the Florida west coast subzone of the eastern zone into northern and southern subzones and established a separate quota for the southern Florida west coast subzone of 1,082,250 lb (490,900 kg) (65 FR 16336, March 28, 2000). That quota was further divided into two equal quotas of 541,125 lb (245,450 kg) for vessels in each of two groups fishing with hook-and-line gear and run-around gillnets (50 CFR 622.42(c)(1)(i)(A)(2)(i)).

Under 50 CFR 622.43(a), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the Federal Register. NMFS has determined that the commercial quota of 541,125 lb (245,450 kg) for Gulf group king mackerel for vessels using hook-and-line gear in the southern Florida west coast subzone was reached on March 1, 2001. Accordingly, the commercial hook-and-line fishery for king mackerel in the southern Florida west coast subzone is closed at 12:01 a.m., local time, March 2, 2001, through June 30, 2001, the end of the fishing year.

The Florida west coast subzone is that part of the eastern zone south and west of 25°20.4′ N. lat. (a line directly east from the Miami-Dade County, FL, boundary). The Florida west coast subzone is further divided into northern and southern subzones. The southern subzone is that part of the Florida west coast subzone that from November 1 through March 31 extends south and west from 25°20.4′ N. lat. to 26°19.8′ N. lat.(a line directly west from the Lee/Collier County, FL, boundary), i.e., the area off Collier and Monroe Counties. From April 1 through October 31, the southern subzone is that part of the Florida west coast subzone which is

between 26°19.8′ N. lat. and 25°48′ N. lat.(a line directly west from the Monroe/Collier County, FL, boundary), i.e., the area off Collier County.

NMFS previously determined that the commercial quota for king mackerel from the western zone of the Gulf of Mexico was reached and closed that segment of the fishery on August 26, 2000 (65 FR 52350, August 29, 2000). Subsequently, NMFS determined that the commercial quota for Gulf group king mackerel in the northern Florida west coast subzone was reached and closed that segment of the fishery on November 19, 2000 (65 FR 70317, November 22, 2000). Next, NMFS determined that the commercial quota for Gulf group king mackerel for vessels fishing with run-around gillnets in the southern Florida west coast subzone was reached and closed that segment of the fishery on January 19, 2001 (66 FR 7591, January 24, 2001). Thus, with this closure, all commercial fisheries for Gulf group king mackerel in the EEZ are closed from the U.S./Mexico border through the southern Florida west coast subzone through June 30, 2001.

Except for a person aboard a charter vessel or headboat, during the closure, no person aboard a vessel for which a commercial permit for king mackerel has been issued may fish for Gulf group king mackerel in the EEZ in the closed zones or subzones. A person aboard a vessel that has a valid charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed zones or subzones under the bag and possession limits set forth in 50 CFR 622.39(c)(1)(ii) and (c)(2), provided the vessel is operating as a charter vessel or headboat. Note, however, that the bag limit for an operator or crew member of a charter vessel or headboat is zero. A charter vessel or headboat that also has a commercial king mackerel permit is considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the closed zones or subzones taken in the EEZ, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to trade in king mackerel from the closed zones or subzones that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor.

Classification

This action responds to the best available information recently obtained from the fishery. The closure must be implemented immediately to prevent an overrun of the commercial quota (50 CFR 622.42(c)(1)) of Gulf group king mackerel, given the capacity of the fishing fleet to quickly harvest the quota. Overruns could potentially lead to further overfishing and unnecessary delays in rebuilding this overfished resource. Any delay in implementing this action would be impractical and contradictory to the Magnuson-Stevens Act, the FMP, and the public interest. NMFS finds, for good cause, that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: February 28, 2001.

Bruce C. Moorehead,

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

[FR Doc. 01–5427 Filed 3–1–01; 3:23 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 010112015-1015-01; I.D. 120500A]

RIN 0648-AO85

Atlantic Highly Migratory Species; Commercial Shark Management Measures

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

ACTION: Emergency rule; request for comments.

SUMMARY: NMFS issues emergency regulations to re-establish the commercial quotas for large and small coastal sharks and catch accounting/monitoring procedures at 1997 levels. These regulations are necessary to ensure that the regulations in force are consistent with the court-approved settlement agreement.

DATES: This emergency rule is effective March 6, 2001 through September 4, 2001. Comments must be received no later than 5 p.m. on June 4, 2001.

ADDRESSES: Written comments on this action must be mailed to Christopher Rogers, Acting Chief, NMFS Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910; or faxed to 301-713-1917. Comments will not be accepted if submitted via email or the Internet. Copies of the environmental assessment and regulatory impact review prepared for this action may be obtained from Margo Schulze-Haugen at the same address.

FOR FURTHER INFORMATION CONTACT: Margo Schulze-Haugen or Karyl Brewster-Geisz at 301-713-2347.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) is implemented by regulations at 50 CFR part 635.

On May 2, 1997, NMFS was sued by the Southern Offshore Fishing Association (SOFA) and other commercial fishermen and dealers on a regulation that reduced the large coastal shark (LCS) commercial quota by 50 percent to 1,285 metric tons (mt) dressed weight (dw) and established a small coastal shark (SCS) commercial quota of 1,760 mt dw.

In April 1999, in response to new requirements of the Magnuson-Stevens Act, NMFS published the final HMS FMP. The HMS FMP included numerous measures to rebuild or prevent overfishing of Atlantic sharks in commercial and recreational fisheries, including a rebuilding plan for LCS that further reduced commercial quotas and measures to prevent overfishing of SCS. On June 25, 1999, SOFA and commercial fishermen and dealers sued NMFS on the commercial shark measures in the HMS FMP and its implementing regulations.

On June 30, 1999, Judge Steven D. Merryday of the U.S. District Court for the Middle District of Florida enjoined the Atlantic shark commercial quotas and fish-counting methods (including the counting of dead discards and state commercial landings after Federal closures) adopted in the HMS FMP. The injunction ordered that NMFS maintain the commercial shark quotas and fish-counting methods at 1997 levels.

On June 12, 2000, in response to a joint motion, Judge Merryday ordered that NMFS may proceed with implementation and enforcement of the prohibited species provisions adopted in the HMS FMP.

Settlement Agreement

On November 21, 2000, plaintiffs and NMFS reached a settlement agreement

that would dismiss both lawsuits and prescribed actions to be taken by both parties. On December 7, 2000, Judge Merryday entered an order approving the settlement agreement. The settlement agreement requires NMFS to re-establish the 1997 commercial LCS quota and catch accounting/monitoring procedures (dead discards and state landings after Federal closure not counted against Federal quotas; no splitting of the LCS commercial quota into ridgeback and non-ridgeback subgroups; no minimum size for ridgeback LCS) pending an independent review of the 1998 LCS stock assessment. The settlement agreement also requires NMFS to re-establish the 1997 SCS commercial quota pending a new SCS stock assessment. Both the independent review of the 1998 LCS stock assessment and a new SCS stock assessment are anticipated to be completed in 2001. NMFS also anticipates conducting a new LCS stock assessment in 2001, which will also be independently reviewed.

NMFS determined that the settlement agreement was appropriate because it will conserve Atlantic sharks while maintaining a sustainable fishery in the long-term; move the management process for Atlantic sharks forward through quality-controlled scientific assessment and appropriate rulemaking; and promote confidence in the management process and its underlying science.

This emergency rule is necessary because, since the court injunction was dissolved per the settlement agreement, the HMS FMP and its implementing regulations are in force. Specifically, without this emergency rule, the reduced LCS and SCS commercial quotas of 816 mt dw and 329 mt dw, respectively, and the catch accounting/ monitoring procedures adopted in the HMS FMP would remain in force, inconsistent with the court-approved settlement agreement. This emergency rule will ensure that the regulations in force are consistent with the court-approved settlement agreement.

Commercial Quotas and Catch Accounting/Monitoring Procedures

Pending completion of the independent review of the 1998 LCS stock assessment, this emergency rule establishes the LCS commercial quota at 1,285 mt dw; suspends the regulation on the ridgeback LCS minimum size; suspends the regulation on season-specific quota adjustments for LCS and SCS; and suspends the regulation on counting dead discards and state landings after Federal closures against Federal quotas. Pending completion of a new SCS stock assessment, this emergency rule establishes the SCS commercial quota at 1,760 mt dw. NMFS will ensure that the independent review of the 1998 LCS stock assessment and new stock assessments for LCS and SCS are completed as soon as possible. NMFS will take appropriate action at the earliest practicable date upon completion of these assessments and reviews to ensure the conservation of Atlantic sharks while maintaining a sustainable fishery in the long-term.

Classification

These emergency regulations are published under the authority of the Magnuson-Stevens Act. The Assistant Administrator for Fisheries (AA) has determined that these regulations are necessary to ensure that regulations in force are consistent with the court-approved settlement agreement.

NMFS prepared an Environment Assessment for this emergency rule that describes the impact on the human environment and found that no significant impact on the human environment would result. This emergency rule is of limited duration and is the surest and quickest way to conserve Atlantic sharks and ensure the long-term sustainability of shark fisheries. While this action could result in further LCS stock declines in the short-term, NMFS believes that the risks of protracted litigation (potentially several years) and uncertain outcome outweigh these short-term negative ecological impacts.

NMFS also prepared a Regulatory Impact Review for this action which assesses the economic costs and benefits of the action. Because the fishing quotas and catch accounting/ monitoring procedures for the LCS or SCS fisheries, as adopted in the HMS FMP and its implementing regulations, have been thus far enjoined by court order, re-establishing the 1997 management measures for the duration of this emergency rule will not change the short-term economic benefits or costs associated with the fisheries.

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

NMFS issues this emergency rule, effective for 180 days, as authorized by section 305(c) of the Magnuson-Stevens Act. This emergency rule may be extended for an additional 180 days provided the public has had an opportunity to comment on the emergency rule and, at the time of extension, the agency is actively pursuing a plan amendment or proposed regulations to conserve Atlantic sharks on a permanent basis. NMFS will consider public comments on this emergency rule in determining whether to maintain or extend this emergency rule. Responses to comments will be provided if the emergency rule is revoked, modified, or extended. Because no general notice of proposed rulemaking is required to be published in the **Federal Register** for this emergency rule, the analytical requirements of the Regulatory Flexibility Act do not apply; thus, no Regulatory Flexibility Analysis was prepared.

The AA finds that there is good cause to waive the requirement to provide prior notice and an opportunity for public comment pursuant to authority set forth at 5 U.S.C. 553(b)(B), as such provisions would be contrary to public interest. This emergency rule is necessary to meet the requirements of a court-approved settlement agreement. Further litigation that could further delay implementation of appropriate quotas is contrary to the public interest, because of the concern that LCS stocks would experience further decline during any protracted litigation.

The AA, under 5 U.S.C. 553(d)(3), also finds that there is good cause to waive the 30-day delay in the effective date of this emergency rule, as is normally required, because such delay would be contrary to the public good. The AA finds that this measure is necessary to meet the timely requirements of the court order and to achieve the agency's goals, as described here. Given NMFS's ability to communicate rapidly these regulations to fishing interests through the HMS Fax network, NOAA weather radio, press releases, mailing lists, and the HMS Infoline, the AA believes that affected fishermen and other interested persons will have sufficient and timely notice of this action.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing Vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: February 28, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for 50 CFR part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

§ 635.20 [Amended]

2. In § 635.20, paragraph (e)(1) is suspended effective from March 6, 2001 through September 4, 2001.

3. In § 635.27, paragraphs (b)(1)(i), (ii), and (iv)(A) and (C) are suspended and paragraphs (b)(1)(v) and (vi) are added, effective from March 6, 2001 through September 4, 2001, to read as follows:

§ 635.27 Quotas.

* * * * *

(b) * * *

(1) * * *

(v) *Large coastal and small coastal sharks.* The annual commercial quota for large coastal sharks is 1,285 mt dw, divided between two equal semiannual seasons, January 1 through June 30, and July 1 through December 31. The quota for each semiannual large coastal shark season is 642.5 mt dw. The length of each large coastal shark season will be determined based on the projected catch rates, available quota, and other relevant factors. NMFS will file with the Office of the Federal Register for publication in the **Federal Register** notification of the length of each season for large coastal sharks at least 30 days prior to the beginning of the season. The annual commercial quota for small coastal sharks is 1,760 mt dw, divided between two equal semiannual seasons, January 1 through June 30, and July 1 through December 31. The quota for each semiannual small coastal shark season is 880 mt dw.

(vi) NMFS will adjust the next year's semiannual quota for pelagic sharks to reflect actual landings during any semiannual period. For example, a commercial quota underharvest or overharvest in the season that begins January 1 will result in an equivalent increase or decrease in the following year's quota for the season that begins January 1, provided that the annual quota is not exceeded. NMFS will file with the Office of the Federal Register for publication in the **Federal Register** notification of any adjustment at least 30 days prior to the start of the next fishing season.

* * * * *

4. In § 635.28, paragraph (b)(1) is suspended and paragraph (b)(4) is added, effective from March 6, 2001 through September 4, 2001, to read as follows:

§ 635.28 Closures.

(b) * * *

(4) The commercial fishery for large coastal sharks will remain open for fixed semiannual fishing seasons, as specified at § 635.27(b)(1)(v). From the effective date and time of a season closure until additional quota becomes available, the fishery for large coastal sharks is closed, and sharks of that species group may not be retained on board a fishing vessel issued a commercial permit pursuant to § 635.4

* * * * *

[FR Doc. 01–5435 Filed 3–5–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 010165024-1024-10; I.D. 121500D]

RIN 0648-AO88

American Lobster; Interstate Fishery Management Plans

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

ACTION: Notice of determination of noncompliance; declaration of a moratorium.

SUMMARY: In accordance with the Atlantic Coastal Fisheries Cooperative Management Act (Act), NMFS, upon a delegation of authority from the Secretary of Commerce (Secretary), has determined that the State of Rhode Island is not in compliance with Amendment 3 to the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan (ISFMP) for American Lobster, because the state has failed to implement and enforce a measure that is necessary for the conservation of American lobster. Pursuant to the Act, a Federal moratorium on fishing for American lobster within Rhode Island state waters is hereby declared and will be effective on May 1, 2001. If Rhode Island is found to be in compliance with the ISFMP for American lobster before that date, the moratorium will be withdrawn. The purpose of this action is to support and encourage implementation and enforcement of the Commission's American Lobster ISFMP.

DATES: Effective May 1, 2001.

ADDRESSES: Copies of an Environmental Assessment and Regulatory Impact Review (EA/RIR) are available from the Director, State, Federal and Constituent Programs Office, NMFS, 1 Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Harry Mears, NMFS, Northeast Region, 978–281–9144.

SUPPLEMENTARY INFORMATION:

Background

The purpose of the Act is to support and encourage the development, implementation, and enforcement of the Commission's ISFMPs to conserve and manage Atlantic coastal fishery resources. Section 806 of the Act specifies that, after notification by the Commission that an Atlantic coastal state is not in compliance with an ISFMP of the Commission, the Secretary must make a finding, no later than 30 days after receipt of the Commission's notification, on: (1) whether the state has failed to carry out its responsibilities to implement and enforce the Commission's ISFMP; and (2) whether the measures that the state has failed to implement and enforce are necessary for the conservation of the fishery in question. In making such a finding, the Act requires the Secretary to give careful consideration to the comments of the Commission, the Atlantic coastal state found out of compliance by the Commission, and the appropriate Regional Fishery Management Councils. If the Secretary finds that the state is not in compliance with the Commission's ISFMP and that the measures the state has failed to implement and enforce are necessary for the conservation of the fishery, the Secretary must declare a moratorium on fishing in that fishery within the waters of the noncomplying state. The Secretary must specify the moratorium's effective date, which may be any date within 6 months after the declaration of the moratorium. NMFS has been delegated this decision-making authority.

On November 6, 2000, the Secretary received a letter from the Commission prepared pursuant to section 806(b) of the Act. The Commission's letter stated that the State of Rhode Island's American lobster regulations did not meet the provisions of Amendment 3 to the Commission's ISFMP for American lobster and, therefore, the Commission found the State of Rhode Island out of compliance with the ISFMP.

Commission Findings of Non-compliance

The Commission adopted Amendment 3 to the ISFMP for American Lobster in December 1997. Under Amendment 3, states are required to implement and enforce the nontrap gear limit of no more than 100 lobsters per day (based on a 24-hour period) up to a maximum of 500 lobsters per trip,

for trips 5 days or longer. The Commission found that the State of Rhode Island did not implement and is not enforcing this measure and, therefore, is not in compliance with the ISFMP for American Lobster.

NMFS Determination Regarding Compliance by the State of Rhode Island

NMFS met with representatives from the State of Rhode Island on December 5, 2000, to receive comments on their compliance status. Rhode Island temporarily reinstated the non-trap gear possession limit by emergency rule on November 29, 2000. Under Rhode Island law, regulations implemented by emergency action expire after 120 days unless replaced by a final rule. Therefore, there is no guarantee that this regulation will remain in effect after the 120-day period. On December 17, 2000, based on a careful analysis of all relevant information, including comments from the State of Rhode Island and the New England and Mid-Atlantic Fishery Management Councils, NMFS determined that the State of Rhode Island is not in compliance with the Commission's ISFMP for American lobster. This determination is based on Rhode Island's failure to implement and enforce on a permanent basis the nontrap gear limit of no more than 100 lobsters per day (based on a 24-hour period) up to a maximum of 500 lobsters per trip, for trips 5 days or longer as specified in Amendment 3.

Whether the Measure Is Necessary for Conservation

On December 17, 2000, NMFS also determined that implementation and enforcement of the nontrap gear limit by Rhode Island is necessary for the conservation of the resource. ''Conservation'' is defined in ACFCMA as ''the restoring, rebuilding, and maintaining of any coastal fishery resource and the marine environment, in order to assure the availability of coastal fishery resources on a long-term basis.'' The most recent stock assessment (March 2000) indicates that all three stocks of American lobster are overfished. The stock assessment reveals that the lobster landings are comprised mainly of young lobsters that have just recruited into the fishery and have not had the opportunity to reproduce before being harvested. If states are not required to both implement and enforce mandatory measures of the ISFMP, the ability of the plan to rebuild American lobster stocks by meeting the necessary egg production goals is compromised.

Unless Rhode Island permanently implements and enforces the non-trap limit, non-trap vessels licensed to fish for lobster in Rhode Island state waters will be able to land unlimited numbers of lobsters. Uncontrolled harvest of lobster taken by non-trap gear is expected to result in elevated landings beyond historical levels, thereby resulting in higher fishing mortality, counter to ISFMP objectives to end overfishing of American lobster. Therefore, Rhode Island's implementation of the non-trap gear landing limit specified in Amendment 3 is necessary to allow the Commission to assure the sustainability of the fishery and long-term viability of the American lobster resource.

Declaration of a Moratorium

On December 18, 2000, NMFS notified the State of Rhode Island that it was not in compliance with Amendment 3 to the Commission's ISFMP for American lobsters, and that the measure Rhode Island failed to implement and enforce is necessary for the conservation of American lobsters. NMFS also indicated that it required further time to analyze the timing and impacts of the moratorium's implementation before declaring a moratorium, as required by law. The Act allows the effective date of the moratorium to be delayed for up to 6 months from the date on which the moratorium is declared. NMFS completed an Environmental Assessment and Regulatory Impact Review (EA/RIR), which analyze the impacts of various alternatives for the implementation of a moratorium. After a thorough review of the EA/RIR, NMFS is hereby declaring, pursuant to subsection 806(c) of the Act, a Federal moratorium on fishing for American lobsters in Rhode Island waters. Since Rhode Island has temporarily reinstated the non-trap gear possession limit by emergency rule on November 29, 2000, which will be in effect until March 28, 2001, NMFS is delaying implementation of the moratorium until May 1, 2001. If the State of Rhode Island is not in compliance with Amendment 3 to the ISFMP for American lobster by that date, a moratorium on fishing for American lobster in Rhode Island state waters will go into effect. If NMFS determines that the State of Rhode Island has complied with Amendment 3 to the ISFMP by May 1, 2000, NMFS will issue an appropriate announcement in the **Federal Register** rescinding the moratorium with respect to the State of Rhode Island. Delaying the effective date of the moratorium until May 1, 2001, will allow Rhode Island time to complete its legislative process to issue permanent regulations implementing the non-trap limit, and will provide the Commission time to review the new regulations for compliance. The delay will not significantly diminish American lobster conservation efforts because the state has implemented the non-trap possession limit as a temporary measure effective until March 28, 2001. The delay will not significantly impact the American lobster resource for several reasons. As indicated in the March 2000 lobster stock assessment, migrating lobsters move offshore in the fall and winter and inshore during the spring and summer. While lobsters are in inshore waters in April, generally they are inactive due to a variety of factors, such as water temperature and burrowing activity; therefore, they are less likely to be caught. Furthermore, those present in inshore waters are likely to be below the minimum legal size and cannot be retained. Total landings of lobsters for the month of April 1999, in Rhode Island State waters accounted for 2.3 percent of the state's total lobster harvest, equivalent to approximately 54,000 lbs (22.5 metric tons). In comparison, monthly landings from Rhode Island State waters from May 1 through December 31 averaged about 260,000 lbs (117.9 metric tons).

If the moratorium goes into effect, NMFS will terminate it as soon as possible upon determination that the State has taken appropriate remedial actions to bring it into compliance with the the Commission's ISFMP for American lobster

The moratorium on fishing for American lobster includes the statutory prohibitions listed in subsection 806(e) of the Act (16 U.S.C. 5106(e)). Subsection 806(e) states: ''During the time in which a moratorium under this section is in effect, it is unlawful for any person to - (1) violate the terms of the moratorium or of any implementing regulation issued under subsection 806(d) of this section; (2) engage in fishing for any species of fish to which the moratorium applies within the waters of the State subject to the moratorium; (3) land, attempt to land, or possess fish that are caught, taken, or harvested in violation of the moratorium or of any implementing regulation issued under subsection (d) of this section; (4) fail to return to the water immediately, with a minimum of injury, any fish to which the moratorium applies that are taken incidental to fishing for species other than those to which the moratorium applies, except as provided by regulations issued under subsection (d) of this section; (5) refuse to permit any officer authorized to

enforce the provisions of this chapter to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this chapter; (6) forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection under this chapter; (7) resist a lawful arrest for any act prohibited by this section; (8) ship, transport, offer for sale, sell, purchase, import, or have custody, control or possession of, any fish taken or retained in violation of this chapter; or (9) interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such person has committed any act prohibited by this section.''

Classification

This declaration of a moratorium and rule are consistent with section 806 of the Atlantic Coastal Fisheries Cooperative Management Act.

The Assistant Administrator for Fisheries, NOAA (AA), finds that providing prior public notice and opportunity for comment is impracticable and unnecessary. Providing prior notice and opportunity for comment would be impracticable, because it would prevent the agency from executing its functions under section 806 of the Act in a timely manner. Section 806 contemplates quick action on the declaration of a moratorium that would not be possible if prior notice and an opportunity for comment are provided. Furthermore, providing prior notice and opportunity for comment would be unnecessary because it would serve no purpose. The nature of a moratorium is described in section 806 of the Act and, therefore, cannot be modified in response to public comments. Therefore, the AA, under 5 U.S.C. 553(b)(B), finds that good cause exists to waive the requirement of prior notice and opportunity for comment.

Because prior notice and opportunity for public comment are not required for this action by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Federalism Summary Impact Statement

The Act does not explicitly preempt state law. Rather, section 806 of the Act provides clear evidence that Congress intended the Secretary to have the authority to preempt state law. That authority has been delegated from the Secretary to NMFS. NMFS has met the special requirements for preemption under section 4 of Executive Order 13132. The agency, in declaring a moratorium on fishing for American lobsters in Rhode Island state waters has restricted the preemption of state law to the minimum level necessary to achieve the objectives of the statute.

NMFS notified the Governor of Rhode Island on November 13, 2000, of the Commission's non-compliance determination, and the possibility that a moratorium may be declared, and offering him an opportunity to meet and present comments on these issues. In response, Rhode Island requested a meeting with NMFS representatives. This meeting occurred on December 5, 2000.

Rhode Island was found out of compliance because on June 6, 2000, Part 15.18 to the Rhode Island Marine Fisheries Statutes and Regulations was repealed by the Rhode Island Marine Fisheries Council. This section imposed a possession limit on the number of lobsters that could be harvested by commercial vessels using methods other than pots or traps. As a result of the repeal of this section, effective June 29, 2000, vessels permitted by the State of Rhode Island to harvest lobster by a method other than traps may land an unlimited number of lobsters. Consequently, the State of Rhode Island has failed to implement and enforce the required possession limit of 100 lobsters per day/500 lobsters per trip for non-trap gear as mandated in the ISFMP for American lobster.

Rhode Island representatives stated that the non-trap possession limit was temporarily reinstated by Rhode Island's Director of the Department of Environmental Management (DEM) by emergency action on November 29, 2000. In issuing the emergency action, the Director stated that ''...imminent peril exists to the public health, safety and welfare which requires the adoption of the [non-trap gear lobster possession limit] prior to notice of promulgation and opportunity for public comment. Specifically, I find that without the adoption of the attached regulation, the welfare of a significant portion of the state's commercial fishing industry and their families, which rely upon American lobster, would be jeopardized.'' The Director further states in the emergency adoption of the regulations,''... Failure to take action at this time would negatively affect the numerous commercial fishing vessels, which rely on American lobster and not allow for the orderly development of the fishery.'' Rhode Island's Administrative Procedures Act allows measures implemented by emergency action to be effective for a period of 120 days; accordingly, the state's emergency measures will expire March 28, 2001. Rhode Island had informed both NMFS and the Commission's Lobster Management Board (Board) of this emergency action at the Board's meeting on November 30.

Rhode Island representatives also stated that they did not agree with the need for a non-trap gear lobster possession limit, and that implementation of the emergency action should not be viewed as implicit agreement with the need for the non-trap regulations by Rhode Island. Further, NMFS was told that the Rhode Island Marine Fisheries Council will hold a hearing on the matter in February to garner public comments, and will decide then whether to continue the emergency rule or let it expire. Therefore, there is no guarantee that this regulation will remain in effect after the 120 day period. Rhode Island intends to ask its congressional delegation to meet with NMFS officials in the near future to further discuss this issue.

On December 18, 2000, the AA wrote to the Governor of Rhode Island notifying him that NMFS completed its independent review and concurred with the Commission's findings that Rhode Island was out of compliance, and that the measure Rhode Island failed to implement and enforce is necessary for the conservation of the American lobster fishery. NMFS indicated that it required further time to analyze the timing and impacts of the moratorium's before issuing a declaration of a moratorium, as required by law. The Act allows the effective date of the moratorium to be delayed for up to 6 months from the date on which the moratorium is declared.

In a subsequent letter to the AA, the Executive Director of the Commission indicated that although the State of Rhode Island was making an effort to come into compliance by temporarily reinstating the measure, the state will not be in full compliance until the non-trap measure is permanently reinstated. Consequently, the Executive Director recommended delaying any potential moratorium ''to allow the state to complete its regulatory process.''

In response to Rhode Island's comments received during the December 5, 2000, meeting and a subsequent request by the Commission to delay the moratorium to allow Rhode Island time to complete its regulatory process, NMFS, pursuant to section 806(c) of the Act, declares a Federal moratorium on fishing for American lobsters in Rhode Island state waters effective May 1, 2001. If Rhode Island is found in compliance with the Commission's ISFMP for American

lobster before that date, the moratorium will be withdrawn. The delay until May 1 will allow Rhode Island time to complete its legislative process to issue permanent regulations implementing the non-trap limit, and will provide the Commission time to review the new regulations for compliance.

This declaration of moratorium has been determined to be significant for purposes of Executive Order 12866.

Dated: February 28, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–5380 Filed 3–5–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 44
Tuesday, March 6, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 923

[Docket Nos. 99AMS–FV–923–A1; FV00–923–1]

Sweet Cherries Grown in Designated Counties in Washington; Secretary's Decision and Referendum Order on Proposed Amendment of Marketing Agreement No. 134 and Marketing Order No. 923

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This decision proposes amendments to the marketing agreement and order (order) for sweet cherries and provides growers with the opportunity to vote in a referendum to determine if they favor the proposed amendments. The proposed amendments were submitted by the Washington Cherry Marketing Committee (Committee), which is responsible for local administration of the order. The proposed amendments would: increase the production area to cover the area in the State of Washington east of the Cascade Mountain Range and allow for special purpose shipments of cherries to packing operations outside the production area; increase representation on the Committee by adding an additional handler member; provide for late payment and interest charges on delinquent assessments; authorize establishment of container marking requirements; and allow prospective Committee members and alternates to qualify for membership by filing a single form. The Fruit and Vegetable Programs (F&V) of the Agricultural Marketing Service (AMS) proposed establishing of tenure requirements for Committee members and requiring that continuance referenda be conducted every 6 years. These proposals are intended to improve the operation and functioning of the Washington sweet cherry marketing order program.

DATES: The referendum shall be conducted from April 10, 2001, through April 27, 2001. The representative period for the purpose of the referendum is April 1, 1999, through March 31, 2000.

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Northwest Marketing Field Office, 1220 SW. Third Avenue, room 369, Portland, Oregon 97204; telephone (503) 326–2724 or Fax (503) 326–7440; or Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, Washington, DC 20250–0200; telephone: (202) 720–2491, or Fax: (202) 720–8363.

Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491; Fax (202) 720–8353.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on November 3, 1999, and published in the November 8, 1999, issue of the **Federal Register** (64 FR 60733). Recommended Decision and Opportunity to File Written Exceptions issued on November 2, 2000, and published in the **Federal Register** on November 9, 2000 (65 FR 67584).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

Question and Answer Overview

What Circumstances Led to This Secretary's Decision and Referendum Order?

The Committee, which is responsible for local administration of the marketing order, recommended amending the current order. A hearing was held on the proposed amendments in Yakima, Washington, on November 16, 1999.

The Washington Cherry Marketing Order was created in 1957 and has never been amended. Since that time, cherry production has dramatically increased in areas outside the current 6-county production area.

The marketing order's primary authority is the use of grade, size and container regulations for fresh shipments of cherries from the production area. The purpose of these regulations is to ensure the shipment of high quality cherries. The order has allowed the industry to develop the reputation for shipping a quality product, which has allowed producers to ship and sell sweet cherries in a more stable marketplace.

The primary purpose of this proceeding is to expand the production area to include the other sweet cherry producing counties in Washington and maintain the high quality image of the Washington sweet cherry. This proceeding would also allow shipments of cherries outside the production area for packing, to accommodate growers in the proposed production area who have their cherries packed in Oregon.

The Committee also recommended increasing representation on the Committee, allowing for late payment and interest charges on unpaid assessments, authorizing container marking requirements and other administrative changes.

AMS proposed establishing a limit on the number of consecutive terms a person may serve as a member on the Committee and requiring that continuance referenda be conducted every 6 years to ascertain industry support for the order.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of the Agricultural Marketing Service (AMS) on November 2, 2000, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision and Opportunity to File Written Exceptions thereto by December 11, 2000. No exceptions were filed.

Who Would Be Impacted by This Action?

Growers and handlers of sweet cherries in the current and proposed production area would be affected by these amendments. Handlers would be required to pay assessments based on the amount of cherries handled. The current assessment rate is 75 cents per ton of cherries handled. Handlers would also be required to abide by the regulations in effect under the order

which includes obtaining Federal/State inspections on all cherries to ensure that marketing order requirements are met. Current regulations specify certain size, maturity and pack requirements and are based on the State of Washington grade standards.

Field-run cherries from Washington growers sent to Oregon packers would have to meet these requirements as well.

Who Is Eligible To Vote in The Referendum?

To be eligible to vote in the referendum, growers must currently be producers and they must have produced sweet cherries in the production area during the period April 1, 1999, through March 31, 2000. The amendments to the order will become effective only if approved by at least two-thirds of those growers voting in the referendum, or by growers producing at least two-thirds of the volume of sweet cherries represented in the referendum.

When Will the Referendum Be Held?

A producer referendum will be conducted from February 14, 2001, through February 28, 2001, among all affected producers. The referendum will be conducted by mail ballot, and producers can vote on each of the seven proposed amendments.

Preliminary Statement

The proposed amendments were formulated on the record of a public hearing held in Yakima, Washington on November 16, 1999. The hearing was held to consider the proposed amendment of Marketing Agreement No. 134 and Marketing Order No. 923, regulating the handling of sweet cherries grown in designated counties of Washington, hereinafter referred to as the ''order.'' The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR part 900). The Notice of Hearing contained amendment proposals submitted by the Committee and the U.S. Department of Agriculture.

The Committee proposed 5 amendments: (1) Increase the production area to cover the area in the State of Washington east of the Cascade Mountain Range; to redefine the districts established under the order; and to authorize special purpose shipments, with appropriate safeguards, to facilitate the movement of cherries to packing facilities outside the production area; (2) increase representation on the Committee by adding one additional handler member; (3) authorize the Committee, with USDA approval, to collect late payment and interest charges on delinquent assessments; (4) authorize the Committee, with USDA approval, to establish container marking requirements; and (5) authorize Committee nominees to qualify as a member or alternate by filing a written acceptance of willingness to serve prior to the selection.

Also, the Fruit and Vegetable Programs of the Agricultural Marketing Service (AMS), U.S. Department of Agriculture, proposed three amendments: (1) Establish a limit on the number of consecutive terms a person may serve as a member of the Committee; (2) require that continuance referenda be conducted every 6 years to ascertain grower support for the order; and (3) adopt such changes as may be necessary to the order, if any of the above amendments are adopted, so that all of its provisions conform with those amendments. No conforming changes have been deemed necessary.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of the Agricultural Marketing Service (AMS) on November 2, 2000, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision and Opportunity to File Written Exceptions thereto by December 11, 2000. None were received.

Small Business Considerations

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions so that small businesses will not be unduly or disproportionately burdened. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $500,000. Small agricultural service firms, which include handlers regulated under the order, are defined as those with annual receipts of less than $5,000,000.

Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact of the proposed amendments on small businesses. The record indicates that growers and handlers would not be burdened by any additional regulatory requirements, including those pertaining to reporting and recordkeeping as a result of these proposed amendments.

Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit. Thus, both the RFA and the Act are compatible with respect to small entities.

The record indicates that there are approximately 75 handlers currently regulated under Marketing Order No. 923. There are two additional packing houses in the proposed production area that would be considered handlers if the production area is expanded. There are four packing operations in Oregon that pack Washington cherries for grower/handlers. In addition, there are approximately 1,400 cherry growers in the current production area. There would be approximately 200 additional growers if the production area is expanded as proposed.

In 1998, Washington produced 96,000 tons of sweet cherries. The average price for fresh cherries in 1998 was $1,600 per ton. This computes to approximate revenues for the 1998 crop of $153,600,000. The record indicated that approximately 15 handlers handle the majority of the crop and could be classified as large businesses. Thus, a majority of sweet cherry handlers could be classified as small entities. The same is estimated with regard to the packing houses in Oregon.

Dividing total production from 1998 by the number of growers in the proposed production area, the average grower produces about 60 tons of cherries annually. With an average price of $1,600 per ton for 1998 sweet cherries, average revenues would be $96,000. Thus, it is reasonable to conclude that most sweet cherry growers are small entities.

Industry Background

Sweet cherries rank second to apples as the most important fruit grown in Washington, with a value of production of $128.7 million. Washington growers produced 96,000 tons of sweet cherries in 1998, which is 46 percent of the nation's total.

The varieties of sweet cherries subject to regulation under the order are: Bing, Chelan, Lambert, Lapin, Rainier, and Sweetheart. Shipping of these cherries generally begins around June 15 and usually ends around August 15. The most active harvest period is from June 10 through July 20.

The order authorizes the use of grade, size and container regulations for the fresh shipment of sweet cherries from the production area. The regulations, specify certain size, maturity and pack

requirements. The current regulations are based on Washington grade standards and apply to specific varieties. The purpose of these regulations is to ensure the shipment of high quality cherries. The order has allowed the industry to develop the reputation for shipping a quality product, which has allowed producers to ship and sell fruit in a more stable marketplace.

Washington is the leading producer of sweet cherries for fresh market sale. Washington's main competitors in domestic fresh markets are California and Oregon. From 1994 through 1998, Washington produced an average of 55,600 tons per year. This represents 59 percent of the total sweet cherries marketed fresh. California produced an average of 20,460 tons per year and Oregon produced 12,900 tons per year from 1994 through 1998.

Sweet cherries are also grown in Idaho, Montana and Utah, as well as Michigan, New York and Pennsylvania. Bearing acreage figures are not published for the States of Idaho and Montana. Utah's production area totals 600 acres, and has been declining. Bearing acreage figures are published for Michigan, New York and Pennsylvania, but the majority of sweet cherries grown in those states are not sold in fresh markets. The fruit in these States are produced and marketed during the summer months each year. While these States compete with Washington, Oregon and California in the marketing of fresh sweet cherries, their production is relatively small.

From 1964 through 1998, total U.S. production of sweet cherries increased 332 percent and fresh utilization increased 393 percent. This suggests that fresh shipments have been growing in importance, while the processing sector has remained relatively stable. Over the past five seasons, 66 percent of Washington's production moved into fresh markets.

Over the last 30 years, prices between the three primary growing States have been very competitive. Prices in California, Washington and Oregon have averaged $1,166, $1,028 and $798 per ton, respectively. California prices are slightly higher than prices in Washington or Oregon. One of the reasons that California prices average higher than Washington's is that California shipments begin in the early part of May, when competition in the fresh fruit market is limited. Washington shipments do not start until the middle of June. Early-season shippers generally receive a premium for their product on the fresh market.

Fresh prices for Washington sweet cherries receive a premium over processing sweet cherries. From 1969 to 1998, fresh prices have increased more than 350 percent. Fresh cherry prices were $350 per ton in 1969 and were as high as $2,150 per ton in 1996. Prices were $1,600 per ton in 1998.

While California growers receive higher prices than Washington growers on average, Washington's value of production is much greater than California's or Oregon's. This is due to higher yields and larger production levels in Washington. This likely indicates that Washington growers have a comparative cost advantage over California or Oregon growers. In 1998, Washington reported its highest value of fresh production, $113.6 million. This compares to a 1998 value of fresh production of $17.9 million for California and $22.6 million for Oregon. The value of fresh production has increased more than 150 percent since 1991.

Exports play an important role in the marketing of Washington sweet cherries. With increasing bearing acres and production levels trending toward 100,000 tons in the near future, increasing levels of exports can be anticipated. However, competition in the export markets is expected to be high. California continues to export a large volume of their increasing production. In addition, China is estimated to have 25,000 acres of cherries planted. Spain, Greece, Turkey, Iran, Lebanon, Syria and some Eastern European countries have also increased production levels. These countries do not import sweet cherries into the U.S.

Exports of fresh Washington sweet cherries have been increasing, in particular during the 1997 and 1998 seasons. Exports reached a high of 21,148 tons in 1997. In 1998, exports increased 35 percent over the 1997 levels, achieving a new high of 28,560 tons.

Export markets demand a high quality product. With a limited shelf life, these fresh deliveries of sweet cherries require a high quality product. The shipment of low quality product could ruin years of market development in an export market. Grades and standards assure the shipment of high quality fruit into export markets, and small growers as well as large growers will benefit.

Production Area and Shipments Outside Production Area

When the marketing order was created in 1957, sweet cherries were primarily grown in only 6 counties in the State of Washington. The 6 counties that are currently regulated are Okanogan, Chelan, Douglas, Grant, Benton, and Yakima. The 14 additional counties proposed for inclusion are Kittitas, Klickitat, Ferry, Stevens, Pend Oreille, Lincoln, Spokane, Adams, Whitman, Franklin, Walla Walla, Columbia, Garfield, and Asotin.

Cherry production has dramatically increased in areas within the State of Washington that are outside the current production area. As more land has come into irrigation and farmers look for alternative crops to grow, sweet cherry production is expected to increase in areas outside the current production area.

The proposed amendment to increase the production area to cover the area in the State of Washington east of the Cascade Mountain Range, to redefine the districts in order to include the additional counties and to authorize special purpose shipments, with appropriate safeguards, allowing movement of cherries to packing operations outside the production area would improve the effectiveness of the marketing order by ensuring that the major cherry producing counties in Washington are covered under the marketing order. In addition, including counties with potential to produce significant amounts of sweet cherries would ensure that all major production would be covered under the marketing order in the future. The proposed amendment would also benefit growers, especially growers not currently regulated under the order, by allowing many of these growers to continue shipping their cherries to Oregon for packing.

The Committee has been discussing amending the order in this regard for many years. In 1990, a subcommittee composed of small and large growers and handlers was appointed to study the expansion of the production area. The Committee discussed expanding the production area with producers located outside the production area. Out of these discussions, it was determined that if the production area was expanded, the authority to grade and pack cherries outside the production area was also needed in order to allow growers in the proposed production area to avoid financial hardships by maintaining continuity in the packing of their cherries.

In March 1998, the Committee recommended numerous amendments to the marketing order, including covering the entire State of Washington in the production area. In August 1999, the Committee recommended modifying the recommendation on the production area proposal from regulating the entire

State to only including the eastern part of the State.

Alternatives to the current proposal on the expansion of the production area were considered by the Committee. These alternatives were: (1) including the entire State of Washington; (2) including the States of Washington and Oregon; and (3) including the States of Washington, Oregon, Idaho and Utah. Committee representatives communicated with growers and handlers in these regions. Public meetings on the subject were publicized in these growing areas and interested parties were encouraged to attend. Committee members also attended grower meetings in these areas to discuss expansion of the production area.

Regarding including the entire State of Washington, the Committee determined that due to weather conditions, it would be unlikely that cherries could be commercially produced in significant amounts west of the Cascade Mountain Range in Washington. Average production in this area is 50 tons per year. Testimony indicated that excessive rain causes serious quality problems with sweet cherries, such as cracking. Generally, weather conditions in eastern Washington are more favorable for growing sweet cherries, as well as other horticultural crops.

Representatives from Idaho and Utah believed that their production and marketing could be easily distinguished and segregated from Washington and Oregon production. In addition, it was believed the Idaho and Utah sweet cherry industry was not large enough to make an impact on Washington cherries. Statistical data presented at the hearing on the volume of cherries produced in Idaho and Utah supports this belief.

Oregon's sweet cherry industry primarily borders the State of Washington, but representatives from Oregon believed their industry should be kept separate from the Washington industry. The record evidence revealed that Oregon already has two organizations that represent the interests of sweet cherry growers, the Oregon Sweet Cherry Commission and the Wasco County Fruit and Produce League. These organizations collect assessments based on cherry production. According to record testimony, the Oregon growers did not see the need to form another organization to protect their interests. In addition, testimony indicated that Oregon growers did not want to become a minor part of the Washington order.

An organization called the Northwest Cherry Growers also represents the States of Washington, Oregon, Idaho and Utah. This group is responsible for collecting assessments based on cherry tonnage and directing promotion programs for sweet cherries grown in these four states.

Based on record evidence, the Committee considered these various alternatives and concluded that the proposal it submitted on the expansion of the production area is the most reasonable alternative. The proposed production area is the smallest regional area, which is practicable, while maintaining program effectiveness.

The record revealed that the average cherry farm size in Washington ranges from 3 or 4 acres to several hundred acres. The average farm is approximately 40 acres. According to testimony, there are approximately 180 growers in the proposed production area that are larger that the average farm. Some farms in the proposed production area, particularly in Franklin County, are 50 to 200 acres. Although much of this acreage is currently non-producing, testimony indicated that the potential exists for significant production. Unlike the western part of the State where significant production is not anticipated, if those areas with significant production potential are not regulated, it could have a detrimental impact on the favorable Washington sweet cherry quality image.

Testimony was received at the hearing on the costs associated with the proposed amendments. This testimony indicated that costs associated with this proposal would be minor. The total annual cost of production for a mature orchard is $7,413.06 per acre. The current assessment of 75 cents per ton comprises less than 1 percent of total production costs. Any increase in assessments resulting from this proposed amendment would not have a significant negative financial impact on growers or handlers. Testimony indicated that the annual assessment could even be reduced due to additional cherries being assessed with the expansion of the production area.

Applying grades and standards to the new production areas should provide benefits to small producers. The grades and standards allow small producers the opportunity to develop a reputation for producing and delivering a consistent, high quality product. These grades and standards provide incentives and rewards for the production of high quality product. In addition, the establishment of uniform grades and standards across all the production areas provides a level field for competition among both small and large growers. Testimony indicated that as production increases, quality issues become more important and production is expected to increase in excess of 100,000 tons for the first time in the industry's history.

The 1999–2000 budget for the Committee is $62,815, of which $3,388 is earmarked for compliance efforts. Testimony indicated that increased compliance and administrative costs necessary to monitor this proposal would not be significant. It was testified that the benefits of strengthening the market would outweigh any increase in costs. Adversely, if the production area is not redefined, testimony indicated that the Washington cherry image could be harmed, as more and more areas are growing cherries. In addition, indications are that a large number of non-bearing acres are coming into production inside and outside the current production area. Adding to the increase in production are growers of other crops, such as grain and apples, looking for alternative crops to grow in order to supplement incomes. Sweet cherries are an option these growers consider.

The Washington cherry market distinguishes itself from competitors. More product is available from Washington than the other cherry producing States. The Washington cherry market is more diverse and national in scope, and testimony indicated that buyers have confidence in Washington sweet cherries due to consistent quality. Testimony revealed that this distinction is a direct result of the establishment of minimum quality requirements under the marketing order. If the proposal to allow cherry shipments outside the production area for packing is implemented there are safeguards in place to ensure that minimum quality requirements are met. If these facilities fail to abide by the applicable requirements, the committee can rescind their privileges and Washington cherries could not be delivered to that facility.

When regulations are in place, all cherries in the production area are required to be inspected and certified as meeting established requirements. The Washington State Department of Agriculture's Fruit and Vegetable Inspection Program (WSDA), headquartered in Olympia, Washington collaborates with USDA–AMS, Fresh Products Branch to provide inspection to marketing order commodities in Washington. WSDA's district offices are located in Yakima, Wenatchee and Moses Lake. These main district offices have area offices in strategic locations to

the various growing areas in the State. WSDA employs approximately 150–160 full-time inspection staff throughout the State. In addition, during peak harvest periods, temporary inspectors are hired.

The WSDA operates on a user-fee basis; no appropriated funds are received. Inspection fees pay for the program to operate.

Except for random inspections conducted on fruit stands to comply with a cherry fruit fly quarantine program, WSDA provides inspections only upon request. The applicant indicates to WSDA what type of inspection is needed, such as compliance with a marketing order.

The fees for cherry inspections are 21 cents per hundred weight or $23/hour, whichever is greater, plus additional charges for travel time and mileage. The larger growers have individual inspectors stationed at their warehouses during the season. The time and mileage charges are more frequently assessed to the smaller grower/packer because of the small volumes inspected and remote locations. However, WSDA attempts to mitigate costs, especially to small growers and handlers. WSDA helps smaller growers mitigate these costs by meeting growers halfway between their orchard and the inspection office or WSDA authorizes the grower to bring the product to the inspection office.

Individual shipments not exceeding 100 pounds in the aggregate are exempt from the regulations, as well as cherries for home use and cherries not intended for re-sale. In addition, shipments for consumption by charitable institutions, for distribution by relief agencies or for commercial processing into products are exempt from regulation.

Testimony indicated that increased costs associated with more cherries being inspected in accordance with marketing order requirements would be offset by consistent quality and a stable market place. In addition, most handlers already pack their cherries and have them inspected in accordance with marketing order requirements, regardless of whether the cherries are grown inside or outside the current production area.

Minimum quality and size standards in the proposed production area would maintain the integrity of the product so that the commodity's overall quality image is not diminished by a low quality sample. The principle objective of a grading system is to make the market work more efficiently. Minimum quality and size requirements would improve information between buyers and sellers. Contracts could be made based on grade specifications, and buyers need not personally inspect each lot of product. Standardization of quality and size reduces uncertainty between buyers and sellers, and this helps reduce marketing costs. The goal of an effective grading system is to improve quality and size. Minimum quality and size standards would help ensure that substandard produce does not find its way to the market and destroy consumer confidence and harm producer returns. Cherries that do not meet the grade and size requirements can be sold in the processed market.

In addition to proximity to their orchards, there are other reasons growers select certain packinghouses. Many growers select handlers based on the quality of pack, the packinghouse image and/or whether or not the handler is a cooperative. These options for growers would be limited if they were no longer able to have their cherries packed in Oregon.

Testimony indicated that existing packing facilities in the State of Washington could have difficulty handling the volume of Washington cherries if the production continues to increase. The proposal to allow shipments of Washington cherries outside the production area for packing would specifically address this issue. This proposal would provide flexibility in moving product in and out of the marketing order production area.

WSDA currently has an agreement with the Oregon Department of Agriculture covering the border area between both states, namely in the Bingen, Washington area, where Oregon Department of Agriculture conducts the inspections to Washington standards and marketing order specifications. Testimony indicated this agreement works well, as it assists the WSDA in supplying quality inspections in that area. Testimony indicated that the inspection office does not envision any oversight burden imposed by these proposals that it cannot meet. Safeguard provisions are incorporated into this proposal to ensure compliance with the proposal to authorize shipments outside the production area.

If the production area is expanded, it would be necessary to incorporate the additional counties regulated into the districts currently established under the order. The Committee discussed dividing the production area into three districts and distributing the counties and membership across these districts. The Committee was concerned that this would entail increasing Committee membership by more than one handler member as proposed and discussed in Material Issue No. 2. The record indicated that the Committee believed a 16 member Committee would be the most effective. Therefore, it was decided to distribute the counties proportionately among the two districts.

The proposed District 1 encompasses the northern part of the production area and District 2 encompasses the southern part. In 1997 production in proposed District 1 was approximately 44,300 tons of sweet cherries and in proposed District 2, 45,500 tons. In addition, tons packed in each proposed district is close to equal. This distribution of counties among the two districts would provide for equal representation of handlers and growers from each district.

Committee Representation

The proposed amendment to increase representation on the Committee by adding one additional handler member would improve representation on the Committee and allow the Committee to function more efficiently.

Record evidence supports increasing the membership on the Committee by one handler member. The Washington sweet cherry industry is growing. Bearing acres and production are increasing and markets, including exports, are expanding. Although the Committee's recommendation to increase the number of Committee members by one initially related to the expansion of the production area, the record testimony revealed that the Committee would prefer to have an additional handler member even if the production area is not expanded.

Increasing representation on the Committee would allow additional input in Committee decisions. Having equal handler representation for each district is reasonable considering that the volume handled is similar in each district, regardless if the production area is expanded. Costs of adding an additional member to the Committee would be minimal.

In its deliberations, the Committee discussed alternatives to address appropriate representation and districting should the production area be expanded. One alternative was to divide the area into three districts and distribute membership proportionately across these districts. This alternative would have likely entailed increasing membership by more than one. The Committee was concerned that increasing the number of members by more than one would hinder the decisionmaking capability of the Committee. The Committee agreed that 16 members was an appropriate number for the Committee to be most effective while adequately representing the expanded production area.

Late Payment and Interest Charges on Delinquent Assessments

The proposed amendment to authorize the Committee, with AMS approval, to collect late payment and interest charges on delinquent assessments would encourage handlers to pay their assessments on time. Assessments not paid promptly add an undue burden on the Committee because the Committee has ongoing projects and programs funded by assessments that are functioning throughout the year. The addition of such a charge is consistent with standard business practices. No costs would be associated for handlers who pay timely assessments.

Late payment and interest charges for delinquent assessments would provide an incentive for handlers to pay on time. This would result in fewer funds needed by the Committee for collection activities. Also, the fees derived from late payment and interest charges would partially compensate the Committee for its collection efforts.

Container Marking Requirements

The proposed amendment to authorize the Committee, with AMS approval, to establish container marking requirements would further expand and enhance the current container and pack requirements already being used. Uniform marking requirements would assist in avoiding confusion in the marketplace.

Testimony indicated that no significant costs would be incurred if this authority were implemented because handlers already have the equipment to mark containers. Container markings are currently accomplished by handlers, on an individual basis. The benefits of this proposed amendment would be in the form of uniform marking requirements for Washington sweet cherries.

Combining Forms Required by Committee Nominees

The proposed amendment to authorize Committee nominees to qualify as a member or alternate by filing a written acceptance of willingness to serve prior to the selection would allow the selection process to take place in a more timely fashion.

The proposal would delete the requirement that the selected member/alternate file a written acceptance after notification of selection and combine the acceptance letter with the background statement submitted prior to selection. The nominee would, in effect, be indicating willingness to serve on the Committee prior to being selected.

Testimony indicated that there is no benefit in waiting for the nominee to sign the acceptance letter after being selected. No negative impacts are anticipated from implementing this proposal. However, the benefits are that the nominees are only required to sign and deliver one form. In addition, the Committee could obtain all pertinent information well ahead of the time for seating of the new Committee, thereby operating more efficiently.

Committee Tenure Requirements

The proposed amendment to add tenure requirements for Committee members would allow more persons the opportunity to serve as members on the Committee. It would provide for more diverse membership, provide the Committee with new perspectives and ideas, and increase the number of individuals in the industry with Committee experience. It is anticipated that this proposed amendment would not increase costs to small businesses.

Continuance Referenda

The proposed amendment to require that continuance referenda be conducted on a periodic basis to ascertain industry support for the order would allow growers the opportunity to vote on whether to continue the operation of the marketing order. Although this proposed amendment may generate minimal Committee costs to assist in conducting the referenda, there are no additional costs anticipated for small businesses.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the reporting and recordkeeping provisions that would be generated by the proposed amendments have been submitted to the Office of Management and Budget (OMB). Specifically, if the production area is expanded, the overall burden of completion of all Committee generated forms and reports could increase due to additional handlers being regulated, as well as additional growers in the regulated area. Current total burden hours are approximately 69 hours and only relate to referenda and nominations. Sixty eight of these hours relate to producer referenda and handlers signing of marketing agreements. The other hour covers time spent by Committee members and alternates completing membership forms. Adding the additional growers and handlers from the expanded production area would increase the overall burden for referenda documentation by approximately 22 hours. Adding an additional handler member would increase the overall burden to complete nomination forms from 1.25 hours to 1.33 hours. The documentation required to implement the safeguard provisions for the four packing facilities in Oregon are yet to be established, but it is not anticipated that the overall burden would be dramatically increased. It is anticipated an application form would be developed for these packing operations. These provisions and any additional provisions modifying reporting and recordkeeping burdens that generate from these proposed amendments would not be effective until receiving OMB approval. Current information collection requirements for part 923 are approved by OMB under OMB number 0581–0189. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. All of these amendments are designed to enhance the administration and functioning of the marketing order to the benefit of the industry.

While the implementation of these requirements may impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of these costs may be passed on to growers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the meetings regarding these proposals as well as the hearing date were widely publicized throughout the Washington sweet cherry production area and proposed production area and all interested persons were invited to attend the meetings and the hearing and participate in Committee deliberations on all issues. All Committee meetings and the hearing were public forums and all entities, both large and small, were able to express views on these issues. The Committee itself is composed of 15 members, of whom five are handlers and ten are producers. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: *http://www.ams.usda.gov/fv/moab.html.*

Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT SECTION**.

Civil Justice Reform

The amendments proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the amendments.

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

Findings and Conclusions

The material issues, findings and conclusions, rulings, and general findings and determinations included in the Recommended Decision set forth in the November 9, 2000, issue of the **Federal Register** (65 FR 67584) are hereby approved and adopted.

Marketing Agreement and Order

Annexed hereto and made a part hereof is the document entitled ''Order Amending the Order Regulating the Handling of Sweet Cherries Grown in designated counties of Washington.'' This document has been decided upon as the detailed and appropriate means of effectuating the foregoing findings and conclusions.

It is hereby ordered, That this entire decision be published in the **Federal Register**.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR part 900.400 *et seq.*) to determine whether the issuance of the annexed order amending the order regulating the handling of sweet cherries grown in designated counties in Washington is approved or favored by growers, as defined under the terms of the order, who during the representative period were engaged in the production of sweet cherries in the production area.

The representative period for the conduct of such referendum is hereby determined to be April 1, 1999, through March 31, 2000.

The agents of the Secretary to conduct such referendum are hereby designated to be Gary Olson and Teresa Hutchinson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW. Third Avenue, room 369, Portland, Oregon 97204; telephone (503) 326–2724.

List of Subjects in 7 CFR Part 923

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

Dated: March 1, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

Order Amending the Order Regulating the Handling of Sweet Cherries Grown in designated counties in Washington [1]

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings and Determinations Upon the Basis of the Hearing Record

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon the proposed amendments to the Marketing Agreement and Order No. 923 (7 CFR part 923), regulating the handling of sweet cherries grown in designated counties in Washington.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The marketing agreement and order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The marketing agreement and order, as hereby proposed to be amended, regulate the handling of sweet cherries grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in the marketing order upon which hearings have been held;

(3) The marketing agreement and order, as hereby proposed to be amended, are limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act; and

(4) The marketing agreement and order, as hereby proposed to be amended, prescribe, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of sweet cherries grown in the production area; and

(5) All handling of sweet cherries grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, all handling of sweet cherries grown in designated counties in Washington, shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby proposed to be amended as follows:

The provisions of the proposed marketing agreement and the order amending the order contained in the Recommended Decision issued by the Administrator on November 2, 1999, and published in the **Federal Register** on November 9, 1999, shall be and are the terms and provisions of this order amending the order and are set forth in full herein.

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

1. The authority citation for 7 CFR part 923 continues to read as follows:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Authority: 7 U.S.C. 601–674.

2. Revise § 923.4 to read as follows:

§ 923.4 Production area.

Production area means the counties of Okanogan, Chelan, Kittitas, Yakima, Klickitat in the State of Washington and all of the counties in Washington lying east thereof.

3. Amend § 923.14 by revising paragraphs (a) and (b) to read as follows:

§ 923.14 District.

* * * * *

(a) *District 1* shall include the Counties of Chelan, Okanogan, Douglas, Grant, Lincoln, Spokane, Pend Oreille, Stevens, and Ferry.

(b) *District 2* shall include the counties of Kittitas, Yakima, Klickitat, Benton, Adams, Franklin, Walla Walla, Whitman, Columbia, Garfield and Asotin.

§ 923.20 [Amended]

4. Amend § 923.20 as follows:

(a) In the first sentence remove the word ''fifteen'' and add the word ''sixteen'' in its place;

(b) In the third and fourth sentences remove the word ''five'' and add the word ''six'' in its place;

(c) In the fifth sentence, remove the words ''four'' and ''six'' and add the word ''five'' in their place; and

(d) In the sixth sentence, remove the word ''two'' and add the word ''three'' in its place.

5. Revise § 923.21 to read as follows:

§ 923.21 Term of office.

The term of office of each member and alternate member of the committee shall be for two years beginning April 1 and ending March 31. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified. Committee members shall not serve more than three consecutive terms. Members who have served for three consecutive terms must leave the committee for at least one year before becoming eligible to serve again.

6. Revise § 923.25 to read as follows:

§ 923.25 Acceptance.

Any person prior to selection as a member or an alternate member of the committee shall qualify by filing with the Secretary a written acceptance of willingness to serve on the committee.

7. Revise § 923.41 by adding a new paragraph (c) to read as follows:

§ 923.41 Assessments.

* * * * *

(c) If a handler does not pay any assessment within the time prescribed by the committee, the assessment may be subject to an interest or late payment charge, or both, as may be established by the Secretary as recommended by the committee.

§ 923.52 [Amended]

8. In § 923.52, paragraph (a)(3) is amended by adding the word ''markings,''; after the word ''dimensions,''.

9. Amend § 923.54 as follows

Remove the words ''(including shipments to facilitate the conduct of marketing research and development projects established pursuant to § 923.45),'' in paragraph (b) and add a new sentence at the end of the paragraph; and add a new sentence at the end of paragraph (c) to read as follows:

§ 923.54 Special purpose shipments.

* * * * *

(b) * * * Specified purposes under this section may include shipments of cherries for grading or packing to specified locations outside the production area and shipments to facilitate the conduct of marketing research and development projects established pursuant to § 923.45.

(c) * * * The committee may rescind or deny to any packing facility the special purpose shipment certificate if proof satisfactory to the committee is obtained that cherries shipped for the purpose stated in this section were handled contrary to the provisions of this section.

10. Amend § 923.64 by adding a new sentence at the beginning of paragraph (c) to read as follows:

§ 923.64 Termination

* * * * *

(c) The Secretary shall conduct a referendum six years after [the effective date of this paragraph] and every sixth year thereafter to ascertain whether continuance of this part is favored by growers. * * *

* * * * *

[FR Doc. 01–5418 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV01–993–1 PR]

Dried Prunes Produced in California; Undersized Regulation for the 2001–02 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on changes to the undersized regulation for dried prunes received by handlers from producers and dehydrators under Marketing Order No. 993 for the 2001–02 crop year. The marketing order regulates the handling of dried prunes produced in California and is administered locally by the Prune Marketing Committee (Committee). This rule would remove the smallest, least desirable of the marketable size dried prunes produced in California from human consumption outlets and allow handlers to dispose of the undersized prunes in such outlets as livestock feed. The Committee estimated that this rule would reduce the excess of dried prunes by approximately 3,400 tons while leaving sufficient prunes to fulfill foreign and domestic trade demand.

DATES: Comments received by April 16, 2001, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698, or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room

2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes in California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

This proposal invites comments on changes to the undersized regulation in § 993.49(c) of the prune marketing order for the 2001–02 crop year for supply management purposes. The regulation removes prunes passing through specified screen openings. For French prunes, the screen opening would be increased from 23/32 to 24/32 of an inch in diameter; and for non-French prunes, the opening would be increased from 28/32 to 30/32 of an inch in diameter. This rule would remove the smallest, least desirable of the marketable size dried prunes produced in California from human consumption outlets. This rule would be in effect from August 1, 2001, through July 31, 2002, and was unanimously recommended by the Committee at a November 29, 2000, meeting.

Section 993.19b of the prune marketing order defines undersized prunes as prunes which pass freely through a round opening of a specified diameter. Section 993.49(c) of the prune marketing order establishes an undersized regulation of 23/32 of an inch for French prunes and 28/32 of an inch for non-French prunes. These diameter openings have been in effect for quality control purposes. Section 993.49(c) also provides that the Secretary upon a recommendation of the Committee may establish larger openings for undersized dried prunes whenever it is determined that supply conditions for a crop year warrant such regulation. Section 993.50(g) states in part: ''No handler shall ship or otherwise dispose of, for human consumption, the quantity of prunes determined by the inspection service pursuant to § 993.49(c) to be undersized prunes.'' Pursuant to § 993.52 minimum standards, pack specifications, including the openings prescribed in § 993.49(c), may be modified by the Secretary on the basis of a recommendation of the Committee or other information.

Pursuant to the authority in § 993.52 of the order, § 993.400 modifies the undersized prune openings prescribed in § 993.49(c) to permit openings of 23/32 or 24/32 of an inch for French prunes and 28/32 or 30/32 of an inch for non-French prunes.

During the 1974–75 and 1977–78 crop years, the undersized prune regulation was established by the Department at 23/32 of an inch in diameter for French prunes and 28/32 of an inch in diameter for non-French prunes. These diameter openings were established in §§ 993.401 and 993.404, respectively (39 FR 32733, September 11, 1974; and 42 FR 49802, September 28, 1977). In addition, the Committee recommended and the Department established volume regulation percentages during the 1974–75 crop year with an undersized regulation at the aforementioned 23/32 and 28/32 inch diameter screen sizes. During the 1975–76 and 1976–77 crop years, the undersized prune regulation was established at 24/32 of an inch for French prunes and 30/32 of an inch for non-French prunes. These diameter openings were established in §§ 993.402 and 993.403 respectively (40 FR 42530, September 15 1975; and 41 FR 37306, September 3, 1976). The prune industry had an excess supply of prunes—particularly small size prunes. Rather than recommending volume regulation percentages for the 1975–76, 1976–77, and 1977–78 crop years, the Committee recommended the establishment of an undersized prune regulation applicable to all prunes received by handlers from producers and dehydrators during each of those crop years.

The objective of the undersized prune regulations during each of those crop years was to preclude the use of small prunes in manufactured prune products such as juice and concentrate. Handlers could not market undersized prunes for human consumption, but could dispose of them in nonhuman outlets such as livestock feed.

With these experiences as a basis, the marketing order was amended on August 1, 1982, establishing the continuing quality-related regulation for undersized French and non-French prunes under § 993.49(c). That regulation has removed from the marketable supply those prunes which are not desirable for use in prune products.

As in the 1970's, the prune industry is currently experiencing an excess supply of prunes. During the 1998–99 crop year, an undersized prune regulation was established at 24/32 of an inch for French prunes, and 30/32 of an inch for non-French prunes. These diameter openings were established in § 993.405 (63 FR 20058, April 23, 1998). With larger than desired carryin inventories and a 1999–2000 prune crop of about 172,000 natural condition tons, the Committee unanimously recommended continuing with an undersized prune regulation at 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes. These diameter openings were established in § 993.406 (64 FR 23759, May 4, 1999) and made effective from August 1, 1999, through July 31, 2000. With larger than desired carryin inventories and a 2000–01 prune crop of about 203,000 natural condition tons, the Committee unanimously recommended continuing with an undersized prune regulation at 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes. These diameter openings were established in § 993.407 (65 FR 29945, May 10, 2000) and made effective from August 1, 2000, through July 31, 2001.

For the 1998–99 crop year, the carryin inventory level reached a record high of

126,485 natural conditions tons. Excessive inventories tend to dampen producer returns, and cause weak marketing conditions. The carryin for the 1999–2000 crop year was reduced to 59,944 natural condition tons. This reduction was due to the low level of salable production in 1998–99 (about 102,521 natural condition tons and 50 percent of a normal size crop) and the undersized prune regulation. The carryin for the 2000–01 crop increased to 65,131 natural condition tons. This increase was due to a larger crop size of about 172,000 natural condition tons and reduced shipments during the 1999–2000 crop year. According to the Committee, the desired inventory level to keep trade distribution channels full while awaiting the new crop has ranged between 35,353 and 42,071 natural condition tons since the 1996–97 crop year, while the actual inventory has ranged between 59,944 and 126,485 natural condition tons since that year. The desired inventory level for early season shipments fluctuates from year-to-year depending on market conditions.

At its meeting on November 29, 2000, the Committee unanimously recommended continuing an undersized prune regulation at 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes during the 2001–02 crop year for supply management purposes. This regulation would be in effect from August 1, 2001, through July 31, 2002.

The Committee estimated that there would be an excess of about 41,476 natural condition tons of dried prunes as of July 31, 2001. This proposed rule would continue to remove primarily small-sized prunes from human consumption channels, consistent with the undersized prune regulation that was implemented for the 1998–99, 1999–2000, and 2000–01 crop years. It is estimated that approximately 3,400 natural condition tons of small prunes would be removed from human consumption channels during the 2001–02 crop year as a result of this rule. This would leave sufficient prunes to fill domestic and foreign trade demand during the 2001–02 crop year, and provide an adequate carryout on July 31, 2002, for early season shipments until the new crop is available for shipment. According to the Committee, the desired inventory level to keep trade distribution channels full while awaiting the 2001–02 crop is about 41,000 natural condition tons.

In its deliberations, the Committee reviewed statistics reflecting: (1) A worldwide prune demand which has been relatively stable at about 260,000 tons; (2) a worldwide oversupply that is expected to continue growing this century (estimated at 299,420 natural condition tons by the year 2005; (3) a continuing oversupply situation in California caused by increased production from increased plantings and higher yields per acre (between the 1990–91 and 2000–01 crop years, the yields ranged from 1.2 to 2.6 versus a 10-year average of 2.1 tons per acre); and (4) California's continued excess inventory situation. The production of these small sizes ranged from 1,335 to 8,778 natural condition tons during the 1990–91 through the 1999–2000 crop years. The Committee concluded that it has to continue utilizing supply management techniques to accelerate the return to a balanced supply/demand situation in the interest of the California dried prune industry. The proposed changes to the undersized regulation for the 2001–02 crop year are the result of these deliberations, and the Committee's desire to gradually bring supplies in line with market needs.

The industry's oversupply situation is expected to continue over the next few years due to new prune plantings in recent years with higher yields per acre. These plantings have a higher tree density per acre than the older prune plantings. During the 1990–91 crop year, the non-bearing acreage totaled 5,900 acres; but by 1998–99, the non-bearing acreage had quadrupled to more than 26,000 acres. The non-bearing acreage has subsequently been reduced to 22,000 acres during the 1999–2000 crop year. The 1996–97 through 1999–2000 yields have ranged from 1.2 to 2.6 tons per acre. Over the last 10-years, the average was 2.1 tons per acre.

The 2000–01 dried prune crop is expected to be 203,000 natural condition tons. Another large crop of about 193,000 natural condition tons is expected for the 2001–02 crop year, partly because of an anticipated increase in bearing acreage.

The 1997–98 crop year producer prices for the 24/32 size French prunes have been about $40–$50 per ton, about $260–$270 per ton below post harvest costs. During the 2000–01 crop year, feedlots are paying about $35 to $40 per ton for the 24/32 size French prunes, which is about $270–275 per ton below post harvest costs. The lower producer prices are expected to continue as an incentive for production of larger size prunes. The larger sizes will help the industry better meet the increasing market demand for larger-sized pitted prunes.

The 1998–99, 1999–2000, and 2000–01 undersized prune rules of 24/32 of an inch for French prunes and 30/32 of an inch for non-French prunes have expedited the reduction of small prune inventories, but more needs to be done to bring supplies into balance with market demand. The excess inventory on July 31, 2000, was 65,131 natural condition tons, and about 3,400 natural condition tons of dried prunes are expected to be removed from the 2000–01 marketable supply by the current undersized regulation. The Committee believes that the same undersized regulation also should be implemented during the 2001–02 crop year to continue reducing the inventories of small prunes, to help reduce the expected large 2001–02 prune crop, and more quickly bring supplies in line with demand. Attainment of this goal would benefit all of the producers and handlers of California prunes.

The recommended decision of June 1, 1981 (46 FR 29271) regarding undersized prunes states that the undersized prune regulation at the 23/32 and 28/32 inch diameter size openings would be continuous for the purposes of quality control even in above parity situations. It further states that any change (i.e., increase) in the size of those openings would not be for the purpose of establishing a new quality-related minimum. Larger openings would only be applicable when supply conditions warranted the regulation of a larger quantity of prunes as undersized prunes. Thus, any regulation prescribing openings larger than those in § 993.49(c) should not be implemented when the grower average price is expected to be above parity. The season average price received by prune growers ranged from 39 percent to 62 percent of parity during the 1994 through 1999 seasons. As discussed later, the average grower price for prunes during the 2001–02 crop year is not expected to be above parity, and implementation of this more restrictive undersized regulation would be appropriate in reference to parity.

Section 8e of the Act requires that when certain domestically produced commodities, including prunes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements for the domestically produced commodity. This action would not impact the dried prune import regulation because the action would affect volume control, not quality control. The smaller diameter openings of 23/32 of an inch for French prunes and 28/32 of an inch for non-French prunes were implemented to improve product quality. The recommended increases to 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes are for purposes

of volume control. Therefore, the increased diameters would not be applied to imported prunes.

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

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

There are approximately 1,250 producers of dried prunes in the production area and approximately 22 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

An updated industry profile shows that 9 out of 22 handlers (41%) shipped over $5,000,000 worth of dried prunes and could be considered large handlers by the Small Business Administration. Thirteen of the 22 handlers (59%) shipped under $5,000,000 worth of prunes and could be considered small handlers. An estimated 109 producers, or less than 9% of the 1,250 total producers, would be considered large growers with annual incomes over $500,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

This proposed rule would establish an undersized prune regulation of 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes for the 2001–02 crop year for inventory management purposes. This change in regulation would result in more of the smaller sized prunes being classified as undersized prunes and is expected to benefit producers, handlers, and consumers. The larger screen openings currently in place for 2000–01 are expected to remove about 3,400 tons of dried prunes from the excess marketable supply. The Committee estimated that there will be an excess of about 41,400 natural condition tons of dried prunes on July 31, 2001. Implementation of the larger openings in 2001–02 is expected to reduce that surplus by about 3,400 tons.

Because the benefits and costs of the proposed action would be directly proportional to the quantity of 24/32 screen French prunes and 30/32 screen non-French prunes produced or handled, small businesses should not be disproportionately affected by the proposal. While variation in sugar content, prune density, and dry-away ratio vary from county to county, they also vary from orchard to orchard and season to season. In the major producing areas of the Sacramento and San Joaquin Valleys (which account for over 99 percent of the state's production), the prunes produced are homogeneous enough that the proposal should not be viewed as inequitable by large and small producers in any area of the State.

The quantity of small prunes in a lot is not dependent on whether a producer or handler is small or large; but is primarily dependent on cultural practices, soil composition, and water costs. The cost to minimize the quantity of small prunes is similar for small and large entities. The anticipated benefits of this rule are not expected to be disproportionately greater or lesser for small handlers or producers than for large entities. The only additional costs on producers and handlers expected from the increased openings would be the disposal of additional tonnage (now estimated to be about 3,400 tons) to nonhuman consumption outlets. These costs are expected to be minimal and would be offset by the benefits derived by the elimination of some of the excess supply of small-sized prunes.

At the November 29, 2000, meeting, the Committee discussed the financial impact of this change on handlers and producers. Handlers and producers receive higher returns for the larger size prunes. Prunes eliminated through the implementation of this rule have very little value. As mentioned earlier, the current situation for producers of these small sizes is quite bleak with producers losing about $270–$275 on every ton delivered to handlers. During the 2000–01 crop year, the feedlot prices for 24/32 screen French prunes ranges between $35 and $40 per ton. This price is a little lower than the $40–50 price during the 1998–99 crop year. The cost of drying a ton of such prunes is $260 per ton at a 4 to 1 dry-away ratio, transportation is at least $20 per ton, and the producer assessment paid to the California Prune Board (a body which administers the State marketing order for promotion) is $30 per ton. The total cost is about $310 per ton which equates to a loss of about $270–$275 per ton for every ton of 24/32 screen French prunes produced and delivered to handlers.

Utilizing data provided by the Committee, the Department has evaluated the impact of the proposed undersized regulation change upon producers and handlers in the industry. The analysis shows that a reduction in the marketable production and handler inventories could result in higher season-average prices, which would benefit all producers. The removal of the smallest, least desirable of the marketable dried prunes produced in California from human consumption outlets would eliminate an estimated 3,400 tons of small-sized dried prunes during the 2001–02 crop year from the marketplace. This would help lessen the negative marketing and pricing effects resulting from the excess inventory situation facing the industry. California prune handlers reported that they held 65,131 tons of natural condition prunes on July 31, 2000, the end of the 1999–2000 crop year. The 65,131 ton year-end inventory is larger than what is desired for early season shipments by the prune industry. The desired inventory level is based on an average 12-week supply to keep trade distribution channels full while awaiting new crop. Currently, it is about 41,000 natural condition tons. This leaves a 2000–01 inventory surplus of about 24,000 tons. The undersized regulation will help reduce the surplus, but the anticipated large 2001–02 prune crop is expected to worsen the supply imbalance.

One of the primary reasons for this proposed rulemaking action is that the dried prune industry continues to be plagued by high carryin inventories. California prune handlers estimate that 82,286 tons of prunes (natural condition) will be inventoried at the end of the 2000–01 crop year. This will result in a surplus of 41,476 tons over the industry's desired carryout of 40,810 tons.

Increasing the screen openings is an attempt to moderately reduce and control the marketable production and carryin inventory. If the marketable supply and the carryin inventory are both reduced, then prices may be expected to increase. If no action is taken, rising production levels, high inventories, and low grower prices will continue.

To assess the impacts that regulation has on the prices growers receive for their product, an econometric model has been estimated. The two variables of interest in this model are marketable production and carryin inventory. Both of the estimated parameters for these variables are negative and statistically significant. This provides evidence that

reducing the marketable supply and the carryin inventory would result in higher grower prices. This action would benefit all growers and handlers regardless of size.

Increasing the undersized openings would result in a reduced level of marketable production. The Committee estimates that marketable production will be reduced by 3,400 tons, or 2.2 percent. If marketable production for the 2001–02 crop year is reduced by 2.2 percent, the model suggests an increase in prices of approximately 0.9 percent compared to taking no action. Although increasing the undersized openings will only have a modest effect on marketable production, price increases would result. This proposed action would not only help reduce the oversupply situation, but improve the quality of the manufactured prune products by removing the smaller, less desirable prunes from the supply chain.

Without increasing the undersized openings, the industry could be expected to continue to build unwanted inventories. These inventories have a depressing effect on grower prices. The econometric model shows that, for every 1 percent increase in carryin inventories, a decrease in grower prices of 0.12 percent occurs.

This action would not result in a shortage of prunes for either retail or food service outlets. Inventories are expected to remain above desired levels and marketable production is anticipated to be in excess of demand. Additionally, this action is not expected to have a significant impact on retail or food service outlet prices.

In summary, increasing the openings in the sizing screens may reduce the volume of marketable production and decrease the carryin inventory. If the rule change accomplishes these two intended effects, the model shows that season-average prices will be slightly higher than if the screen openings remain unchanged. A higher season-average price should benefit all producers regardless of size.

As the marketable dried prune production and surplus prune inventories are reduced through this proposal, and producers continue to implement improved cultural and thinning practices to produce larger-sized prunes, continued improvement in producer returns is expected.

For the 1991–92 through the 1999–2000 crop years, the season average price received by the producers ranged from a high of $1,140 per ton to a low of $778 per ton during the 1998–99 crop year. The season average price received by producers during that 9-year period ranged from 39 percent to 68 percent of parity. Based on available data and estimates of prices, production, and other economic factors, the season average producer price for 2000–01 season is expected to be about the same as the 1999–2000 season average producer price of $892 per ton, or about 42 percent of parity.

The Committee discussed alternatives to this change, including making no changes to the undersized prune regulation and allowing market dynamics to foster prune inventory adjustments through lower prices on the smaller prunes. While reduced grower prices for small prunes are expected to contribute toward a slow reduction in dried prune inventories, the Committee believed that the undersized rule change is needed to expedite that reduction. With the excess tonnage of dried prunes, the Committee also considered establishing a reserve pool and diversion program to reduce the oversupply situation. A third alternative discussed was to advance to a 25/32 screen undersized regulation for French prunes. However, handlers expressed concern that this would reduce the amount of manufacturing prunes available for the manufacture of prune juice and concentrate. The first two initiatives were not supported because they would not specifically eliminate the smallest, least valuable prunes, which are in oversupply. Instead, the reserve pool and diversion program would eliminate larger size prunes from human consumption outlets. Reserve pools for prunes have historically been implemented on dried prunes regardless of the size of the prunes. While the marketing order also allows handlers to remove the larger prunes from the pool by replacing them with small prunes and the value difference in cash, this exchange would be cumbersome and expensive to administer compared to the proposal.

Section 8e of the Act requires that when certain domestically produced commodities, including prunes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements for the domestically produced commodity. This action does not impact the dried prune import regulation because the action to be implemented is for inventory management, not quality control purposes. The smaller diameter openings of 23/32 of an inch for French prunes and 28/32 of an inch for non-French prunes were implemented to improve product quality. The recommended increases to 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes are for purposes of inventory management. Therefore, the increased diameters would not be applied to imported prunes.

This action would not impose any additional reporting or recordkeeping requirements on either small or large California dried prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

In addition, the Committee's meeting was widely publicized throughout the prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 29, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. The Committee itself is composed of twenty-two members. Seven are handlers, fourteen are producers, and one is a public member. Moreover, the Committee and its Supply Management Subcommittee have been monitoring the supply situation, and this proposed rule reflects their deliberations completely. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

The Committee requested a comment period through April 16, 2001, to allow interested persons to respond to this proposal. This longer comment period is needed to give the Committee more time to observe the bloom period during the spring and industry shipment trends during the year and allow sufficient time to comment to the Department concerning any changes that are deemed appropriate. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is proposed to be amended as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Note: This section will not appear in the Code of Federal Regulations.

A new § 993.408 is added to read as follows:

§ 993.408 Undersized prune regulation for the 2001–02 crop year.

Pursuant to §§ 993.49(c) and 993.52, an undersized prune regulation for the 2001–02 crop year is hereby established. Undersized prunes are prunes which pass through openings as follows: for French prunes, 24/32 of an inch in diameter; for non-French prunes, 30/32 of an inch in diameter.

Dated: February 28, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–5321 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–02–U

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG70

List of Approved Spent Fuel Storage Casks: VSC–24 Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the Pacific Sierra Nuclear Associates (PSNA) VSC–24 listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 3 to the Certificate of Compliance (CoC). This amendment will allow holders of power reactor operating licenses as general licensees to store Combustion Engineering 16x16 spent fuel assemblies in accordance with revised technical specifications in the VSC–24 cask system. The proposed Amendment No. 3 to the VSC–24 CoC changes Technical Specifications 1.2.1 and 1.2.6 to modify the fuel specifications for Combustion Engineering 16x16 spent fuel stored in the VSC–24 cask system, modifies the text in TS 1.2.7 for accuracy, modifies the text in Certificate Section 2.b. to remove ambiguity, modifies Certificate Section 3 to be consistent with TS 1.1.4, modifies Certificate Section 4 for consistency with TS 1.1.3, and modifies Certificate Section 5 to remove ambiguity.

DATES: Comments on the proposed rule must be received on or before April 5, 2001.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 am and 4:15 pm on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website (*http://ruleforum.llnl.gov*). This site provides the capability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher (301) 415–5905; e-mail CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These documents may also be viewed and downloaded electronically via the rulemaking website.

Documents created or received at the NRC after November 1, 1999 are also available electronically at the NRC Public Electronic Reading Room on the Internet at http://www.nrc.gov/NRC/ADAMS/index.html. From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. An electronic copy of the proposed CoC and preliminary safety evaluation report (SER) can be found in ADAMS under Accession No. ML003733556. For more information, contact the NRC's Public Document Room Reference Staff at 1–800–397–4209, 301–415–4737 or by e-mail at pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Stan Turel, telephone (301) 415–6234, e-mail, spt@nrc.gov, of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: For additional information see the Direct Final Rule published in the final rules section of this **Federal Register**.

Procedural Background

The NRC is also publishing this proposed rule as a direct final rule because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial; adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on May 21, 2001. However, if the NRC receives significant adverse comments on the direct final rule by April 5, 2001, then the NRC will publish a document to withdraw the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action if the direct final rule is withdrawn.

List of Subjects In 10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR Part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 10d–48b, sec. 7902, 10b Stat. 31b3 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203,

101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1007 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1007
Initial Certificate Effective Date: May 7, 1993
Amendment Number 1 Effective Date: May 30, 2000
Amendment Number 2 Effective Date: September 5, 2000
Amendment Number 3 Effective Date: May 21, 2001
SAR Submitted by: Pacific Sierra Nuclear Associates
SAR Title: Final Safety Analysis Report for the Ventilated Storage Cask System
Docket Number: 72–1007
Certificate Expiration Date: May 7, 2013
Model Number: VSC–24

* * * * *

Dated at Rockville, Maryland, this 8th day of February, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–5398 Filed 3–5–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–011]

RIN 2115–AE47

Drawbridge Operation Regulations; Harlem River, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the drawbridge operating regulations for the two Broadway bridges, at mile 6.8, across the Harlem River at New York City, New York. This temporary rule would allow the bridge owner to not open the bridges for the passage of vessels from May 15, 2001 through August 15, 2001, in order to facilitate bridge painting operations at the bridge. Vessels that can pass under the bridges without bridge openings may do so at any time.

DATES: Comments must reach the Coast Guard on or before March 27, 2001.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District, Bridge Branch, at 408 Atlantic Avenue, Boston, MA. 02110–3350, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District, Bridge 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 First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except, Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Arca, Project Officer, First Coast Guard District, (212) 668–7165.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–01–011), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

Background and Purpose

The two Broadway bridges, at mile 6.8, across the Harlem River have a vertical clearance of 24 feet at mean high water and 29 feet at mean low water. The existing operating regulations at 33 CFR 117.789(c) require the two Broadway bridges to open on signal from 10 a.m. to 5 p.m. if at least a four-hour advance notice is given. From 5 p.m. to 10 a.m. the bridges need not open for vessel traffic.

The owner of the bridges, the New York City Department of Transportation (NYCDOT), requested a temporary change to the operating regulations for the bridges to allow the bridges to remain in the closed position from May 15, 2001 through August 15, 2001, to facilitate painting operations. Vessels that can pass under the bridges without openings may do so at all times.

An abbreviated comment period of 21 days is appropriate because it is anticipated that the closure will have little or no effect on the public since the bridge has opened only once in the past two years.

Discussion of Proposal

The Coast Guard proposes to temporarily revise the operating regulations in 33 CFR 117.789 to require that the two Broadway Bridges, at mile 6.8, need not open for vessel traffic from May 15, 2001 through August 15, 2001.

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). This conclusion is based on the fact that keeping the bridges closed should have no significant impact on navigation because the bridges opened only one time from 1999 through 2001.

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 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, Feb. 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that the closure of the bridges should have no significant impact on navigation

because the bridges have opened only one time from 1999 through 2001.

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 section 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 conclusion is based upon the fact that the closure of the bridges should have no significant impact on navigation because the bridges have opened only one time from 1999 through 2001.

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.

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 E.O. 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 because promulgation of drawbridge regulations have been found not to have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 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); § 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From May 15, 2001 through August 15, 2001, § 117.789 is temporarily amended by suspending paragraph (c) and adding a new paragraph (g) to read as follows:

§ 117.789 Harlem River.

* * * * *

(g) The draws of the bridges at 103rd Street, mile 0.0, Willis Avenue, mile 1.5, 3rd Avenue, mile 1.9, Madison Avenue, mile 2.3, 145th Street, mile 2.8, Macombs Dam, mile 3.2, and 207th Street, mile 6.0, shall open on signal from 10 a.m. to 5 p.m. if at least a four-hour advance notice is given to the New York City Highway Radio (Hotline) Room. The two Broadway bridges, mile 6.8, need not open for vessel traffic.

Dated: February 20, 2001.

G.N. Naccara,

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

[FR Doc. 01–5442 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AK01

Compensated Work Therapy/ Transitional Residences Program

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend VA's medical regulations to establish provisions regarding housing under the Compensated Work Therapy/ Transitional Residences program. These provisions are designed to ensure proper management, ensure reasonable payment rates for residents, and ensure that residents stay only for the time necessary to meet the intended goals.

DATES: Comments must be received by VA on or before May 7, 2001.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AK01.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Jamie Ploppert, Program Specialist, Office of Psychosocial Rehabilitation Services (116D), Veterans Health Administration, 757–722–9961, ext. 1123 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This document proposes to amend VA's Medical regulations to establish provisions regarding housing under the Compensated Work Therapy/ Transitional Residences program. This VA program is a psychosocial rehabilitation program of therapeutic work and transitional housing. This program is designed for veterans with

physical and/or mental disabilities. It utilizes normalized work and residential living environments, along with peer and professional support, to improve vocational, social, and independent living skills.

Under the provisions of 38 U.S.C. 1772, VA must prescribe the qualifications for house managers, make provision for reasonable payment rates for residents, and establish limits on the length of stay for residents.

House Managers

The proposed rule provides that house managers shall be selected by the local VA program coordinator and will be responsible for coordinating and supervising the day-to-day operation of the facility. The proposed rule also sets forth qualifications for house managers. These qualifications are designed to foster effective management of the residence. Further, consistent with specific authority in 38 U.S.C. 1772(d), house managers would be exempt from the residence fee.

Resident Must Be in Program

The proposed rule states that each resident, except for a house manager, must be in the Compensated Work Therapy/Transitional Residences program. This reflects statutory requirements in 38 U.S.C. 1772.

Resident's Payment

The proposed rule sets forth criteria for establishing the amount to be paid by residents. The fee is based on the cost of utilities, maintenance, furnishings, appliances, service equipment, all other operating costs, plus an additional 15 percent of such operating expenses. Our experience has demonstrated that this would approximately equal the amount to be expended. The additional 15 percent would cover unexpected costs.

Further, we propose that the fee would be the same for each resident except that a resident shall not on average pay more than 30 percent of their gross weekly earnings. This percentage is what low-income subsidized housing uses in determining its rental fees. Further, our experience with the Compensated Work Therapy/Transitional Residences program has demonstrated that 30 percent of income would be adequate to cover housing expenses. The limitation of 30 percent also would help to ensure that residents have sufficient funds to meet their other living expenses as well as to help prepare for a successful transition to independent living.

Also, to help ensure that there is money to cover operating expenses when due, the proposal states that a resident's fee must be paid bi-weekly in advance.

The proposed rule also contains a mechanism for the transfer of funds from the medical center of jurisdiction if necessary for the residence to obtain fiscal solvency.

Resident's Length of Stay

We propose that the length of stay in the housing be based on the individual needs of each veteran in consensus with his/her clinical treatment team. However, we also propose that the length of stay not exceed 12 months. We believe this period of time to be sufficient to address the veterans' psychosocial rehabilitative needs before their transition to independent living.

OMB Review

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This document affects individuals and does not affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirement of sections 603 and 604.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Government programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Incorporation by reference; Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing home care, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: February 15, 2001.

Anthony J. Principi,

Acting Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 17 is proposed to be amended to read as follows:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

2. Redesignate § 17.49 as new § 17.48.

3. Add a new § 17.49 to read as follows:

§ 17.49 Compensated Work Therapy/Transitional Residences program.

(a) This section sets forth requirements for persons residing in housing under the Compensated Work Therapy/Transitional Residences program.

(b) House managers shall be responsible for coordinating and supervising the day-to-day operations of the facilities. Each house manager shall be appointed as a without-compensation employee. The local VA program coordinator shall select each house manager and may give preference to an individual who is a current or past resident of the facility or the program. A house manager must have the following qualifications:

(1) A stable, responsible and caring demeanor;

(2) Leadership qualities including the ability to motivate;

(3) Effective communication skills including the ability to interact;

(4) A willingness to accept feedback;

(5) A willingness to follow a chain of command.

(c) Each resident admitted to the Transitional Residence, except for a house manager, must also be in the Compensated Work Therapy program.

(d) Each resident, except for a house manager, must bi-weekly, in advance, pay a fee to VA for living in the housing. The local VA program coordinator will establish the fee for each resident in accordance with the provisions of paragraph (d)(1) of this section.

(1) The total amount of actual operating expenses of the residence (utilities, maintenance, furnishings, appliances, service equipment, all other operating costs) for the previous fiscal year plus 15 percent of that amount equals the total operating budget for the current fiscal year. The total operating budget is to be divided by the average number of beds occupied during the previous fiscal year and the resulting amount is the average yearly amount per bed. The bi-weekly fee shall equal to 1/26 of the average yearly amount per bed, except that a resident shall not, on average, pay more than 30 percent of their gross CWT (Compensated Work Therapy) bi-weekly earnings. The VA program manager shall, bi-annually, conduct a review of the factors in this

paragraph for determining resident payments. If he or she determines that the payments are too high or too low by more than 5 percent of the total operating budget, he or she shall recalculate resident payments under the criteria set forth above, except that the calculations shall be based on the current fiscal year (actual amounts for the elapsed portion and projected amounts for the remainder).

(2) If the revenues of a residence do not meet the expenses of the residence resulting in an inability to pay actual operating expenses, the medical center of jurisdiction shall provide the funds necessary to return the residence to fiscal solvency in accordance with the provisions of this section.

(e) The length of stay in housing under the Compensated Work Therapy/Transitional Residences program is based on the individual needs of each resident, as determined by consensus of the resident and his/her VA Clinical Treatment team. However, the length of stay should not exceed 12 months.

(Authority: 38 U.S.C. 1772)

[FR Doc. 01–5404 Filed 3–5–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 19

RIN 2900–AK62

Appeals Regulations: Title for Members of the Board of Veterans' Appeals

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs' (VA) Appeals Regulations to provide that a Member of the Board of Veterans' Appeals (Board) may also be known as a Veterans Law Judge. A companion document in the ''Rules and Regulations'' section of this issue of the **Federal Register** contains other actions regarding this matter.

DATES: Comments must be received on or before May 7, 2001.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov*. Comments should indicate that they are submitted in response to ''RIN 2900–AK62.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman (01C), Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: The Board is an administrative body that decides appeals from denials of claims for veterans' benefits, after an opportunity for a hearing. There are currently 59 Board ''Members,'' who decide 35,000 to 40,000 such appeals per year.

Board Members other than the Chairman are appointed by the Secretary of Veterans Affairs, with the approval of the President of the United States, 38 U.S.C. 7101A(a)(1), and must be licensed attorneys, 38 U.S.C. 7101A(a)(2). Board Members are compensated at rates equivalent to the rates payable to Administrative Law Judges. 38 U.S.C. 7101A(b).

In a document published in the **Federal Register** on September 14, 2000 (65 FR 55461), we amended VA's Appeals Regulations by providing that a Member of the Board may also be known as a Veterans Law Judge. Consistent with legal authority, we published the amendment without providing an opportunity for notice-and-comment. Six veterans service organizations in a letter to the Acting Secretary opposed the amendment and argued that they should have been provided an opportunity to comment before we made such a change. Under these circumstances, in a companion document in the ''Rules and Regulations'' section of this issue of the **Federal Register** we rescinded the amendment. However, in this document we are proposing to amend the regulations to again provide that a Member of the Board may also be known as a Veterans Law Judge.

This proposal to allow the use of the title Veterans Law Judge is based on the following analyses.

Throughout the Executive Branch, individuals who decide appeals at the administrative level after the opportunity for a hearing—as do Board Members—are known as ''judges.'' *E.g.,* ''Administrative Law Judges,'' 5 U.S.C. 3105; ''Administrative Appeals Judges'' at the Benefits Review Board at the Department of Labor, 20 CFR 801.2; ''Administrative Judges'' at The Financial Assistance Appeals Board of the Department of Energy, 10 CFR 1024.3; ''Administrative Judges'' at the Equal Employment Opportunity Commission, 29 CFR 1614.109; ''Administrative Judges'' at the Personnel Appeals Board of the General Accounting Office, 4 CFR 28.3; ''Administrative Judges'' at the Merit Systems Protection Board, 5 CFR 1201.4; ''Administrative Judges'' at the National Aeronautics and Space Administration, 14 CFR 1259.404; and ''Administrative Judges'' at the Office of Hearings and Appeals, Small Business Administration, 13 CFR 134.101. *See also* ''Administrative Appeals Judges'' at the Office of Hearings and Appeals of the Social Security Administration, 20 CFR 416.924(g) (decide appeals from decisions of administrative law judges, but without the opportunity for a hearing); ''Immigration Judges'' at the Executive Office for Immigration Review in the Department of Justice, 8 CFR 1.1(l) (initial decisions in immigration cases).

In our view, the title Veterans Law Judge would convey a Board Member's function to veterans more accurately than the term ''Member.'' In addition, we believe that the title would enhance the confidence of veterans in the administrative appellate process by providing recognition that appeals in the VA system are adjudicated by legal professionals, as are benefit appeals in other administrative systems.

The letter from the six veterans service organizations asserted that VA could not accomplish through regulation what Congress chose not to do by statute. We are aware of no legal authority to support this view. The letter from the six veterans service organizations also opposed the proposed change by arguing that the title Veterans Law Judge ''will intimidate veterans and could lead them to believe the agency is more concerned with formality rather than deciding claims in a non-adversarial setting.'' The comments from the six veterans service organizations will be considered in connection with any other comments received in response to this proposed rule.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a

significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule does not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

List of Subjects in 38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

Dated: February 21, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, we propose to amend 38 CFR part 19 as set forth below:

PART 19—BOARD OF VETERANS' APPEALS: APPEALS REGULATIONS

1. The authority citation for part 19 continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 19.2 is revised to read as follows:

§ 19.2 Composition of the Board; Titles.

(a) The Board consists of a Chairman, Vice Chairman, Deputy Vice Chairmen, Members and professional, administrative, clerical and stenographic personnel. Deputy Vice Chairmen are Members of the Board who are appointed to that office by the Secretary upon the recommendation of the Chairman.

(b) A Member of the Board (other than the Chairman) may also be known as a Veterans Law Judge. An individual designated as an acting Member pursuant to 38 U.S.C. 7101(c)(1) may also be known as an acting Veterans Law Judge.

(**Authority:** 38 U.S.C. 501(a), 512, 7101(a)).

[FR Doc. 01–5452 Filed 3–5–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6950–9]

RIN 2060–AC28

Ethylene Oxide Emissions Standards for Sterilization Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed amendments.

SUMMARY: This proposal amends the emission standards for sterilization facilities by eliminating maximum achievable control technology (MACT) requirements for chamber exhaust vents. This action is being proposed to eliminate safety problems associated with the existing requirements. This proposal also amends testing and monitoring requirements for sterilization chamber, aeration, and chamber exhaust vents. Specific testing and monitoring requirements are being removed or simplified to correct technical problems associated with the existing requirements.

DATES: Submit comments on or before May 7, 2001.

Public hearing. If anyone contacts the EPA requesting to speak at a public hearing by March 26, 2001, a public hearing will be held on April 5, 2001.

ADDRESSES: *Comments.* Written comments should be submitted (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–88–03, U.S. EPA, 401 M Street, SW, Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Docket. Docket No. A–88–03 contains supporting information used in developing the standards. The docket is located at the U.S. EPA, 401 M Street, SW., Washington, DC 20460, in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

Public Hearing. If a public hearing is held, it will be held at 10 a.m. in the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

FOR FURTHER INFORMATION CONTACT: David Markwordt, Policy, Planning, and Standards Group, Emission Standards Division, (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–0837, electronic mail address *markwordt.david@epa.gov.*

SUPPLEMENTARY INFORMATION: *Comments.* Comments and data may be submitted by electronic mail (e-mail) to: a-and-r-docket@epa.gov. Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect® version 5.1, 6.1 or Corel 8 file format. All comments and data submitted in electronic form must note the Docket No. A–88–03. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: David Markwordt, C/O OAQPS Document Control Officer, U.S. Environmental Protection Agency, 411 W. Chapel Hill Street, (Room 740B), Durham NC 27701. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenters.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Dorothy Apple, Policy, Planning, and Standards Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–4487 at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Dorothy Apple to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards amendments.

Docket. The docket is an organized and complete file of all the information we considered in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act (CAA)). The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–

7548. A reasonable fee may be charged for copying docket materials. *World Wide Web (WWW).* In addition to being available in the docket, an electronic copy of these proposed amendments will also be available on the Technology Transfer Network (TTN). Following signature, a copy of the rule will be posted on the policy and guidance page for newly proposed or promulgated rules *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call our HELP line at (919) 541–5384.

Regulated Entities. Categories and entities regulated by this action include:

Category	SIC[a]/NAICS[b]	Examples of regulated entities
Industry	3841, 3842	Medical suppliers.
	2834, 5122, 2831, 2833	Pharmaceuticals.
	2099, 5149, 2034, 2035, 2046	Spice Manufactures Contract.
	7399, 7218, 8091	Sterilizers.
Federal Government	Not Affected	
State/Local/Tribal Gov	Not affected	

[a] Standard Industrial Classification Code.
[b] North American Information Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities regulated by the NESHAP addressed in these proposed amendments. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.360 of the proposed rule. If you have questions regarding the applicability of the NESHAP addressed in this proposed rule to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Outline. The information presented in this preamble is organized as follows:

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B. What is MACT for chamber exhaust vents?
II. Monitoring
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C. Executive Order 13132, Federalism
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E. Unfunded Mandates Reform Act of 1995
F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
G. National Technology Transfer and Advancement Act of 1995
H. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks

I. Chamber Exhaust Vents

A. Why Are We Reconsidering MACT for Chamber Exhaust Vents?

On December 6, 1994, we promulgated the ethylene oxide (EO) national emission standards for hazardous air pollutants (NESHAP) which regulate emissions of ethylene oxide from commercial sterilization and fumigation operations (59 FR 62585). In July 1997, we learned of explosions at ethylene oxide sterilization and fumigation facilities. We suspended the EO NESHAP for 1 year until December 6, 1998 to provide time to determine the appropriate action necessary to mitigate the cause of the explosions (62 FR 64736).

After becoming aware of the explosions, the industry worked through the Ethylene Oxide Sterilization Association (EOSA) to begin investigations. The EOSA established a Safety Committee in September 1997 which continues to meet bimonthly. Sterilization industry leaders, abatement device vendors, and Federal, State and local agencies have been participating in the Safety Committee meetings.

In a June 2, 1998 letter to EPA, the EOSA recommended, ''additional time to consider safe and economical control, installation, operation and maintenance alternatives applicable to aeration and chamber exhaust (backvent) emissions * * *.'' The Health Industries Manufacturers Association (HIMA) reviewed the recommendation. Together, the EOSA and HIMA memberships represent most of the ethylene oxide sterilization and fumigation industry. The EOSA concluded that ''The oxidizer systems had not been properly integrated with traditional ethylene oxide sterilization process operations, that is, installation, operation and maintenance issues had not been sufficiently addressed by sterilizer operators.'' The EOSA also concluded that ''improperly overfeeding the oxidizer system from the chamber backvent was the primary safety concern.''

The EPA conducted an independent investigation of the accidents and reviewed reports prepared by EPA Regional Offices and by EOSA member sterilization companies and, based on that investigation and review, concurred with the industry conclusion and recommendation. In 1998, we agreed with industry that, in the cases where explosions occurred, the catalytic oxidizer units were overfed with ethylene oxide in concentrations above the safe operations limit due to abnormal activation of the chamber exhaust (backvent). We concluded that the main sterilizer vent emissions routed through the vacuum pump played no role in the explosions. Therefore, the December 6, 1998 compliance date for the main sterilizer vent was allowed to take effect. However, we further suspended the EO NESHAP for both aeration room vents and chamber exhaust vents for 1 year (until December 6, 1999) to provide time to determine the appropriate action necessary to mitigate the cause of the explosions (63 FR 66990). Aeration room vents were included in the suspension because control systems typically integrate both vents to the same control device.

We also concluded that any emissions control technology necessary to comply with the EO NESHAP needs to be properly integrated into the sterilization system and operations; it must reflect the full range of normal and abnormal conditions that may occur. The December 1998 suspension was based on the assumption that sterilization chamber operators would be able to evaluate and integrate the emission control technology with sterilizer

operations to ensure prevention of future explosions by December 6, 1999. In June 1999, the EOSA and individual plant operators requested that EPA eliminate the control requirement for chamber exhaust vents. In response to the June 1999 request, we further suspended the control requirements for aeration and chamber exhaust vents on December 3, 1999 (64 FR 67789).

We suspended the control requirements for aeration room vents because they are typically combined with chamber exhaust vents and ducted to a single control device. The December 3, 1999 notice (64 FR 67789) explained that there is no safety issue associated with controlling only the aeration room vent; no revisions to control requirements were anticipated. The 1999 notice also suspended the compliance date for aeration room vents by 1 year to provide time to decouple them from any chamber exhaust vents. Aeration room vents were required to comply with the emission control requirements by December 6, 2000.

However, the compliance date for the chamber exhaust vent control requirements was suspended until December 6, 2001 in the 1999 notice (64 FR 67789). At the time we said, ''The suspension, in December 1998, for chamber exhaust vents was based on the assumption that sterilization chamber operators would be able to evaluate and integrate the emission control technology with sterilizer operations to ensure prevention of future explosions by December 6, 1999. To date, solutions to the safety problems have not been developed.'' We further stated that the Agency would reconsider its original MACT determination for chamber exhaust vents and propose a course of action in the near future.

In April 2000, a report jointly published by the National Institute for Occupational Safety and Health (NIOSH), EPA, and the EOSA concluded the following:

1. Fires and explosions result when sterilizer oxidizing emission control devices (OECD) are overfed with high concentrations of ethylene oxide;
2. Current procedures for aborting the ethylene oxide sterilizer cycle are deficient when OECD are used;
3. Current safety systems for ethylene oxide sterilization processes are deficient when OECD are used; and
4. When OECD are used as the only emission control device (that is, when acidified wet scrubbers are not used or are bypassed), the risk of fire and explosion is greatly increased.

The conclusions in this report are supportive of our conclusions in the December 3, 1999 notice.

We are still in the position today of being unable to make a finding that solutions to the safety problems have been developed. It is beyond the Agency's legal mandate and technical expertise to certify equipment for safe use. The CAA generally requires the Agency to assess existing emission control technology for application to non-controlled emission sources. The use of existing technology by some sources in the relevant category presumes the ability to operate that technology in a proven safe manner. At the time of rule promulgation (December 1994), state-of-the-art control technology for chamber exhaust emissions involved safety hazards not known at the time.

We are aware that some companies have removed their catalytic oxidizers and replaced them with alternative control devices. Some of these alternative control devices operate without a flame source and would presumably be safer than systems which rely on combustion. However, even non-combustion control devices must be designed to avert potential safety problems due to exothermic reaction resulting from the control of ethylene oxide. We are not aware of any authoritative institution which has evaluated these alternative systems for safe operation.

B. What Is MACT for Chamber Exhaust Vents?

In the preamble to the proposed NESHAP (59 FR 10598), we explained the basis of the MACT floor for chamber exhaust vents. The available data indicated that there were no chamber exhaust vents routed to a control device; we concluded that the MACT floor for chamber exhaust vents at new and existing major and area sources required no reduction in emissions from these vents. However, to ensure that the current amount of ethylene oxide being evacuated via the sterilization pump continued to be routed to a control device rather than exhausted via an uncontrolled vent, the proposed NESHAP incorporated a concentration-based limit on emissions from chamber exhaust.

In public comments received on the proposed rule, an abatement device vendor provided sufficient data to establish a MACT floor consisting of control requirements for chamber exhaust vents at both existing and new major sources. The vendor data listed ethylene oxide sterilizer operations using catalytic oxidizers for control of chamber exhaust vents. No data indicating the use of technology other than catalytic oxidizers were supplied to us. As described in the preamble to the promulgated NESHAP (59 FR 62585), based on vendor data, we required control of chamber exhaust vent emissions at new and existing major sources. However, at the time, neither we nor the commercial sterilizer industry were aware of the potential safety issues associated with controlling chamber exhaust vents.

Experience over the last 5 years clearly demonstrates the over-simplification of controlling chamber exhaust by simply ducting the vent stream to a control device designed to control aeration room vent emissions. Based on what we have learned since the explosions, it is clear that no one was aware of the potential to overfeed the aeration control with ethylene oxide inadvertently routed from the chamber exhaust. Control systems designed for aeration room emissions had not been designed to handle potentially large quantities of ethylene oxide from chamber exhaust malfunctions. Obviously, appropriate safety design features are necessary to make this control approach acceptable as a viable means of emissions reductions. The same safety issue exists for control devices dedicated exclusively to chamber exhaust vent emissions.

The CAA requires that emission standards for HAP established under section 112(d) be based on ''* * * the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section * * * that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emission standards applies * * *.'' These emission standards are commonly referred to as MACT.

The requirement to consider ''any non-air quality health and environmental impacts and energy requirements'' would necessarily require control devices to be intrinsically safe. Had we known of the potential safety issue and known this control approach was blind to the safety issue, we would have refuted the commenters' assertion and made a finding of MACT floor as no control of chamber exhaust emissions. As stated above, it is beyond the Agency's legal mandate and technical expertise to certify equipment for safe use. Since no one has demonstrated to the Agency's satisfaction that the equipment is safe for this purpose, we are reconsidering

our original MACT determination for chamber exhaust vents.

Today, we are proposing that MACT for chamber exhaust vents at major sources should be no control. To ensure that the current amount of ethylene oxide being evacuated via the sterilization pump continues to be routed to a control device rather than exhausted via an uncontrolled vent, we are proposing a concentration-based limit on emissions from major source chamber exhaust vents. This is the same requirement that was originally proposed for the major sources and currently applies to area sources.

II. Monitoring

A. Why Are We Reconsidering the Monitoring Requirements?

Commercial sterilization facilities subject to the rule were originally required to demonstrate compliance by June 8, 1998. Before that date, the Agency received requests to clarify specific testing and monitoring requirements. Companies conducting tests questioned how to determine the level of the monitored temperature which would be used to determine compliance on a continuous basis.

There are three emission vents associated with the sterilization process: the sterilization chamber vent, the aeration room vent, and the chamber exhaust vent. The sterilization process results in short-term episodic releases of various concentrations of ethylene oxide. The majority of facilities use either scrubbers or catalytic oxidizers or a combination of both to reduce emissions.

Catalytic oxidizers combust ethylene oxide, an exothermic reaction, which increases the catalyst bed temperature. The higher the concentration of ethylene oxide fed to the catalytic oxidizer, the higher the bed temperature. The bed temperature spikes during periods when higher concentrations of ethylene oxide are fed to the catalyst bed. Generally, a catalytic oxidizer bed is designed to be at or above a minimum temperature to be hot enough to combust ethylene oxide when it contacts the bed.

Sterilization chambers are filled with the product to be sterilized and then infused with ethylene oxide gas. The ethylene oxide is pumped from the chamber after completion of the sterilization cycle. After the chamber is evacuated, the chamber is flooded with air to facilitate off-gassing of ethylene oxide residing in the product. Then, the chamber pump is turned on and the chamber is evacuated again. This air wash/evacuation cycle is repeated multiple times. The amount of ethylene oxide decreases with each subsequent evacuation. For main sterilization vents controlled with a catalytic oxidizer, chamber evacuations cause temporary spikes in catalyst bed temperature.

The existing rule requires a 99 percent reduction in emissions for the main sterilizer vent, and either a 99 percent reduction in emissions or a 1 parts per million per volume (ppmv) maximum outlet concentration for aeration room vents. For the main sterilizer vent, the existing rule requires the operator to demonstrate compliance with the 99 percent reduction requirement only during the first evacuation.

The existing rule also requires facilities to meet appropriate operating limits to ensure continuous compliance with the emission reduction requirements. We did not establish the relationship between any of the operating limits and the emissions reductions associated with the technologies used in the industry.

Nearly all operators who had installed controls prior to promulgation of the final rule used either catalytic oxidizers or acid scrubbers to reduce emissions. Acid scrubbers are used primarily to control the main sterilizer vent. The existing rule requires monitoring of either the ethylene oxide glycol concentration of the scrubbing liquor or the level of liquor in the scrubber tank. Facilities could perform the initial compliance test when the ethylene glycol concentration or liquor level was at the highest level at which the emission reduction requirement could be met. Both the ethylene glycol concentration and liquor level increase with each sterilization batch that is run. Over a period of time, which could be weeks or months, the concentration of ethylene glycol gradually increases and will result in less emissions reductions; the liquor level is an indirect method of measuring ethylene glycol concentration. The rule states that to exceed these parameters would violate the emission reduction requirement. As stated previously, we have not established a precise relationship between ethylene glycol concentrations or levels and the 99 percent/1 ppmv emission reduction requirements. On the other hand, we have not received data showing problems using the ethylene glycol concentration or scrubber level, determined during the initial performance test, on a continuous basis to indicate good operation (as opposed to compliance with the specific 99 percent/1 ppmv emission reduction requirements).

Catalytic oxidizers are used primarily to control emissions from aeration room vents. To ensure continuous compliance with the emission reduction requirements for the main sterilizer, aeration, or chamber exhaust vent, the promulgated rule (59 FR 62585, December 6, 1994) requires the oxidizer to operate at a temperature, averaged over the sterilization cycle, above the baseline temperature established during the initial compliance test. This requirement is based on the premise that the temperature at which the equipment operated during the initial performance test directly correlates with the 99 percent emission reductions requirement under all operating conditions. The existing requirement also states that if the operating temperature falls below the baseline temperature, then the facility has violated the 99 percent emission reduction requirement. Again, we did not establish the relationship between temperature and emission reduction. Given the fluctuations in temperature of this batch process, it is unlikely that a single temperature could be selected to correlate with emissions reductions.

The basic difference between using operating limits determined during the initial performance test for scrubbers and catalytic oxidizers is that catalytic oxidizer operating limits are sensitive to changing operating conditions during each batch operation. Scrubber operating limits change gradually over many batch operations.

In the response to comments published with the promulgated rule, we added a specific additional test during the final evacuation in an attempt to establish an operating limit valid for the full range of operating conditions. We stated that, ''Demonstration of the baseline temperature during the last evacuation addresses concerns that a baseline temperature established during the first evacuation would not be sustainable for subsequent evacuations where the ethylene oxide concentration is lower.''

However, in practice we have found that this additional test did not solve the problem because operating temperatures during the last evacuation, although lower than temperatures during the first evacuation, are typically higher than temperatures during periods when ethylene oxide is not being fed to the control devices. Therefore, facilities cannot meet either temperature requirement on a continuous basis.

The catalytic oxidizer operates at a design temperature of approximately 280°F when little or no ethylene oxide is being fed to the oxidizer. During the short periods when ethylene oxide is introduced to the oxidizer (approximately 10 minutes), the

temperature spikes to about 400°F. Therefore, the average temperature over the sterilization cycle is between the design temperature (280°F) and the highest temperature (400°F). In fact, the only temperature that can actually be met consistently is the temperature when little or no ethylene oxide is being fed to the oxidizer (i.e., approximately 280°F).

The requirement to operate at the average temperature is inconsistent with normal operation of the equipment. Properly operated equipment will maintain the design temperature, approximately 280°F, to ensure proper combustion when ethylene oxide is introduced to the catalyst. Short term temperature spikes do not directly correlate to the 99 percent emission reduction requirement for the control system.

B. How Are We Proposing To Amend the Monitoring Requirements?

To correct the problems discussed in the previous section, we are proposing a new rule structure. There will be no change to the emission limits. We are proposing a different workable approach for ensuring continuous compliance. We will maintain the 99 percent emission reduction requirement and measure compliance only through performance testing during the first evacuation. An initial performance test is still required; facilities that have performed this test need not repeat the test. (Note that enforcement agencies can always request another test at a later date if they choose.)

We have decided the only practical way to ensure continuous compliance of catalytic control devices is to establish two requirements. One concerns catalyst replacement to ensure that the catalyst remains active. The other concerns maintaining a minimum temperature to ensure that ethylene oxide is combusted when it passes through the catalytic oxidizer.

First, to ensure that the catalyst remains active we are proposing a work practice standard. The work practice standard would require that facilities periodically replace the catalyst. Failure to perform the work practice would be a violation of the work practice standard.

Efficient emission destruction depends on the catalyst being active. Vendors advertise a 3 to 5 year catalyst life after which performance may decline. Therefore, to ensure proper combustion, we are proposing that facilities replace the catalyst every 2 years.

We are proposing an operating limit that requires facilities to maintain a minimum design temperature sufficiently high to ensure combustion when ethylene oxide contacts the catalyst. We are proposing that the combustion device be operated at or above the vendor-recommended minimum design temperature. Operating at or above the vendor minimum design temperature would ensure that combustion takes place but does not require direct correlation to the 99 percent requirement.

Because we are proposing a minimum temperature based on the vendor minimum design temperature, we can eliminate the existing requirement to test the last evacuation. We originally required a test on the last evacuation of the main sterilizer vent because we believed this would be a lower ''average'' temperature than that during the first evacuation. Since we are proposing a new approach, there is no longer a need for this test.

We are proposing the reporting of ''deviations.'' A deviation occurs when control equipment fails to achieve the 99 percent emission reduction during a performance test, when one doesn't perform a required work practice, or when the operating limits for maintaining a minimum temperature are not met.

Although we are not changing the monitoring requirements for scrubbers, we are proposing the removal of rule language which states that the failure to maintain an operating limit ''shall constitute a violation of the * * * standard.'' However, failure to meet either the minimum liquor level or ethylene glycol concentration requirement will constitute a deviation from the operating limit. We are replacing the current reporting requirements with the requirement to report all deviations.

The current rule has two alternative standards for aeration room vents; facilities can demonstrate initial compliance with either the 99 percent emission reduction or the 1 ppmv concentration limit. Facilities demonstrating compliance with the 99 percent emission reduction are required to use temperature as an operating limit. Facilities demonstrating compliance with the 1 ppmv concentration limit are required to use ethylene oxide concentration as an operating limit.

The 1 ppmv concentration limit was based on phone conversations with facilities operating catalytic oxidizers. These facilities stated that their test results showed no measurable ethylene oxide after controls; 1 ppmv was the lower detectable limit at the time. We allowed an alternative 99 percent emission reduction limit to provide a demonstrable emission limit for facilities which have high inlet concentrations; in this situation, it would not be possible to demonstrate compliance with the 1 ppmv limit even though the control unit was operating efficiently. We had very limited data to support these limits and no knowledge that the limits are achievable under all operating conditions.

Although ethylene oxide concentration measurements would indicate whether outlet concentrations are above or below 1 ppmv, it would not indicate proper operation under all operating conditions. For this reason, we are proposing, for facilities which demonstrate initial compliance with the 1 ppmv concentration limit, an operating limit that requires facilities to maintain the vendor minimum design temperature.

III. Testing

A. Why Are We Proposing To Change the Testing Requirements?

Prior to promulgation of the rule in 1994, many facilities used chlorofluorocarbons with ethylene oxide. The current rule requires the use of the EPA Method 18 because chlorofluorocarbons will distort test results. If a source is using an organic compound along with ethylene oxide in the sterilizer, the current Method 25A or Performance Specification (PS) 8 test method requirement would count the organic constituent as ethylene oxide. Since the industry has shifted almost exclusively to using only ethylene oxide, we are proposing a test method change to a less expensive test method.

B. How are we proposing to amend the testing requirements?

We are proposing the use of Method 25A and PS 8 as an option to avoid the higher cost of the current test method requirement. The affected sources would have the option of using a flame ionization analyzer (Method 25A or PS 8) or a gas chromatograph (Method 18 or PS 9) to measure ethylene oxide concentration.

IV. Summary of Environmental, Energy and Economic Impacts

There are negligible environmental, energy, and economic impacts associated with these amendments.

V. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a proposed regulatory action is ''significant'' and,

therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Paperwork Reduction Act

The information collection requirements of the EO NESHAP were submitted to and approved by Management and OMB. A copy of this Information Collection Request (ICR) document (OMB control number 2060–0283) may be obtained from Ms. Sandy Farmer by mail at the U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue, Washington, DC 20460, by email at *farmer.sandy@epa.gov*, or by calling (202) 260–2740. A copy may also be downloaded off the internet at *http://www.epa.gov/icr.*

Today's action has little or no impact on the information collection burden estimates made previously. Today's action eliminates requirements for chamber exhaust vents and clarifies testing and monitoring requirements for sterilization and aeration room vents. These changes revise existing requirements and do not impose new additional burdens; consequently, the ICR has not been revised.

C. Executive Order 13132, Federalism

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

These proposed amendments do not have federalism implications and will not have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of Government, as specified in Executive Order 13132. Today's action eliminates requirements for chamber exhaust vents and streamlines requirements for monitoring and testing which were promulgated in December 1994. There are minimal, if any, impacts associated with this action. Thus, Executive Order 13132 does not apply to these proposed amendments.

D. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

On January 1, 2001, Executive Order 13084 was superseded by Executive Order 13175. However, this proposed rule was developed during the period when Executive Order 13084 was still in force, and so tribal considerations were addressed under Executive Order 13084. Development of the final rule will address tribal considerations under Executive Order 13175.

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or we consult with those governments. If EPA complies by consulting, EPA is required by Executive Order 13084 to provide to the OMB in a separately identified section of the preamble to the rule, a description of the extent of EPAs prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposed amendments do not significantly or uniquely affect the communities of Indian tribal governments because the affected facilities are not located on tribal lands. Accordingly, the requirements of Executive Order 13084 do not apply to these proposed amendments.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objective of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed amendments contain no Federal mandates for State, local, and tribal governments or the private sector. Instead, these proposed amendments either eliminate or

streamline requirements of the existing rule. Thus, today's proposed amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, we have determined that these proposed amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them.

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

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

For the purposes of assessing the impacts of today's proposed amendments on small entities, a small entity is defined as: (1) A small business whose parent company has fewer than 1000 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

We believe there will be little or no impact on any small entities because these proposed amendments do not impose additional requirements but instead either eliminate or streamline some existing requirements of the EO NESHAP. The Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities.

G. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, (Public Law No. 104–113) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

These proposed amendments do not establish or modify technical standards in the existing rule. The EPA believes that the use of voluntary consensus standards for these proposed amendments is not necessary. These proposed amendments do not require sources to take substantive steps that lend themselves to voluntary consensus standards.

H. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks

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

These proposed amendments are not subject to Executive Order 13045 because they are not an economically significant regulatory action as defined by Executive Order 12866. In addition, the EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks. These proposed amendments are not subject to Executive Order 13045 because they are based on technology performance and not on health or safety risks.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Ethylene oxide sterilization, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 28, 2001.

Christine Todd Whitman,

Administrator.

For reasons set out in the preamble, part 63 of title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart O—[Amended]

2. Table 1 of § 63.360 is amended by revising the entry for ''63.7(a)(2)'' to read as follows:

§ 63.360 Applicability.

(a) * * *

TABLE 1 OF SECTION 63.360–GENERAL PROVISIONS APPLICABILITY TO SUBPART O

Reference	Applies to sources using 10 tons in subpart O [a]	Applies to sources using 1 to 10 tons in subpart O [a]	Comment
* * *	*	*	*
63.7(a)(2)	(Yes)		
* * *	*	*	*

[a]–See definition.

* * * * *

3. Section 63.361 is amended by removing the definition for ''Parametric monitoring'' and revising the definition for ''Baseline temperature'' to read as follows:

§ 63.361 Definitions.

* * * * *

Baseline temperature means an average minimum temperature at the catalyst bed of a catalytic oxidation control device or at the exhaust point from the combustion chamber for a thermal oxidation control device.

* * * * *

4. Section 63.362 is amended by:

a. Revising Table 1 of paragraph (a);

b. Removing and reserving paragraph (e)(1);

c. Revising paragraph (e)(2).

The revisions read as follows:

§ 63.362 Standards.

(a) * * *

TABLE 1 OF SECTION 63.362—STANDARDS FOR ETHYLENE OXIDE COMMERCIAL STERILIZERS AND FUMIGATORS

Existing and new sources	Source type	Sterilization chamber vent	Aeration room vent	Chamber exhaust vent
Source size	<907 kg (<1 ton)	No control required; minimal recordkeeping requirements (see § 63.367(c))		
	≥907 kg and <9,070 kg (≥1 ton and <10 tons).	99% emission reduction (see § 63.362(c)).	No control	Maximum chamber concentration limit of 5,300 ppm prior to activation of the chamber exhaust[1] (see § 63.362(e)).
	≥9,070 kg (≥10 tons)	99% emission reduction (see § 63.362(c)).	1 ppm maximum outlet concentration or 99% emission reduction (see § 63.362(d)).	Maximum chamber concentration limit of 5,300 ppm prior to activation of the chamber exhaust[1] (see § 63.362(e)).

[1] Affected sources may show compliance by manifolding emissions to a control device used to comply with § 63.362(c) or (d) by reducing emissions by at least 99%.

* * * * *

(e)(1) [Reserved]

(2) *Chamber exhaust vent at sources using 1 to 10 tons or sources using 10 tons.* Each owner or operator of a sterilization source using 1 to 10 tons or a sterilization source using 10 tons shall limit ethylene oxide emissions from the chamber exhaust vent to the atmosphere to a maximum concentration of 5,300 ppmv from each chamber exhaust vent. If the owner or operator chooses to limit emissions to 5,300 ppmv concentration through the use of a control device, the owner or operator may choose either to manifold ethylene oxide emissions from each chamber exhaust vent to a control device used to comply with paragraph (c) or (d) of this section or to reduce ethylene oxide emissions to the atmosphere (without manifolding) to a maximum concentration of 1 ppmv or by at least 99 percent, whichever is less stringent.

5. Section 63.363 is revised (including the section heading) to read as follows:

§ 63.363 Compliance and performance provisions.

(a)(1) The owner or operator of a source subject to emissions standards in § 63.362 shall conduct an initial performance test using the procedures listed in § 63.7 of subpart A of this part according to the applicability in Table 1 of § 63.360, the procedures listed in this section, and the test methods listed in § 63.365.

(2) The owner or operator of all sources subject to these emissions standards shall complete the performance test within 180 days after the compliance date for the specific source as determined in § 63.360(g).

(b) The procedures in paragraphs (b)(1) through (3) Of this section shall be used to determine initial compliance with the emission limits under § 63.362(c), the sterilization chamber vent standard;

(1) The owner or operator shall determine the efficiency of control devices used to comply with § 63.362(c) using the test methods and procedures in § 63.365(b). The owner or operator shall also determine:

(2) For facilities with acid-water scrubbers, the owner or operator shall establish as an operating parameter either:

(i) The maximum ethylene glycol concentration using the procedures described in § 63.365(e)(1); or

(ii) The maximum liquor tank level using the procedures described in § 63.365(e)(2).

(3) For facilities with catalytic oxidizers or thermal oxidizers, the owner or operator shall establish a baseline temperature for an operating parameter using the procedures described in § 63.365(f) and shall, after the initial compliance test, comply with the following work practice by, every 2 years, replacing the catalyst bed with new catalyst material and conducting a performance test using the procedures described in § 63.365(b) or (d) as appropriate.

(c) The procedures in paragraphs (c)(1) through (c)(3) of this section shall be used to determine initial compliance with the emission limits under § 63.362(d), the aeration room vent standard:

(1) The owner or operator shall comply with either paragraph (b)(2) or (3) of this section.

(2) Determine the concentration of ethylene oxide emitted from the aeration room into the atmosphere (after any control device used to comply with § 63.362(d)) using the methods in § 63.365(c)(1); or

(3) Determine the efficiency of the control device used to comply with § 63.362(d) using the test methods and procedures in § 63.365(d)(1).

(d) The procedures in paragraphs § 63.363(d)(1) through (3) shall be used to determine initial compliance with the emission limits under § 63.362(e)(2), the chamber exhaust vent standard for sources using 1 to 10 tons or sources using 10 tons:

(1) For facilities manifolding emissions from the chamber exhaust vent to a control device controlling emissions from the sterilization chamber vent, the owner or operator shall comply with the applicable compliance provisions for the appropriate control technology (see paragraphs (b)(2) and (3) of this section).

(2) For facilities controlling only emissions from the chamber exhaust vent with a control device, the owner or operator shall determine the efficiency of control devices used to comply with § 63.362(e)(2) using the test methods and procedures in § 63.365(d)(2), as well as the following:

(i) For facilities with acid-water scrubbers, the owner or operator shall comply with paragraph (b)(2) of this section.

(ii) For facilities with catalytic oxidizers or thermal oxidizers, the owner or operator shall comply with paragraph (b)(3) of this section.

(3) For facilities exhausting emissions to the atmosphere, the owner or operator shall determine the concentration of ethylene oxide in the sterilization chamber immediately prior to the operation of the chamber exhaust using the test methods and procedures in § 63.365(c)(2).

(e) For facilities complying with the emissions limits under section § 63.362 with a control technology other than

acid-water scrubbers or catalytic or thermal oxidizers, the owner or operator of the facility shall provide to the Administrator or delegated authority information describing the design and operation of the air pollution control system including recommendations for the operating parameters to be monitored to indicate proper operation and maintenance of the air pollution control system. Based on this information, the Administrator will determine the operating parameter(s) to be established during the performance test. During the performance test required in paragraph (a) of this section using the methods approved in § 63.365(g), the owner or operator shall determine the site-specific operating parameter(s) approved by the Administrator.

(f) A facility must demonstrate continuous compliance with each operating limit and work practice standard required under § 63.363, except during periods of startup and shutdowns, according to the methods specified in § 63.364.

6. Section 63.364 is amended by:

a. Revising paragraph (b) introductory text;

b. Adding a sentence to the end of paragraph (b)(2);

c. Revising paragraph (c) introductory text;

d. Removing and reserving paragraphs (c)(1), (2) and (3);

e. Adding a sentence to the end of paragraph (c)(4);

f. Revising paragraph (d);

g. Revising paragraph (e); and

h. Revising paragraph (f).

The additions and revisions read as follows:

§ 63.364 Monitoring requirements.

* * * * *

(b) For sterilization facilities complying with § 63.363 (b) or (d) through the use of an acid-water scrubber, the owner or operator shall either:

* * * * *

(2) * * * Monitoring is required during a week only if the scrubber unit has been operated.

(c) For sterilization facilities complying with § 63.363(b), (c), or (d) through the use of catalytic oxidation or thermal oxidation, the owner or operator shall continuously monitor and record the oxidation temperature at the outlet to the catalyst bed or at the exhaust point from the thermal combustion chamber using the temperature monitor described in paragraph (c)(4) of this section. Monitoring is required only when the oxidation unit is operated. From 15-minute or shorter period temperature values, a data acquisition system for the temperature monitor shall compute and record a daily average oxidation temperature.

(1) [Reserved]

(2) [Reserved]

(3) [Reserved]

(4) * * * As an alternative, the accuracy temperature monitor may be verified in a calibrated oven (traceable to NIST standards).

(d) For sterilization facilities complying with § 63.363(b), (c), or (d) through the use of a control device other than acid-water scrubbers or catalytic or thermal oxidizers, the owner or operator shall monitor the parameters as approved by the Administrator using the methods and procedures in § 63.365(g).

(e) For sterilization facilities complying with § 63.363, (c)(2), or through the use of direct measurement of ethylene oxide concentration, the owner or operator shall follow paragraph (e)(1) of this section. For sterilization facilities complying with § 63.363(d)(3) through the use of direct measurement of ethylene oxide concentration, the owner or operator shall follow paragraph (e)(2) of this section.

(1) Measure and record once per hour the ethylene oxide concentration at the outlet to the atmosphere after any control device according to the procedures specified in § 63.365(c)(1). The owner or operator shall compute and record a 3-hour average every third hour. The owner or operator will install, calibrate, operate, and maintain a monitor consistent with the requirements of performance specifications (PS) 8 or 9 in 40 CFR part 60, appendix B, to measure ethylene oxide. The daily calibration requirements of section 7.2 of PS 9 or section 2.3 of PS 8 are required only on days when ethylene oxide emissions are vented to the control device.

(2) Measure and record the ethylene oxide concentration in the sterilization chamber immediately before the chamber exhaust is activated according to the procedures specified in § 63.365(c)(2). The owner or operator shall install, calibrate, operate, and maintain a monitor consistent with the requirements of PS 8 or 9 to measure ethylene oxide concentration. The daily calibration requirements of section 7.2 of PS 9 or section 2.3 of PS 8 are required only on days when the chamber exhaust is activated. Sources complying with PS 8 are exempt from the relative accuracy procedures in sections 2.4 and 3 of PS 8.

(f) For sterilization facilities complying with § 63.363(d)(1) by manifolding emissions from the chamber exhaust vent to a control device controlling emissions from another vent type, the owner or operator shall monitor the control device to determine which emissions from the chamber exhaust vent are manifolded using the applicable monitoring requirements in paragraphs (a) through (e) of this section and record the monitoring data.

7. Section 63.365 is amended by:

a. Revising paragraph (b)(1) introductory text;

b. Revising paragraph (b)(1)(iv)(B);

c. Removing and reserving paragraph (b)(1)((iv)(C);

d. Removing and reserving paragraph (b)(2);

e. Revising paragraph (c);

f. Revising paragraph (d);

g. Revising paragraph (f);

h. Revising paragraph (h).

The revisions read as follows:

§ 63.365 Test methods and procedures.

* * * * *

(b) * * *

(1) *First evacuation of the sterilization chamber.* These procedures shall be performed on an empty sterilization chamber, charged with a typical amount of ethylene oxide, for the duration of the first evacuation under normal operating conditions (i.e., sterilization pressure and temperature).

* * * * *

(iv) * * *

(A) * * *

(B) Test Method 18 or 25A, 40 CFR part 60, appendix A (hereafter referred to as Method 18 or 25A respectively), shall be used to measure the concentration of ethylene oxide.

(*1*) Prepare a graph of volumetric flow rate versus time corresponding to the period of the run cycle. Integrate the area under the curve to determine the volume.

(*2*) Calculate the mass of ethylene oxide by using the following equation:

$$W_o = C \times V \times \frac{MW}{SV} \times \frac{1}{10^6}$$

Where:

Wo = Mass of ethylene oxide, g (lb)

C = concentration of ethylene oxide in ppmv

V = volume of gas exiting the control device corrected to standard conditions, L (ft^3)

$1/10^6$ = correction factor $L_{EO}/10^6\ L_{TOTAL\ GAS}$ ($ft^3_{EO}/10^6\ ft^3_{TOTAL\ GAS}$)

(*3*) Calculate the efficiency by the equation in paragraph (*B*)(1)(v) of this section.

(C) [Reserved]

* * * * *

(2) [Reserved]

* * * * *

(c) *Concentration determination.* The following procedures shall be used to determine the ethylene oxide concentration as the monitored parameter for aeration room vents as established in § 63.364(e)(1) and to monitor the ethylene oxide concentration before activation of the chamber exhaust vents as established in § 63.364(e)(2).

(1) *Parameter Monitoring.* For determining the ethylene oxide concentration established in § 63.363(b)(2)(i), (c)(2), and (d)(2), follow the procedures in PS 8 or PS 9 in 40 CFR part 60, appendix B. Sources complying with PS 8 are exempt from the relative accuracy procedures in sections 2.4 and 3 of PS 8.

(2) *Sterilization chamber prior to activation of the chamber exhaust.* For determining the ethylene oxide concentration established in § 63.363(d)(2) for the sterilization chamber before activation of the chamber exhaust, follow the procedures in PS 8 or PS 9 in 40 CFR part 60, appendix B. Sources complying with PS 8 are exempt from the relative accuracy procedures in sections 2.4 and 3 of PS 8.

(d) *Efficiency determination at the aeration room vent and at the chamber exhaust vent (not manifolded).* The following procedures shall be used to determine the efficiency of a control device used to comply with § 63.362(d) or (e), the aeration room vent standard or the chamber exhaust vent standards.

(1) Determine the concentration of ethylene oxide at the inlet and outlet of the control device using the procedures in Test Method 18 or 25A in 40 CFR part 60, appendix A. A test is comprised of three 1-hour runs.

(2) Determine control device efficiency (% Eff) using the following equation:

$$\% \text{ Eff} = \frac{W_i - W_o}{W_i} \times 100$$

Where:

% Eff = percent efficiency

W_i = mass flow rate into the control device

W_o = mass flow rate out of the control device

(3) Repeat the procedures in paragraphs (d)(1) and (2) of this section three times. The arithmetic average percent efficiency of the three runs shall determine the overall efficiency of the control device.

* * * * *

(f) *Determination of baseline temperature for oxidation units.* The procedure in paragraph (f)(1) of this section shall be used to establish the baseline temperature required in § 63.363(b), (c), or (d) for catalytic oxidation units or thermal oxidation units.

(1) The owner or operator shall maintain the recommended minimum oxidation temperature provided by the oxidation unit manufacturer.

(2)–(3) [Reserved]

* * * * *

(h) An owner or operator of a sterilization facility seeking to demonstrate compliance with the standards found at § 63.362(d) or (e) with a monitoring device or procedure other than a gas chromatograph or a flame ionization analyzer shall provide to the Administrator information describing the operation of the monitoring device or procedure and the parameter(s) that would indicate proper operation and maintenance of the device or procedure. The Administrator may request further information and will specify appropriate test methods and procedures.

8. Section 63.366 is amended by revising paragraph (a)(3) as follows:

* * * * *

§ 63.366 Reporting requirements.

(a) * * *

(3) Content and submittal dates for excess emissions and monitoring system performance reports. All excess emissions and monitoring system performance reports and all summary reports, if required per § 63.10(e)(3)(vii) and (viii) of subpart A of this part, shall be delivered or postmarked or postmarked within 30 days following the end of each calendar half or quarter as appropriate (see § 63.10(e)(3)(i) through (iv) for applicability). Written reports of exceedances, excursions, or violations of process or control system parameters, or operating limits, shall include all information required in § 63.10(c)(5) through (13) of subpart A of this part, as applicable in Table 1 of § 63.360, and information from any calibration tests in which the monitoring equipment is not in compliance with PS 9 or the method used for temperature calibration. The written report shall also include the name, title, and signature of the responsible official who is certifying the accuracy of the report. When no exceedances, excursions, or violations have occurred or monitoring equipment has not been inoperative, repaired, or adjusted, such information shall be stated in the report.

* * * * *

9. Section 63.367 is revised to read as follows:

§ 63.367 Recordkeeping requirements.

(a) The owner or operator of a source subject to the emissions standards in § 63.362 shall comply with the recordkeeping requirements in § 63.10(b) and (c) of subpart A of this part, according to the applicability in Table 1 of § 63.360, and in this section. All records required to be maintained by this subpart or a subpart referenced by this subpart shall be maintained in such a manner that they can be readily accessed and are suitable for inspection. The most recent 2 years of records shall be retained onsite or shall be accessible to an inspector while onsite. The records of the preceding 3 years, where required, may be retained offsite. Records may be maintained in hard copy or computer-readable form including, but not limited to, on paper, microfilm, computer, computer disk, magnetic tape, or microfiche.

(b) The owners or operators of a source using 1 to 10 tons not subject to an emissions standard in § 63.362 shall maintain records of ethylene oxide use on a 12-month rolling average basis (until the source changes its operations to become a source subject to an emissions standard in § 63.362).

(c) The owners or operators of a source using less than 1 ton shall maintain records of ethylene oxide use on a 12-month rolling average basis (until the source changes its operations to become a source subject to the emissions standard in § 63.362).

[FR Doc. 01–5414 Filed 3–5–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF ENERGY

48 CFR Parts 904, 952 and 970

RIN 1991–AB54

Acquisition Regulations; Conditional Payment of Fee, Profit, and Other Incentives

AGENCY: Department of Energy.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On February 1, 2001, the Department of Energy (DOE) published a Notice of Proposed Rulemaking to consider amending its Acquisition Regulation to: implement, in part, the requirements of Section 3147 of the National Defense Authorization Act for Fiscal Year 2000 relating to the safeguarding of classified information; establish more objective standards and procedures for considering and applying reductions of fee or other amounts payable for contractor performance

failures relating to environment, safety, and health (ES&H); and make related technical and conforming amendments. The comment period was to end on March 5, 2001. In response to requests of several of DOE's major contractors, DOE is extending the comment period to on or before the close of business on April 5, 2001.

DATES: Written comments must be received on or before the close of business April 5, 2001.

ADDRESSES: Comments (3 copies) should be addressed to: Michael L. Righi, Department of Energy, Office of Procurement and Assistance Management, MA–51, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Michael L. Righi at michael.l.righi@hq.doe.gov or (202) 586–8175.

Issued in Washington, D.C. on February 28, 2001.

Gwendolyn S. Cowan,

Acting Director, Office of Procurement and Assistance Management, Department of Energy.

[FR Doc. 01–5431 Filed 3–5–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 229

[FRA Docket No. FRA 2000–8545; Notice No. 2]

RIN 2130—AB89

Locomotive Cab Sanitation Standards

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of public hearing.

SUMMARY: By notice of proposed rulemaking (NPRM) published on January 2, 2001 (66 FR 136), FRA proposed safety standards for sanitation facilities for locomotive cab employees. This document announces a public hearing to give interested parties an opportunity to make comments on the record concerning the NPRM.

DATES: FRA will host a public hearing on April 2, 2001 at 2:00 p.m. Any interested party who desires to participate in the hearing must notify the Department of Transportation Central Docket Management Facility in writing on or before March 27, 2001. Written notification to the Docket Clerk must identify the docket number, and the participant's name, affiliation, and phone number.

ADDRESSES: *Public Hearing:* The public hearing will take place at the Omni Ambassador East, 1301 North State Parkway, Chicago, Illinois 60610 (312–787–7200).

Docket Clerk: Each notification must be submitted to the Department's Central Docket located in Room PL–401 at the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Docket hours at the Nassif Building are Monday-Friday, 10:00 a.m. to 5:00 p.m., excluding Federal holidays. Submissions may also be made via the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Christine Beyer, Office of the Chief Counsel, 1120 Vermont Avenue, NW., Mail Stop 10, Washington, DC 20950 (telephone 202–493–6027); or Brenda Hattery, Office of Safety Assurance and Compliance, 1120 Vermont Avenue, NW., Mail Stop 25, Washington, DC 20590 (telephone: 202–493–6326).

SUPPLEMENTARY INFORMATION: FRA published its NPRM on locomotive cab sanitation standards on January 2, 2001 (66 FR 136). In the NPRM, FRA provided all interested parties the opportunity to request a public hearing, and the Brotherhood of Maintenance-of-Way Employes has requested a hearing.

FRA prepared the NPRM through consultations with the Railroad Safety Advisory Committee (RSAC). FRA established RSAC in 1996 to provide a forum for collaborative rulemaking and program development. RSAC includes representation from all of the agency's major customer groups, including railroad carriers, labor organizations, suppliers, manufacturers and other interested parties.

FRA presented the issue of locomotive cab working conditions to RSAC in June 1997, and RSAC agreed to take on the task of preparing recommendations for any rulemaking FRA promulgated on the subject of cab sanitation facilities. RSAC formed the Locomotive Cab Working Conditions Working Group (Working Group) to meet and discuss the nature and extent of the problem, and to recommend a course of action for the agency. The Working Group included representatives of the rail carriers, affected labor organizations, and manufacturers. FRA and the Working Group met extensively over a period of 3 years, and discussed the area of cab sanitation thoroughly. FRA's NPRM is based largely on the recommendations that the Working Group prepared, and FRA believes the input the Working Group provided greatly enhanced the quality of the product. FRA invited written comments on the NPRM from all interested parties, and looks forward to additional oral comments at the public hearing.

Public Hearing Procedures

The public hearing will be conducted on the record, with a stenographer present. Any interested party may make a statement for the record and offer suggestions for improving the proposed standards. Any person wishing to participate in the public hearing should notify the Docket Clerk by mail or via the Internet at the address provided in the **ADDRESSES** section above, on or before March 27, 2001. The notification should identify the participant's name, affiliation and phone number.

Issued in Washington, D.C., on February 28, 2001.

S. Mark Lindsey,

Acting Deputy Administrator.

[FR Doc. 01–5307 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG41

Endangered and Threatened Wildlife and Plants; Proposal To Delist *Eriastrum hooveri* (Hoover's Woolly-Star)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to remove *Eriastrum hooveri* (Hoover's woolly-star) from the List of Endangered and Threatened Plants. This action is based on a review of all available data, which indicate that *E. hooveri* is more widespread and abundant than was documented at the time of listing, is more resilient and less vulnerable to certain activities than previously thought, and is protected on Federal, State, and private lands. The management practices of the Bureau of Land Management (BLM), on whose land a significant number of new populations have been found, afford adequate protection to the species. Occidental of Elk Hills, Inc. will manage and monitor a 2,863 hectare (7,075 acre) conservation area that contains *E. hooveri* occurrences. Occurrences of *E. hooveri* are also found on six other preserves and natural areas managed variously by the BLM, California

Department of Fish and Game, and other private entities. Consequently, *E. hooveri* is not likely to become endangered within the foreseeable future throughout all or a significant portion of its range. *Eriastrum hooveri* populations range from the upper Cuyama Valley in Santa Barbara County, northward to the Panoche Hills area of San Benito County, and include sites in Fresno, Kings, Kern, and San Luis Obispo Counties in California. If made final, this rule would remove Federal protection for *E. hooveri* under the Endangered Species Act of 1973, as amended.

DATES: Comments from all interested parties must be received by May 7, 2001. Public hearing requests must be received by April 20, 2001.

ADDRESSES: If you wish to comment on this proposal, you may submit your comments by any one of several methods. You may submit written comments by mail to the Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Suite W–2605, Sacramento, California 95825–1888. You may send comments by electronic mail (e-mail) to: fw1hoovers_woolly_star@fws.gov. Finally, you may hand-deliver comments to our Sacramento Fish and Wildlife Office at 2800 Cottage Way, Suite W–2605, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Elizabeth Warne, botanist, U.S. Fish and Wildlife Service at the above address or telephone 916/414–6600.

SUPPLEMENTARY INFORMATION:

Background

Eriastrum hooveri (Hoover's woolly-star) was evidently first collected in 1935 by Gregory Lyons near Little Panoche Creek in Fresno County; however, Willis Jepson (1943) described the plant as *Hugelia hooveri,* citing a 1937 collection by Robert Hoover (the namesake for the scientific and common names) as the type. Later, Herbert Mason (1945) transferred the species along with the rest of the woolly-stars to the genus *Eriastrum.*

Eriastrum hooveri, an annual herb of the phlox family (Polemoniaceae), produces many wire-like stems and tiny white to pale blue flowers that are less than 5 millimeters (0.2 inch (in.)) across. The flowers are nearly hidden in tufts of woolly hair. The leaves are thread-like and may have two narrow lobes near the base. Standing 1–20 centimeters (cm) (0.4–8 in.) tall, the species has grayish, fuzzy stems, which are often branched (Munz and Keck 1959; Ellen Cypher, San Joaquin Valley Endangered Species Recovery Planning Program, pers. comm. 1998). The most important characteristics for distinguishing this species from other *Eriastrum* species are the flower size and the ratio between the length of the corolla and the length of the lobes on the petals (petals are highly colored portions of the flower and collectively are called the corolla). Characteristics of the stamen (male reproductive organ) can also help identify this species (Taylor and Davilla 1986).

Eriastrum hooveri prefers areas with lower annual plant densities and stable, silty to sandy soils that often exhibit cryptogamic crusting (cryptogamic crusts are composed of a complex of mosses, algae, bacteria, fungi, and lichens at the soil surface) (Bureau of Land Management (BLM) 1994). The influence of ongoing geological processes of the Lost Hills appears to provide favorable conditions and habitat for the species. *Eriastrum hooveri* is found on Federal lands at Lost Hills and in the Buena Vista Hills on alluvial deposits adjacent to the San Joaquin Valley (BLM 1992, 1994; EG&G Energy Measurements, Inc. (EG&G) 1994). In the area of the largest concentration of plants, which occurs on both privately and publicly owned land in the Kettleman Hills, the species has been found growing primarily on Cantua coarse sandy loam (Russ Lewis, BLM, pers. comm. 1995). Soil preferences of this species have not been studied for other locations.

Historically, prior to 1986, *Eriastrum hooveri* was known from 19 sites in San Luis Obispo, Kern, Fresno, and Santa Barbara Counties in California. *Eriastrum hooveri* was originally thought to be distributed in the Temblor Range (Kern and San Luis Obispo Counties), Cuyama Valley (San Luis Obispo and Santa Barbara Counties), and in a discontinuous fashion within valley saltbush scrub and valley sink scrub from Fresno County south in the San Joaquin Valley (Taylor and Davilla 1986) in California. Most of these sites occurred on private property on the San Joaquin and Cuyama Valley floors or on land known as the Naval Petroleum Reserve, which was administered by the U.S. Department of Energy (Department of Energy).

The Naval Petroleum Reserve-1 (NPR–1) was established in 1912 for national defense purposes but was largely maintained in reserve shut-in status until 1976. Because of oil shortages in the early 1970s, Congress passed the Naval Petroleum Reserve Production Act in 1976, which provided for oil production on NPR–1. Buena Vista Hills Oil Field, which encompasses Naval Petroleum Reserve-2 (NPR–2), lies to the south of and is partially contiguous with NPR–1. Together, NPR–1 and NPR–2 constitute what was known as the Naval Petroleum Reserves in California (Service 1995a).

Eriastrum hooveri was listed July 19, 1990 (55 FR 29361) as a threatened species under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). Prior to listing, a study of *Eriastrum hooveri* was conducted in 1986 to determine the status of the species (Davilla and Taylor 1986). This study and additional surveys conducted between 1986 and the time of listing revealed that 118 populations existed (55 FR 29361). Twelve populations were known to have been lost due to conversion of habitat to agriculture (Taylor and Davilla 1986; 55 FR 29361). Only two were identified as occurring on public land. Ninety-two percent of these sites were considered to be threatened by various activities, especially oil and gas development. Threats to the species at the time of listing were oil and gas development, agricultural land conversion, urbanization, and other habitat modifications.

The results of the 1986 survey, however, did not accurately reflect the distribution of the species because of the poor growing conditions during this period (EG&G 1995a). In subsequent years, particularly 1993, abundant spring rainfall created favorable growing conditions for annual plants (EG&G 1994, 1995b). Since the listing, surveys have shown *Eriastrum hooveri* to be more widespread and abundant than was previously known on public land, especially in the foothill areas. New locations were reported by the BLM (BLM 1992, 1994), and additional locations were submitted to the California Natural Diversity Data Base (CNDDB). Over 400 locations have been recorded on NPR–1 since the time of listing (Brian Cypher, Enterprise Advisory Services, Inc., pers. comm. 1998). *Eriastrum hooveri* is also known to occur on NPR–2; however, detailed population information is not available (B. Cypher, pers. comm., 1998).

BLM staff estimate that 1,056 *Eriastrum hooveri* sites occupying approximately 982 hectares (ha) (2,426 acres (ac)) have been located during surveys conducted on private and public lands in 1992 and 1994 (BLM 1992, 1994). These surveys have shown that *E. hooveri* populations range from the upper Cuyama Valley near Ventucopa, Santa Barbara County, northward to the Panoche Hills in San Benito County, a distance of approximately 224 kilometers (140

miles). This distance approximates the historic range; however, many more foothill sites have been found. *Eriastrum hooveri* is now known to occur in 42 U.S. Geological Survey quadrangles within Kings, Kern, San Luis Obispo, Santa Barbara, San Benito, and Fresno Counties. Large areas of potential suitable habitat remain unsurveyed, and it is likely that additional sites remain undiscovered throughout the range of this species (BLM 1994).

Eriastrum hooveri occurrences are mainly located within four areas, or metapopulations (E. Cypher, pers. comm. 1995; Service 1998). A metapopulation consists of scattered groups of plants that function as a single population due to occasional interbreeding. The four metapopulations from largest to smallest are—(1) the Kettleman Hills area in Fresno and Kings Counties; (2) the Carrizo Plain-Elkhorn Plain-Temblor Range-Caliente Mountains-Cuyama Valley-Sierra Madre Mountains area in San Luis Obispo, Santa Barbara, and extreme western Kern Counties; (3) the Lokern-Elk Hills-Buena Vista Hills-Coles Levee-Maricopa-Taft area in Kern County; and (4) the Antelope Plain-Lost Hills-Semitropic area in Kern County. Each of the metapopulations occurs on both private and public land. Additional, more isolated populations occur throughout the region.

The numbers of sites within the metapopulations range from 425 sites in the Kettleman Hills area to 112 sites in the Antelope Plain-Lost Hills-Semitropic area. The numbers of plants present in these two areas from 1992 to 1994 ranged from 135 million plants in Kettleman Hills to approximately 479,000 plants in the Antelope Plain-Lost Hills-Semitropic area. These numbers, however, vary widely from year to year due to changes in climatic conditions, particularly rainfall (Service 1998). Not all sites discovered during the 1992 and 1994 surveys constitute individual populations. The sites vary in area and numbers of plants and may be sufficiently close to one or more other sites to be considered part of a larger population.

An estimated 25 percent of all *Eriastrum hooveri* plants are on land managed by the BLM. The U.S. Forest Service (Forest Service) and the Department of Energy have less than 7 percent under their management. In addition, 23 percent of individual plants are located on split estate lands, where Federal mineral rights exist on private lands. Of the remaining individuals, 18 percent occur on a combination of split estate and private lands, and at least 27 percent occur on private lands only.

Oil and gas development on split estate land is controlled by the Federal Government, although the private landowner retains control of the surface property. Any oil and gas development on these lands would require environmental review by the BLM of impacts to listed species. Activities authorized by the BLM that may impact *Eriastrum hooveri* are restricted by the protection measures agreed upon by the BLM through a section 7 consultation with us, which dealt with 35 species of animals and plants including *E. hooveri* (consultation file number 1–1–97–F–0064) (Service 1997; Susan Carter, BLM, pers. comm. 1998). The BLM has incorporated species-specific and general habitat protection measures into their resource area land use plans since *E. hooveri* was listed. These measures will provide effective protection of natural habitat values and minimize impacts of various activities on *E. hooveri.* The BLM has agreed to consider the species as a special status species after delisting. This status will provide continued protection on BLM lands from impacts due to oil and gas development and grazing. The BLM also agreed to annually monitor the species at representative sites within each of the four metapopulations on their lands for a period of at least 5 years following publication of the final rule to delist the species. See more discussion about BLM actions in the section of this proposed rule titled ''Effects of Proposed Rule to Delist.''

On February 5, 1998, the Department of Energy transferred ownership and management of one of its two reserves, NPR–1, to the private ownership of Occidental of Elk Hills, Inc. (Occidental) (B. Cypher, pers. comm. 1998). The Department of Energy agreed, through a consultation with us (consultation file number 1–1–95–F–102) (Service 1995a) prior to transfer, to implement conservation measures at Elk Hills including the dedication of a 2,863-ha (7,075-ac) conservation area for the protection of *Eriastrum hooveri,* among other species (LSA Associates, Inc., 1998). Occidental has agreed to abide by the Department of Energy agreement (Peter Cross, Service, pers. comm. 1998).

There is no formal agreement between us and the Department of Energy for the specific protection of *Eriastrum hooveri* on NPR–2; however, they informally consult with us on a case-by-case basis on projects that may affect listed species on NPR–2. The Department of Energy currently proposes to continue ownership of NPR–2 (Duane Marti, BLM, pers. comm. 1998) and has agreed to consult with the us on the operation of NPR–2 once the decision that they will retain the reserve is final (P. Cross, pers. comm. 1998).

Eriastrum hooveri also occurs on several areas that have been acquired for the protection of listed animals. These areas include the Alkali Sink Ecological Reserve and Buttonwillow Preserve, both managed by California Department of Fish and Game (CDFG); Carrizo Plain Natural Area, co-managed by the BLM and CDFG; Coles Levee Ecosystem Preserve, owned and managed by ARCO; Lokern Natural Area, managed by the BLM, Center for Natural Lands Management, Chevron, and other private landowners; and Semitropic Ridge Preserve, owned and managed by the Center for Natural Lands Management (Service 1998; Wendie Duron, The Nature Conservancy, pers. comm. 1998).

Considering these ownership patterns and the protection provided to the species by BLM management practices (refer to Factor D ''The inadequacy of existing regulatory mechanisms'' under ''Summary of Factors Affecting the Species''); the number of new occurrences found since the time of listing; and the knowledge that the species is more resilient and less vulnerable to certain activities than previously thought; it is not likely that *Eriastrum hooveri* will become endangered within the foreseeable future throughout all or a significant portion of its range. *Eriastrum hooveri,* therefore, no longer meets the definition of a threatened species under the Act.

Previous Federal Action

On September 27, 1985, we published a revised notice of review for native plants in the **Federal Register** (50 FR 39526). This revised notice added *Eriastrum hooveri* as a category 2 candidate species. Category 2 species were those species for which information in our possession indicated that listing was possibly appropriate, but for which additional information on biological vulnerability and threats was needed to support a proposed rule. On July 27, 1989, we published a proposal to list *E. hooveri* as threatened (54 FR 31201). The final rule listing *E. hooveri* as a threatened species was published July 19, 1990 (55 FR 29361).

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) written to implement the listing provisions of the Act set forth the procedures for listing, reclassifying, and delisting species. A species may be listed if one or more of the five factors

described in section 4(a)(1) of the Act threatens the continued existence of the species. A species may be delisted, according to 50 CFR 424.11(d), if the best scientific and commercial data available substantiate that the species is neither endangered nor threatened because of (1) extinction, (2) recovery, or (3) error in the original data for classification of the species. We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *Eriastrum hooveri.* We conclude that, based on more complete survey data and information on the biology of the species than was available at the time of listing, *E. hooveri* is not likely to become endangered within the foreseeable future throughout all or a significant portion of its range. Therefore, we propose to remove *E. hooveri* from the List of Endangered and Threatened Plants.

The five factors affecting the species, as described in section 4(a)(1), and their current application to *Eriastrum hooveri* (Jepson) H.L. Mason (Hoover's woolly-star) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Oil and Gas Leasing

The predominant threat facing *Eriastrum hooveri* at the time it was listed as a threatened species was oil and gas development, especially in the Elk Hills area. Russ Lewis of the BLM has conducted several surveys for *E. hooveri* on public and private lands since the time of listing (BLM 1992, 1994). Of the 1,056 new sites found by Lewis during 1992 and 1994, oil and gas development threats were present for about 21 percent of the sites. Threats at many of these sites are no longer significant because several oil fields are at or near their peak of development, and the likelihood of additional habitat loss from new activity is low.

In the Elk Hills area, oil production areas are established on the upper flanks of the hills on the former NPR–1. Exploration activities generally have failed to establish oil production in the lower flanks (BLM 1994). The majority (73 percent) of the *Eriastrum hooveri* sites occur at lower elevations (EG&G 1995a); therefore, the majority of *E. hooveri* populations in NPR–1 are in areas not likely to be developed for petroleum production (B. Cypher, pers. comm. 1998).

Mobil Oil Corporation enacted measures to protect *Eriastrum hooveri* by placing protective exclosures around all known sites on a Lost Hills leased property (BLM 1994). Lewis also noted that above-surface pipeline corridors appear to be unintentionally restricting access of off-highway vehicles to remaining undisturbed habitat and, consequently, are protecting many other sites in the area (BLM 1994). The *E. hooveri* Field Inventory Report (BLM 1994) documents the presence of *E. hooveri* in large numbers throughout fully developed oil fields, such as Lost Hills, that have been in existence for several decades.

Because *Eriastrum hooveri* reoccupies disturbed surfaces such as well pads and pipeline rights-of-way after a period of non-use, the species likely will continue to exist both on federally and privately owned, fully developed oil fields (BLM 1994). EG&G Energy Measurements monitored the reestablishment of *E. hooveri* (under sponsorship by the Department of Energy and Chevron) following two disturbances that occurred in 1990. Density estimates of *E. hooveri* 3 years after disturbance in both cases approached density estimates recorded on undisturbed sites (EG&G 1995a). Although oil and gas development does constitute a potential surface disturbance threat, it does not appear to threaten the long-term survival of this species.

Agricultural and Urban Development

Agricultural and urban development was also cited as a threat at the time of listing. Although sites that occur within the San Joaquin Valley are experiencing threats from development, the majority of the plants are found along the hilly margins of the Valley, usually between 90 and 910 meters (300 to 3,000 feet) in elevation. The full extent of the historic distribution of *Eriastrum hooveri* on the San Joaquin Valley floor will never be fully known due to widespread agricultural development throughout this geographic area.

The California Natural Diversity Data Base documents that *Eriastrum hooveri* sites have existed on sandy places along the historic drainage routes running northward from Buena Vista Lake to Tulare Lake (R. Lewis, *in litt.* 1995). There are other locations along the Kern River drainage from Bakersfield to Buena Vista Lake and additional sites on the valley floor in Fresno County. Much of the valley floor is agriculturally developed, virtually to its fullest extent (R. Lewis, *in litt.* 1995). Future development is uncertain and would require encroachment into hilly and agriculturally less-desirable geographic areas. Limited water availability for additional agricultural and urban development is a severely limiting factor in the southern San Joaquin Valley; however, urban development along the Interstate 5 corridor could impact remaining occupied habitat at a few locations. The majority of the existing locations are located on or near hilly areas due to ongoing geological processes that create habitat essential for the species; therefore, agricultural and urban threats to the continued survival of *E. hooveri* appear to be minimal.

Off-Highway Vehicles

The *Eriastrum hooveri* Field Inventory Report (BLM 1994) considered 15 percent of sites evaluated to have potential threats from off-highway vehicles. The report stated that the presence of a dirt road near a site constituted a threat; however, many of these dirt roads are very remote, seldom traveled, and inaccessible to the public due to locked gates. Most of the sites documented in the report had no threats or documented impacts because the sites were inaccessible to vehicles.

Off-highway vehicle impacts are rare occurrences and typically consist of tire tracks across occupied habitat, in many cases as a one-time occurrence by a single vehicle. In some roads located in the Caliente Mountains and Cuyama Valley, the species was found growing in the wheel treads of the road. In addition, *E. hooveri* was found growing on several inactive motorcycle paths located in the Kettleman Hills, some of which were approximately 46 cm (18 in.) deep. The plants appear to persist in the absence of renewed disturbance. The low number of documented impacts and the recolonizing ability of *E. hooveri* indicate that off-highway vehicle use does not represent a threat to the long-term survival of the species (BLM 1994).

The majority of the six *Eriastrum hooveri* populations in Los Padres National Forest are located on lightly used or abandoned roads that receive an estimated one to ten vehicle passes per year. This light road use appears to help maintain the presence of the species, although the plants do not grow in the actual tire tracks. The populations do not extend into areas, which apparently have suitable habitat, that surround the roads (Mike Foster, Forest Service, pers. comm. 1998).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization is not a factor known to affect *Eriastrum hooveri*.

C. Disease or Predation

Eriastrum hooveri tends to occupy soil surface that does not support a large amount of vegetation. Grazing by wild herbivores is not known to occur. And, although cattle may trail through areas occupied by *E. hooveri* en route to areas of desirable forage (refer to Factor E ''Other natural or manmade factors affecting its continued existence.''), they do not appear to be grazing within the sparsely vegetated *E. hooveri* occupied habitat (BLM 1994). Furthermore, observations of the wiry and low-growing *E. hooveri* plants have shown that they are not desirable forage for livestock (BLM 1994); therefore, grazing does not constitute a serious threat to *E. hooveri*.

No known diseases affect *Eriastrum hooveri*.

D. The Inadequacy of Existing Regulatory Mechanisms

The Act may incidentally afford protection to *Eriastrum hooveri* where it coexists with other federally listed species. For example, *E. hooveri* occupies a subset of the range and habitat of the federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*). The recovery plan for this species recommends the establishment of a system of multispecies reserves that are within the range of *E. hooveri* (Service, 1983). Lands acquired for this reserve system will likely benefit *E. hooveri*, as will the continued legal protection afforded the fox under the Act.

Eriastrum hooveri is not a State-listed species under the California Endangered Species Act.

The principal protection for *Eriastrum hooveri,* if this rule is finalized, will be through management on BLM land where Areas of Critical Environmental Concern, which contain occupied *E. hooveri* habitat, were designated in the Kettleman Hills, Carrizo Plain, and Lokern areas in May 1997 (S. Carter, pers. comm. 1998; Amy Kuritsubo, BLM, pers. comm. 1998). Areas of Critical Environmental Concern were authorized in Section 202(c)(3) of the Federal Land Policy and Management Act of 1976. These are areas where special management attention is needed to protect and prevent irreparable damage to important resources or to protect human life from natural hazards (BLM 1993). The management prescriptions proposed for Areas of Critical Environmental Concern are included in the Caliente Resource Area Resource Management Plan and provide protection to the plants by minimizing residual impacts from rights-of-way, oil and gas leasing, and authorized grazing (R. Lewis, pers. comm. 1995; S. Carter, pers. comm. 1998).

The BLM's Caliente Resource Area Resource Management Plan and Environmental Impact Statement addresses future management of *Eriastrum hooveri. Eriastrum hooveri* will be designated a ''sensitive species'' by the BLM after the species is delisted (Ed Hastey, BLM, *in litt.* 1995). BLM policy will minimize impacts to the species at all known sites that are under their jurisdiction. Before any surface disturbance is allowed, the BLM will require an inventory to be conducted on the project site as outlined in the Formal Consultation on Oil and Gas Leasing in the Caliente Resource Management Plan (Service 1995b). A Limited Surface Use Stipulation for Federally Proposed and Listed Species will be issued for oil and gas leases within listed species habitat in the Caliente Resource Area (Service 1995b; BLM 1996). Impacts to the species by oil and gas leasing on BLM lands will be minimized by avoidance of populations, by requiring that surface disturbing activities take place after seed set and prior to germination if avoidance is not possible, and by fencing during project activity. If populations cannot be avoided, topsoil may be stockpiled for a period less than one year and replaced after project completion (BLM 1995).

In areas where *Eriastrum hooveri* overlaps the range of the federally listed plant species *Caulanthus californicus* (California jewelflower), *Lembertia congdonii* (San Joaquin woolly-threads), or *Eremalche kernensis* (Kern mallow), grazing will be allowed only in approved study areas (S. Carter, pers. comm. 1995). In addition, where the species overlaps the range of federally listed animal species, certain grazing restrictions will apply. The restrictions include requirements for residual mulch (dry plant material) of 50 kilograms (kg) per ha (49 pounds (lbs) per ac), and 5 cm (2 in.) of green growth, or 318 kg per ha (238 lbs per ac) in order for grazing to occur. Because *E. hooveri* habitat is generally sparsely vegetated, this residual mulch requirement will protect *E. hooveri* from overgrazing (S. Carter, pers. comm. 1998). In areas where the species occurs in saltbush scrub, the season of use will be from December 1 to May 31, with 20 percent maximum use of saltbush plants (S. Carter, pers. comm. 1995).

Eriastrum hooveri population site locations will be placed into a Geographic Information System (GIS) to help in the management of future activities that may arise within the range of the species (S. Carter, pers. comm. 1995). The BLM will establish monitoring locations at key sites on public land in the four metapopulations (see ''Background'' under **SUPPLEMENTARY INFORMATION** where oil and gas development, grazing, off-highway vehicles, and agricultural or urban uses pose potential threats. These locations will be monitored annually for a period of at least 5 years after delisting, at which time the status of the species on BLM land will be evaluated for possible changes in management strategy (E. Hastey, *in litt.* 1995). The BLM will continue to report new locations.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Although *Eriastrum hooveri* is not a desirable forage plant for livestock, damage can occur by trampling (BLM 1994). Only 5 percent of the sites recorded by Lewis were affected by cattle and sheep grazing activities; therefore, livestock trampling does not appear to constitute a serious threat to *E. hooveri.*

At the time of listing, competition with nonnative grasses was cited as a threat. *Eriastrum hooveri* requires habitat with lower plant densities, therefore, it does not occur in areas with a dense cover of nonnative species (E. Cypher, pers. comm. 1995). These areas of lower plant densities generally have evidence of cryptogamic crusts, which also indicate minimal levels of past disturbance. Dense stands of nonnative annual vegetation can be found adjacent to these open surface areas. In all cases, small numbers of nonnative plants can be found throughout *E. hooveri* habitat but not in densities that would exclude *E. hooveri.* This species may initially colonize areas having low plant cover because of disturbance, but *E. hooveri* subsequently may be outcompeted by nonnative plants in areas with sufficient moisture (E. Cypher, pers. comm. 1995). Considering the wide distribution and abundance of preferred habitat areas with relatively open surface area and low numbers of nonnative species, however, competition with nonnative grasses is not a threat to the long-term survival of *E. hooveri.*

Eriastrum hooveri has been found in many more locations than were documented at the time of listing; it is more resilient and less vulnerable to certain activities, particularly impacts from grazing and oil and gas development, than was previously thought; and is protected on Federal, State, and private lands. BLM's management practices afford adequate protection to the species. Occurrences are also found on the 2,863-ha (7,075-ac)

Occidental conservation area and six other preserves and natural areas managed variously by the BLM, CDFG, and other private entities.

Effects of the Rule

If finalized, the proposed action would remove *Eriastrum hooveri* from the List of Endangered and Threatened Species. The threatened designation under the Act for this species would be removed. The prohibitions and conservation measures provided by the Act would no longer apply to this species. Therefore, taking, interstate commerce, import, and export of *E. hooveri* would no longer be prohibited under the Act. In addition, Federal agencies would no longer be required to consult with us to insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of *E. hooveri.* The take and use of *E. hooveri* must comply with State regulations. There is no designated critical habitat for this species.

Monitoring

Section 4(g)(1) of the Act requires us to monitor a species for at least 5 years after delisting due to recovery. Since *E. hooveri* is being delisted based on new information, rather than recovery, the Act does not require us to monitor this plant following its delisting. Although this species is not being delisted due to recovery, its level of protection has met the recovery criteria outlined in the Draft Recovery Plan for Upland Species (Service 1998). The recovery strategy states that recovery of *E. hooveri* can be accomplished using public lands and other areas already dedicated for conservation with the goal of protecting populations throughout the species' range and at sites representing a variety of topographic areas and community types. The species is currently found on six preserves and natural areas, three BLM Areas of Critical Environmental Concern, and NPR–1 and –2. These areas contain portions of each of the four metapopulations and occurrences in the northernmost and the southernmost extent of the species' range. Monitoring will be conducted by the BLM at representative sites within each metapopulation to determine trends for 5 years following delisting as part of their agreement to protect the species (E. Hastey, *in litt.* 1995).

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Eriastrum hooveri;*

(2) Additional information concerning the range, distribution, location of any additional populations, and population size of this species; and

(3) Current or planned activities in the subject area and their possible impacts on this species.

Submit comments as indicated under **ADDRESSES.** If you wish to submit comments by e-mail, please submit these comments as an ASCII file and avoid the use of special characters and any form of encryption. Please also include ''Attn: [RIN number] and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Sacramento Fish and Wildlife Office at phone number 916–414–6600. Please note that the e-mail address ''fw1hoovers_woolly_star@fws.gov'' will be closed at the termination of the public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received, as well as supporting information used to write this rule, will be available for public inspection, by appointment, during normal business hours at the above address.

In making a final decision on this proposal, we will take into consideration the comments and any additional information we receive. Such communications may lead to a final regulation that differs from this proposal.

The Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Suite W–2605, Sacramento, California 95825–1888.

Paperwork Reduction Act

Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act, require that Federal agencies obtain approval from OMB before collecting information from the public. Implementation of this rule does not include any collections of information that require approval by OMB under the Paperwork Reduction Act.

National Environmental Policy Act

We have determined that we do not need to prepare an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Executive Order 12866

This rule is not subject to review by the OMB under Executive Order 12866.

References Cited

A complete list of all references cited herein is available upon request from the Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

Author

The primary author of this proposed rule is Elizabeth Warne, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we hereby propose to amend part 17, subchapter B of chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by removing the entry for *Eriastrum hooveri,* Hoover's woolly star, under ''Flowering Plants'' from the List of Endangered and Threatened Plants.

Dated: December 5, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 01–5288 Filed 3–5–01; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 010119023-1023-01; I.D. 121900A]

RIN 0648–AO80

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Proposed changes to catch sharing plan and sport fishing management; availability of draft environmental assessment and regulatory impact review.

SUMMARY: NMFS proposes, under authority of the Northern Pacific Halibut Act (Halibut Act), to approve and implement changes to the Area 2A Pacific Halibut Catch Sharing Plan (Plan) to adjust the management of the sport fisheries off Washington, and to adjust the management of the non-treaty commercial fisheries off Oregon and Washington. NMFS also proposes sport fishery regulations to implement the Plan in 2001. A draft environmental assessment and regulatory impact review (EA/RIR) on this action is also available for public comment.

DATES: Comments on the proposed changes to the Plan and the proposed sport fishery regulations must be received by March 9, 2001.

ADDRESSES: Send comments or requests for a copy of the Plan and/or the EA/RIR to Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, Seattle, WA 98115. Electronic copies of the Plan, including proposed changes for 2001, and of the draft EA/RIR are also available at the NMFS Northwest Region website: http://www.nwr.noaa.gov, under ''Halibut Management.'' Comments will not be accepted if submitted via e-a-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier, 206–526–6140.

SUPPLEMENTARY INFORMATION: The Halibut Act, at 16 U.S.C. 773c, gives the Secretary of Commerce (Secretary) general responsibility for carrying out the Halibut Convention between the United States and Canada. It requires the Secretary to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. Section 773c(c) of the Halibut Act authorizes the Regional Fishery Management Councils to develop regulations that are not in conflict with regulations adopted by the International Pacific Halibut Commission (IPHC) to govern the Pacific halibut catch that occurs in their regions. Each year since 1988, the Pacific Fishery Management Council (Council) has developed a catch sharing plan in accordance with the Halibut Act to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian and non-treaty harvesters and among non-treaty commercial and sport fisheries in IPHC statistical Area 2A (off Washington, Oregon, and California).

In 1995, upon the recommendation of the Council, NMFS implemented the Plan (60 FR 14651, March 20, 1995). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries. The Plan allocates 35 percent of the Area 2A TAC to Washington treaty Indian tribes in Subarea 2A-1 and 65 percent to non-Indian fisheries in Area 2A. The allocation to non-Indian fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into a directed commercial fishery that is allocated 85 percent of the commercial allocation and an incidental catch in the salmon troll fishery that is allocated 15 percent of the commercial allocation. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53'18″ N. lat.), Oregon, and California. The Plan also divides the sport fisheries into seven geographic subareas, each with separate allocations, seasons, and bag limits.

Council Recommended Changes to the Plan

At its September 2000 meeting, the Council adopted, for public comment, the following proposed changes to the plan: (1) separating the directed commercial fishery sub-quota from the incidental salmon fishery allowance and permitting the salmon troll fishery to retain incidentally caught halibut from May 1 until its sub-quota is estimated to have been achieved; (2) allowing the setting of sport fishery season start dates in the Washington North Coast and South Coast sub-areas following the IPHC annual meeting, rather than before; (3) removing the 1,000 lb (0.45 mt) nearshore set-aside in the Washington South Coast sub-area; and (4) eliminating the Washington South Coast closed ''hot spot.''

At its November 2000 public meeting, the Council considered the results of state-sponsored workshops on the proposed changes to the Plan and public comments, and made final recommendations for three modifications to the Plan as follows:

(1) Set a halibut sub-quota for the salmon troll fishery that is distinct from the directed commercial fishery sub-quota. The salmon troll fishery would be permitted to retain halibut taken incidentally in that fishery, beginning May 1 until the sub-quota is estimated to have been achieved. The directed commercial fishery would no longer have access to the salmon troll fishery sub-quota in July.

(2) Revise the season guidance for the Washington South Coast sport fishery to remove the 1,000 lb (0.45 mt) nearshore halibut set-aside. Nearshore fishing for halibut would be permitted during the all-depth season. If the all-depth season closes with halibut remaining in its quota, additional nearshore fishing would also be permitted after the all-depth season.

(3) Eliminate the closed ''hot spot'' for the Washington South Coast sport fishery.

The Council also recommended a minor change to update the plan to reflect the elimination of the Halibut Managers Group, and to clarify which Salmon Advisory Subpanel member should be consulted regarding inseason halibut actions.

Proposed Changes to the Catch Sharing Plan

NMFS is proposing to approve and to make the following changes to the Plan:

In section (e) of the Plan, Non-Indian Commercial Fisheries, add a new sentence to the end of sub-paragraph (e)(1) to read as follows:

The primary management objective for this fishery is to harvest the troll quota as incidental catch during the May/June salmon troll fishery. The secondary management objective is to

harvest the remaining troll quota as incidental catch during the July through September salmon troll fishery.

In section (e), Non-Indian Commercial Fisheries, revise the last sentence of sub-paragraph (e)(1)(ii)(A) to read as follows:

In determining whether to make such inseason adjustments, NMFS will consult with the applicable state representative(s), a representative of the Council's Salmon Advisory Sub-Panel, and Council staff.

In section (e), Non-Indian Commercial Fisheries, revise sub-paragraph (e)(1)(iii), redesignate paragraphs (e)(1)(iv) and (e)(1)(v) as (e)(1)(iii) and (e)(1)(iv), respectively, and revise redesignated paragraph (e)(1)(iii) to read as follows:

If the overall quota for the non-Indian, incidental commercial troll fishery has not been harvested by salmon trollers during the May/June fishery, additional landings of halibut caught incidentally during salmon troll fisheries will be allowed in July and will continue until the amount of halibut that was initially available as a quota for the troll fishery is taken or the overall non-Indian commercial quota is estimated to have been achieved by the IPHC. Landing restrictions implemented for the May/June salmon troll fishery will apply for as long as this fishery is open. Notice of the July opening of this fishery will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825. No halibut retention in the salmon troll fishery will be allowed in July unless the July opening has been announced on the NMFS hotline.

In section (e), Non-Indian Commercial Fisheries, remove the fourth sentence of paragraph (e)(2).

In section (f), Sport Fisheries, revise the seventh and eighth sentences of paragraph (1)(iii) to read as follows:

The fishery will continue until September 30, or until the quota is achieved, whichever occurs first. Subsequent to this closure, if any remaining quota is insufficient for an offshore fishery, but is sufficient for a nearshore fishery, the area from the Queets River south to 47°00′00″ N. lat. and east of 124°40′00″ W. long. will reopen for 7 days per week until either the remaining subarea quota is estimated to have been taken and the season is closed by the IPHC, or until September 30, whichever occurs first.

In section (f), Sport Fisheries, delete the last two sentences of paragraph (1)(iii).

In section (f), Sport Fisheries, revise paragraph (5)(iv)(A) to read as follows:

Inseason actions will be effective on the date specified in the **Federal Register** or at the time that the action is filed for public inspection at the Office of the Federal Register, whichever is later.

Proposed 2001 Sport Fishery Management Measures

NMFS is proposing sport fishery management measures that are necessary to implement the Plan in 2001. The 2001 TAC for Area 2A is 1,140,000 lb (517 mt), as set by the IPHC at its annual meeting of January 22–25, 2001. The proposed 2001 sport fishery regulations are based on this 2001 Area 2A TAC as follows:

Washington Inside Waters (Subarea Puget Sound and Straits)

This subarea is allocated 57,393 lb (26 mt) of an Area 2A TAC of 1,140,000 lb (517 mt) in accordance with the Plan. The season should be longer than the 46-day season in 2001 because of the increase in the overall TAC and resultant subarea allocation. In accordance with the procedure developed with IPHC to project the catch in this subarea based on past catch per ''fishing day equivalent'' (FED), where a weekday is equal to 1 FED and a weekend/holiday is equal to 2.5 FEDs, approximately 89 FEDs are expected with a 57,393 lb (26 mt) quota. This calculation is based on an average catch of 643 lb (0.3 mt) per FED over the past 3 years. The number of fishing days is based on setting a season that opens in May and continues at least through July 4 for a 5-day per week fishery (Thursday through Monday). A final determination of the season dates will be made based on the allowable harvest level, projected 2001 catch rates, and on recommendations developed in a public workshop sponsored by Washington Department of Fish and Wildlife in February. The daily bag limit is one halibut of any size per day per person.

Washington North Coast Subarea (North of the Queets River)

This subarea is allocated 108,030 lb (49 mt) at an Area 2A TAC of 1,140,000 lb (517 mt) in accordance with the Plan. The 2000 fishery began on May 2, lasted through June 16, and re-opened July 1 to 4. This fishery is held 5 days per week (Tuesday through Saturday). According to the Plan, the structuring objective for this subarea is to maximize the season length for viable fishing opportunity and, if possible, stagger the seasons to spread out this opportunity to anglers who use these remote grounds. For the 2001 fishing season, the fishery in this subarea is set to meet the structuring objectives described in the Plan. While this season is scheduled to begin in May, a final determination of the season dates will be made based on the allowable harvest level, projected 2001 catch rates, and on recommendations developed in a public workshop sponsored by Washington Department of Fish and Wildlife in February. The daily bag limit is one halibut of any size per day per person. A portion of this subarea located about 19 nm (35 km) southwest of Cape Flattery is closed to sport fishing for halibut. The size of this closed area is described in the Plan, but may be modified preseason by NMFS to maximize the season length.

Washington South Coast Subarea

This subarea is allocated 42,739 lb (19.4 mt) of an Area 2A TAC of 1,140,000 lb (517 mt) in accordance with the Plan. The fishery will open in May and continue 5 days per week (Sunday through Thursday) in all areas, except where prohibited, and 7 days per week only in the area from the Queets River south to 47°00′00″ N. lat. and east of 124°40′00″ W. long. When there is not enough quota available for a single day of offshore fishing, fishing will be allowed 7 days per week in the area from the Queets River south to 47°00′00″ N. lat. and east of 124°40′00″ W. long., until the quota is reached or until September 30, whichever occurs first. The daily bag limit is one halibut of any size per day per person.

Columbia River Subarea

This subarea is allocated 10,487 lb (4.8 mt) of an Area 2A TAC of 1,140,000 lb (517 mt) in accordance with the Plan. The fishery will open on May 1 and continue 7 days per week until the quota is reached or September 30, whichever occurs first. The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

Oregon North Central Coast Subarea

This subarea is allocated 199,803 lb (90.6 mt) of an Area 2A TAC of 1,140,000 lb (517 mt) in accordance with the Plan. The May all-depth season is allocated 135,866 lb (61.6 mt). Based on an observed catch per day trend in this fishery, an estimated 24,000 lb (10.9 mt) will be caught per day in 2001, resulting in a 5-day fixed season. In accordance with the Plan, the season dates will be May 9, 10, 11, 16, and 17. If the quota is not taken, an appropriate number of fishing days will be scheduled for late May or early June. The restricted depth fishery inside 30 fathoms is combined for the north central and south central coast sub-areas, and is allocated 17,150 lb (7.8 mt)

and will be open starting May 1 through September 30 or until the TAC is attained, whichever occurs first. The August coastwide all-depth fishery (Cape Falcon to Humbug Mountain) is allocated 49,951 lb (22.7 mt), which may be sufficient for a 1-day or 2-day opening in August, based on the expected catch per day. If sufficient quota remains after this season for additional days of fishing, the dates for an all-depth fishery will be in mid-August. A final determination of the season dates will be made based on the allowable harvest level, projected catch rates, and recommendations developed in a public workshop sponsored by the Oregon Department of Fish & Wildlife in February. The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

Oregon South Central Coast Subarea

This subarea is allocated 15,820 lb (7.2 mt) at an Area 2A TAC of 1,140,000 lb (517 mt) in accordance with the Plan. The May all-depth season is allocated 12,656 lb (5.7 mt) and, based on observed catch per day trend in this fishery, an estimated 3,000 lb (1.4 mt) would be caught per day in 2001, resulting in a 4-day fixed season. In accordance with the Plan, the season dates are May 9, 10, 16, and 17. If the quota is not taken, an appropriate number of fishing days will be scheduled for late May or early June. The restricted depth fishery inside 30 fathoms is combined for the north central and south central coast sub-areas, and would be allocated 17,150 lb (7.8 mt) and will be open starting May 1 through September 30 or until the TAC is attained, whichever occurs first. The August coastwide all-depth fishery (Cape Falcon to Humbug Mountain) is allocated 49,951 lb (22.7 mt), which may be sufficient for a 1-day or 2-day opening in August, based on the expected catch per day. If sufficient quota remains for additional fishing days after this season, the dates for an all-depth fishery will be in mid-August. A final determination of the season dates will be made based on the allowable harvest level, projected catch rates, and recommendations developed in an ODFW-sponsored public workshop in February. The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

Humbug Mountain, OR, through California Subarea

This subarea is allocated 6,809 lb (3.1 mt) of an Area 2A TAC 1,140,000 lb (517 mt) in accordance with the Plan. The 2001 sport season for this subarea is the same as last year, with a May 1 opening and continuing 7 days per week until September 30. The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

NMFS requests public comments on the Council's recommended modifications to the Plan and the proposed sport fishing regulations. The Area 2A TAC was set by the IPHC at its annual meeting on January 22 to 25, 2001, in Vancouver, British Columbia. NMFS requests comments on the proposed changes to the Plan and on the proposed changes to sport fishing regulations by February 16, 2001, after the IPHC annual meeting, so that the public will have the opportunity to consider the final Area 2A TAC before submitting comments on the proposed sport fishing regulations. The States of Washington and Oregon will conduct public workshops shortly after the IPHC meeting to obtain input on the sport season dates. NMFS will issue final rules for the Area 2A Pacific halibut sport fishery concurrent with the IPHC regulations for the 2001 Pacific halibut fisheries.

Classification

NMFS has prepared a draft EA/RIR on the proposed changes to the Plan. Copies of the ''Draft Environmental Assessment and Regulatory Impact Review of Changes to the Catch Sharing Plan for Pacific Halibut in Area 2A'' are available from NMFS (see **ADDRESSES**). Comments on the EA/RIR are requested by March 21, 2001.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed changes to the Plan would not have a significant economic impact on a substantial number of small entities as follows:

Setting a fishery-specific halibut quota for the salmon troll fishery will not appreciably alter the annual halibut harvest of that fishery or the directed commercial fishery. The basic allocation scheme of 85% of the non-treaty commercial quota for the directed commercial fishery and 15% of the non-treaty commercial quota for the salmon troll fishery would not change under this action. Rather. the directed commercial fishery would no longer have access to the halibut that remains in the salmon troll fishery sub-quota after the June salmon fisheries; that halibut would remain available to the salmon fishery. Although it is theoretically possible that commercial halibut fishers could be adversely affected because they would be unable to harvest any halibut remaining in the salmon troll sub-quota, past experience indicates that salmon troll participants have harvested most of their annual quotas. Accordingly, because fishery participants will basically have the same fishing opportunities in 2001 as 2000. In 2000, 268 licenses were issued to fishers participating in the 3-day directed fishery, and 235 licenses were issued to salmon fishers wishing to land halibut incidentally to their troll fisheries. The total combined quota for these two fisheries was less than 160,000 lb (72 mt) in 2000, an insignificant amount relative to the annual West Coast commercial salmon and groundfish landings.

Similar to revisions on separating the non-treaty commercial allocations, proposed changes for the Washington South Coast sub-area would not re-allocate halibut or appreciably alter halibut fishing opportunities for charter businesses and anglers operating in that area. Nearshore halibut opportunities have traditionally varied from year to year, based on harvest rates in the all-depth fishery. Under the proposed changes to the Plan, the all-depth fishery would close when the remaining quota is not adequate to cover a day of all-depth fishing. Because a single day of all-depth fishing could require up to 2,000 lb, nearshore fishing opportunities are not expected to be reduced from the current system of setting aside 1,000 lb for nearshore harvest.

The ''hot spot'' closed area in the Washington South Coast subarea was opened inseason in 1999 and 2000. Opening the hot spot before the start of the season in 2001 will not alter quota availability for fishers in that area. This proposed change is expected to improve business planning convenience for South Coast fishers, who will be able to fish throughout the South Coast subarea from the start of the season, rather than waiting for guidance on whether the hot spot will be closed or opened.

These proposed changes to the Plan are insignificant and are expected to result in either no impact at all, or a modest increase in fishery and regulatory convenience. Consequently, these changes to the Plan are not expected to meet any of the RFA tests of having a ''significant'' economic effect on a ''substantial number'' of small entities. The proposed sport management measures for 2001 merely implement the Plan at the appropriate level of TAC; their impacts are within the scope of the impacts analyzed for the Plan.

Accordingly, a regulatory flexibility analysis was not prepared.

This action has been determined to be not significant for purposes of E.O. 12866.

Dated: February 28, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–5314 Filed 3–5–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 022101A]

Western Pacific Fishery Management Council; Public Meetings and Hearing

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

ACTION: Notice of public meetings/public hearing revision.

SUMMARY: The Western Pacific Fishery Management Council (Council) has changed the time, address, and agenda for the March 13, 2001, 109th meeting in Honolulu, HI.

DATES: The meeting time has been changed to 12 noon to 6 p.m.

ADDRESSES: The meeting will now be held at the Ala Mona Hotel, Hibiscus Room No 1., 410 Atkinson Drive, Honolulu, HI 96813; telephone: 808-944-2974.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: This revised notification modifies the original notice published on March 2, 2001. The new agenda item will be the Endangered Species Act Biological Opinion (BO) on the effects of the Hawaii-based pelagic longline fishery on threatened and endangered sea turtles. The Council expects to receive public comments on the BO and its recommended measures.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to the meeting date. All other previously published information remains unchanged.

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

Dated: March 1, 2001.

Richard W, Surdi,

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

[FR Doc. 01–5436 Filed 3–5–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 66, No. 44

Tuesday, March 6, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 00–073–1]

Pine Shoot Beetle Host Material From Canada; Availability of a Draft Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a draft environmental assessment concerning various alternative actions for addressing the spread of the pine shoot beetle into noninfested areas of the United States due to the importation of pine shoot beetle host material from Canada. The draft environmental assessment documents our review and analysis of the environmental impacts associated with the alternative actions under consideration. Among the alternative actions considered in the assessment is the imposition of specific regulatory requirements covering the importation of pine shoot beetle host material into the United States from Canada. We are making this draft environmental assessment available to the public for review and comment.

DATES: We invite you to comment on the draft environmental assessment. We will consider all comments that we receive by April 5, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 00–073–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 00–073–1.

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Jones, Operations Officer, Program Support, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–8247.

SUPPLEMENTARY INFORMATION:

Background

Pine shoot beetle, *Tomicus piniperda* (Linnaeus) is a pest of pine trees. Pine shoot beetle (PSB) can cause damage in weak and dying trees, where reproduction and immature stages of PSB occur, and in the new growth of healthy trees. During ''maturation feeding,'' young beetles tunnel into the center of pine shoots (usually of the current year's growth), causing stunted and distorted growth in host trees. PSB is also a vector of several diseases of pine trees. Adults can fly at least 1 kilometer, and infested trees and pine products are often transported long distances. These factors can result in the establishment of PSB populations far from the location of the original host tree. This plant pest damages urban ornamental trees and can cause economic losses to the timber, Christmas tree, and nursery industries.

PSB hosts include all pine species. The beetle has been found in a variety of pine species (*Pinus* spp.) in the United States. Scotch pine (*P. sylvestris*) is the preferred host of PSB. The Animal and Plant Health Inspection Service (APHIS) has determined, based on scientific data from European countries, that fir (*Abies* spp.), spruce (*Larix* spp.), and larch (*Picea* spp.) are not hosts of PSB.

PSB first established itself in Canada approximately 8 years ago. Areas of infestation are currently located in the Provinces of Ontario and Quebec, and are contiguous, for the most part, with PSB infested areas located in the northeastern United States. PSB populations have spread in both Ontario and Quebec in recent years despite the efforts of the Canadian Food Inspection Agency (CFIA) to implement regulatory compliance practices to control the spread of this plant pest.

Under the Plant Protection Act (Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to prohibit or restrict the importation and entry into the United States of any plants and plant products, including pine forest materials and products, to prevent the introduction of plant pests or noxious weeds into the United States.

APHIS has regulated the interstate movement of PSB host material from areas of the United States that are generally infested with PSB through its domestic quarantine notices (see 7 CFR 301.50 through 301.50–10), but has not established specific regulations in its foreign quarantine notices prohibiting or restricting the importation of PSB host material into the United States from foreign countries. Rather, we have used our authority under the emergency provisions of the Federal Plant Pest Act (repealed in 2000, formerly at 7 U.S.C. 150dd), and more recently, the Plant Protection Act, as the basis for any actions we have taken on a case-by-case basis to regulate the movement of certain PSB host material from Canada in order to prevent the introduction of PSB into noninfested areas of the United States.

APHIS is investigating the possibility of implementing regulations that would impose specific requirements on the importation of PSB host material into the United States from Canada in order to prevent the spread of the PSB into noninfested areas of the United States. These new regulations, if implemented, would parallel requirements recently implemented by Canada with respect to the export of PSB host material from the United States to Canada. The reciprocal regulation of imported PSB host material by Canada and the United States would be consistent with North American Plant Protection Organization standards of preventing the introduction and spread of quarantine plant pests and fostering the preservation of plant

resources in North America by coordinating joint programs of mutual interest.

To assist us in our decisionmaking, APHIS has prepared a draft environmental assessment (EA), entitled ''Pine Shoot Beetle Host Material from Canada'' (December 2000), that considers alternative actions and the associated environmental impacts for addressing the spread of PSB into noninfested areas of the United States. The alternative actions reviewed and analyzed include implementing reciprocal regulations on imported PSB host material from Canada, taking no action (i.e., retaining the current domestic quarantine program only), or rescinding the domestic quarantine program and not implementing reciprocal regulations on imported PSB host material from Canada.

We are making this draft EA available to the public for review and comment. We will consider all comments that we receive by the date listed under the heading **DATES** at the beginning of this notice.

The draft EA may be viewed on the Internet at *http://www.aphis.usda.gov/ppd/es/ppq/psbcan.pdf.* You may also request paper copies of the draft EA by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT.** Please refer to the title of the draft EA when requesting copies. The draft EA is also available for review in our reading room (information on the location and hours of the reading room is listed under the heading **ADDRESSES** at the beginning of this notice).

The draft EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 28th day of February 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–5422 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 00–008–2]

Imported Fire Ant

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Animal and Plant Health Inspection Service will continue to administer its imported fire ant program.

FOR FURTHER INFORMATION CONTACT: Ron Milberg, Operations Officer, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737–1236; (301) 734–5255.

SUPPLEMENTARY INFORMATION: Our imported fire ant program is based on our imported fire ant regulations (7 CFR 301.81–1 through 301.81–10, referred to below as the regulations). The regulations govern the interstate movement of regulated articles from areas quarantined because of the imported fire ant. Section 301.81–2 of the regulations provides a list of articles regulated because of the imported fire ant. Regulated articles are imported fire ant queens and reproducing colonies of imported fire ants, soil (except potting soil shipped in its original container), baled hay or straw stored in direct contact with the ground, nursery stock (except plants maintained indoors in a home or office environment and not for sale), used soil-moving equipment (unless removed of all noncompacted soil), and any other article or means of conveyance determined to present a risk of spreading imported fire ant. Section 301.81–3 of the regulations lists areas quarantined because of the imported fire ant. Quarantined areas are all or portions of the following States and territories: Alabama, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, and Texas. Sections 301.81–4 through 301.81–10 provide requirements for moving regulated articles interstate from quarantined areas to nonquarantined areas. These sections include requirements for certificates and limited permits and for treatment of regulated articles.

On March 2, 2000, we published in the **Federal Register** (65 FR 11281–11283, Docket No. 00–008–1), a notice announcing four public meetings to discuss how we should administer our imported fire ant program in light of reduced funding. The meetings were held in Raleigh, NC, on March 21, 2000; Orlando, FL, on March 23, 2000; Austin, TX, on March 28, 2000; and Santa Ana, CA, on March 30, 2000. We also solicited written comments on our notice for 60 days, ending May 1, 2000.

In the notice, we asked the public to comment on the following three options: (1) Maintain our imported fire ant program with minimal Federal regulatory activity, in line with Fiscal Year 2000 funding; (2) eliminate the imported fire ant regulations (i.e., rescind the Federal quarantine) and develop model guidelines for States to use in harmonizing their quarantines; or (3) eliminate the imported fire ant regulations (i.e., rescind the Federal quarantine) and establish a voluntary nursery self-certification program.

Approximately 105 individuals representing industry and cooperating States attended the public meetings. In addition, we received 58 written comments in response to the notice by the May 1, 2000, close of the comment period. They were from representatives of industry, cooperating States, and other interested individuals. With one exception, those who spoke at the public meetings and those who submitted written comments supported retention of the current imported fire ant program with a significant increase in funding for the program. They stated that the program enhances producers' ability to move regulated articles interstate. One commenter recommended enacting more stringent regulations in order to prevent the spread of the imported fire ant to the State of Hawaii. The majority of respondents also supported the National Plant Board's proposal for $7.5 million in congressional funding for the imported fire ant program and the Gulfport Plant Protection Station's unique methods development work.

Given the public support for our imported fire ant program, we will maintain the program in line with current funding. Therefore, our regulations will continue to provide uniform standards for the regulated industry, along with consistent interstate shipping requirements. Along with cooperating States, we will also continue to enforce the Federal quarantine. This means that when alerted by States, APHIS personnel will investigate noncompliance with the regulations and will examine the origin and pathway of introduction of imported fire ants found on regulated articles. In addition, we will continue to develop new regulatory treatments and nursery compliance protocols to control or reduce imported fire ant populations

in nursery production areas. For the development of new regulatory treatments, about $350,000 is allocated annually to our plant protection station in Gulfport, MS. To our knowledge, the Gulfport Plant Protection Station is the only facility in the country that is developing regulatory treatments for the imported fire ant.

In response to public support for increased funding for our imported fire ant program, Congress restored about $2.1 million for the imported fire ant program in Fiscal Year 2001. The majority of this appropriation will be distributed to States for enforcement and regulatory activities. We will retain a small percentage for administrative costs.

Done in Washington, DC, this 28th day of February 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–5421 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 01–011N]

Codex Alimentarius: Meeting of the Codex *ad hoc* Intergovernmental Task Force on Animal Feeding

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), U.S. Department of Health and Human Services (HHS), are sponsoring a public meeting, on Tuesday, March 6, 2001. The purpose of this meeting is to provide information and receive public comments on agenda items that will be discussed at the 2nd Session of the Codex *ad hoc* Intergovernmental Task Force on Animal Feeding, which will be held in Copenhagen, Denmark, on March 19–21, 2001. USDA and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 2nd Session of the Codex *ad hoc* Intergovernmental Task Force on Animal Feeding and to address items on the Agenda.

DATES: The public meeting is scheduled for Tuesday, March 6, 2001, from 9 a.m. to 1 p.m.

ADDRESSES: The public meeting will be held in the Conference Room M of the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20855 (Twinbrook Metro Station on the Red Line). Reference documents will be available for review in the FSIS Docket Room, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102 Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at the following address: *http://www.fao.org/waicent/faoinfo/economic/esn/codex/ccaf02/af01_01e.htm.*

Submit one original and two copies of written comments to the FSIS Docket Room and at the address above and reference docket number 01–011N. All comments submitted in response to this notice will be available for public inspection in the FSIS Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue SW., Washington, DC 20250. Telephone (202) 205–7760, Fax: (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Mr. Clerkin at the above number.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, USDA, FDA, and the Environmental Protection Agency (EPA) manage and carry out U.S. Codex activities.

The Codex *ad hoc* Intergovernmental Task Force on Animal Feeding was established by the 23rd Session of the Codex Alimentarius Commission to develop Guidelines or Standards as appropriate on Good Animal Feeding practices with the aim of ensuring the safety and quality of foods of animal origin. The *ad hoc* Task Force is chaired by Denmark.

Issues To Be Discussed at the Public Meeting

The provisional agenda items to be discussed during the public meeting:

1. Information paper compiling a list of internationally available standards and validated methods for the examination of animal feed.

2. Information paper on lists established by different governments to control the use of prohibited and undesirable substances in animal feed or other approaches.

3. Consideration of the Revised Draft Code of Practice on Good Animal Feeding at Step 4.

Public Meeting

At the March 6th public meeting, the agenda items will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. Comments may be sent to the FSIS Docket Room (see **ADDRESSES**). Written comments should state that they relate to activities of the 2nd *ad hoc* International Task Force on Animal Feeding.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC on March 1, 2001.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 01–5420 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Funds Availability (NOFA) Invitation for Applications for the Value-Added Agricultural Product Market Development Grant Program (VADG) (Information Resource Center)

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS) announces the availability of up to $5,000,000 in competitive grant funds for the establishment of a value-added technical resource center. RBS hereby requests proposals from eligible institutions to establish a single pilot project to be known as the Agricultural Marketing Resource Center. This Center will have the capabilities, including electronic, to coordinate and provide information regarding research, business, legal, financial, and logistical assistance to independent producers and processors of value-added agricultural commodities and products of agricultural commodities. The Center will also develop a nationwide market information and coordination system.

DATES: The deadline for receipt of an application is 4:00 p.m. eastern time on April 30, 2001. The application deadline is firm as to date and hour and applies to submission of the original application and two copies to the National Office in Washington, DC. The agency will not consider any application received after the deadline. Comments regarding the information collection requirements under the Paperwork Reduction Act of 1995 must be received on or before May 7, 2001 to be assured of consideration.

ADDRESSES: Send proposals and other required materials to Dr. Thomas H. Stafford, Director, Cooperative Marketing Division, Rural Business-Cooperative Service, USDA, Stop 3252, Room 4204, 1400 Independence Avenue SW., Washington, DC 20250–3252. Telephone: (202) 690–0368, E-Mail: thomas.stafford@usda.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas H. Stafford, Director, Cooperative Marketing Division, Rural Business-Cooperative Service, USDA, STOP 3252, Room 4202, 1400 Independence Ave. SW., Washington, DC 20250–3252. Telephone (202) 690–0368, Facsimile (202) 690–2723, E-mail: thomas.stafford@usda.gov. You may also obtain information from the RBS website at: *http://www.rurdev.usda.gov/rbs/coops/vadg.htm.*

SUPPLEMENTARY INFORMATION:

Background

This solicitation is issued pursuant to section 231 of the Agriculture Risk Protection Act of 2000 authorizing the establishment of the Value-Added Agricultural Product Market Development grants. The Secretary of Agriculture has delegated the program's administration to USDA's Rural Business-Cooperative Service (RBS) for the fiscal year ending September 30, 2001. The Rural Business-Cooperative Service (RBS) was established by the Department of Agriculture Reorganization Act of 1994. The mission of RBS is to improve the quality of life in rural America by financing businesses, providing technical assistance, and creating effective strategies for rural development.

The primary objective of this program is to establish a pilot project to be known as the Agricultural Marketing Resource Center. This Center will have the capabilities, including electronic capabilities, to collect, disseminate, coordinate, and provide information on value-added processing to independent producers and processors of value-added agricultural commodities and products of agricultural commodities. This includes information on value-added research, business operations, legal issues, financial issues, and logistical assistance. The Center will also develop a strategy to establish a nationwide market information and coordination system.

A single grant will be awarded on a competitive basis to an eligible institution as defined in this NOFA based on specific selection criteria. Parts 3015 and 3019 of 7 CFR will be applicable to this program.

This grant program has a matching funds requirement. Applicants must provide matching funds at least equal to the grant. Grant funds will be disbursed pursuant to relevant provisions of 7 CFR parts 3015 and 3019, as applicable. Matching funds must be used to support the overall purpose of the VADG program.

All forms required to apply are available from the Cooperative Services Program web-site at *http://www.rurdev.usda.gov/rbs/coops/vadg.htm*, by calling (202) 690–0368, or faxing (202) 690–2723. Forms may also be requested via the internet by sending a message with your name, mailing address (not e-mail), and phone number to *thomas.stafford@usda.gov.* When calling or e-mailing, please indicate you are requesting forms for fiscal year FY 2001 (FY 2001) Value-Added Product Market Development Grant Program. Forms will be mailed to you (not e-mailed or faxed) as quickly as possible.

Definitions

Agency—The Rural Business-Cooperative Service (RBS) or its successor.

Agricultural Product—Plant and animal products and their by-products, including aquaculturally produced fish and seafood products and forestry products.

Business Plan—A description of economic activities that will lead to a potential viable value-added venture including feasibility studies, marketing plans, business operations plans, and legal evaluations.

Center—The Agricultural Marketing Resource Center which is to be established and operated by the grantee to work with independent producers and processors on value-added ventures.

Independent Producers—Agricultural producers, including associations of producers and producer-owned corporations, who do not produce the agricultural product under contract or joint ownership with any other organization.

Matching Funds—Cash or confirmed funding commitments from non-Federal sources. Matching funds must be at least equal to the grant amount. In-kind contributions as defined in 7 CFR part 3015, subpart G and 7 CFR section 3019.23 can be used as matching funds. Examples of in-kind contributions include volunteer services furnished by professional and technical personnel, donated supplies and equipment, and donated office space.

Non-Profit Corporation or Institution—Any organization or institution, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

Public Body—Any state, county, city, township, incorporated town or village, borough, authority, district, economic development authority, or Indian tribe on Federal or state reservations or other federally recognized tribe.

Technical Assistance—Development activities to ensure that a successful value-added venture is organized. These activities include, but are not limited to, conducting feasibility, environmental, and other essential studies, or preparing

business, marketing, and other plans for independent agricultural producers wishing to enter into value-added activities.

Value-Added—Changes in the raw or partly processed agriculturally produced commodity that result in a product having a higher value to potential buyers. Examples include processing wheat into flour, slaughtering livestock or poultry, further processing of meat and poultry products, or collecting and converting methane from animal waste to generate energy.

VADG—Value-Added Agricultural Product Market Development Grant Program.

Recipient Eligibility Requirements

A grant may be made to a nonprofit corporation or institution, including an accredited institution of higher education, that demonstrates the capacity and technical expertise to provide assistance to independent producers, an established plan outlining support of the applicant in the agricultural community, and the availability of resources (in cash or in-kind) of definite value to sustain the Center following establishment. Grants may not be made to public bodies. Trade associations are not eligible recipients.

Proposal Preparation

A proposal should contain the following:

(1) *Standard Form 424,* ''Application for Federal Assistance.''

(2) *Standard Form 424A,* ''Budget Information—Non-Construction Programs.''

(3) *Standard Form 424B,* ''Assurances—Non-Construction Programs.''

(4) *Table of Contents.* For ease of locating information, each proposal must contain a detailed Table of Contents immediately following the required forms. The Table of Contents should include page numbers for each component of the proposal. Pagination should begin immediately following the Table of Contents.

(5) *Proposal Summary.* A summary of the Proposal, not to exceed one page, should include the following: description of the proposed Center; types of projects to be undertaken; and names of the individuals responsible for conducting and completing the work of the Center.

(6) *Proposal Narrative.* The narrative portion of the project proposal must include at least the following:

(i) Information sheet. A separate one-page information sheet, which lists each of the seven evaluation criteria listed in this NOFA under the ''Evaluation Criteria and Weights'' section, followed by the page numbers of all relevant material and documentation contained in the proposal which addresses or supports that criteria.

(ii) Goals of the Center. A clear statement of the ultimate goals of the proposed Center must be presented.

(iii) Specific Tasks to Be Performed by the Center. The narrative must describe the specific tasks that the Center will perform in collecting and disseminating information on value-added research, business operations, legal issues, financial issues, and logistical assistance related to value-added processing and in developing a strategy to establish a nationwide market information and coordination system.

(iv) Evaluation Criteria. Each of the seven evaluation criteria listed in the Evaluation Criteria and Weights section of this NOFA must be addressed specifically and individually by category. Present these criteria in narrative form with any supporting documentation.

(7) *Verification of Matching Funds.* For cash you should provide a copy of a bank statement. Otherwise, you should provide a copy of the confirmed funding commitment from the funding source.

(8) *Budget.* A detailed breakdown of estimated costs and a project budget.

Grant Amounts

The amount of grant funds for the Center in FY 2001 will not exceed $5,000,000.

Eligible Grant and Matching Fund Uses

Grant funds may be used to pay up to 50 percent of the cost of establishing the Center, including the collection of information the Center will disseminate to independent producers and processors of value-added agricultural commodities and products of agricultural commodities. The applicant's funding match may be either in cash or in-kind contributions in accordance with 7 CFR parts 3015 and 3019 and must be from non-Federal sources. Grant and matching funds may be used for, but are not limited to, the following purposes:

1. Activities to develop the Center's capacity to collect, interpret and disseminate principles, facts, technical knowledge, or other information that may be useful to independent agricultural producers or processors wishing to enter into value-added activities.

2. Activities to develop a market information sharing and coordination system.

3. Activities to develop training and instructional materials for independent agricultural producers wishing to enter into value-added activities.

4. Activities to develop resources concerning principles of organizing value-added enterprises, facts, and other information concerning the business, economic, and technical nature of value-added activities.

Ineligible Grant and Matching Fund Uses

Grant and matching funds cannot be used to:

1. Plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility);

2. purchase, rent, or install fixed equipment;

3. repair or maintain privately owned vehicles;

4. pay for the preparation of the grant application;

5. fund political activities;

6. pay costs incurred prior to receiving this grant;

7. fund any activities prohibited in 7 CFR parts 3015 and 3019, as applicable; or

8. fund the Center's continuing operation.

Funds from this grant and the recipient's matching funds cannot be used for the architectural or engineering design work for the physical facility that are often part of the project feasibility studies.

Methods for Evaluating and Ranking Applications

RBS will review all applications for conforming to the requirements of this NOFA. Applications that fall within the guidelines of this NOFA will then be evaluated by a panel of agricultural economists and other technical experts appointed by RBS. Applications will be evaluated competitively and points awarded as specified in the Evaluation Criteria and Weights section of this NOFA. After assigning points upon those criteria, the application with the highest ranking will be awarded the grant.

Evaluation Criteria and Weights

RBS will initially determine whether the submitting organization is eligible and whether the application contains the information required by this NOFA. Prior to technical examination, each proposal will be reviewed for responsiveness to the funding solicitation. Submissions that do not meet the guidelines stated in this NOFA

will be eliminated from the competition and will be returned to the applicant. After this initial screening, RBS will use the following criteria to rate and rank proposals received in response to this NOFA. Failure to address any of the following criteria will disqualify the proposal:

1. Nature of the Center's operations (Maximum 20 points). Describe in detail the operation of the Center including the specific tasks to be performed. Demonstrate how and where information will be collected, processed, stored, and disseminated (print and electronic). Describe in detail relevant experience in collecting and distributing research information on business principles and operations, legal activities, financial matters, and logistical methodologies. Describe in detail what type of electronic capabilities the Center will adopt. Proposals will be evaluated under this criteria for their overall ability to maximize (1) the utility of the information to be provided, (2) its accessibility, (3) its comprehensiveness to the user, and (4) the level of personal assistance provided by the Center.

2. Ability and experience in producer and producer group outreach (maximum 20 points). Describe in detail your experience in reaching producers and producer groups with the kind of information that would be provided by the Center. This includes mechanisms for promoting the Center's products and services, methods of interacting with stakeholders, and ways of obtaining feedback from producers and producer groups about information products and services received.

3. Experience in developing an electronic market information and coordination system (Maximum 15 points). Describe in detail relevant experience in developing and operating electronic market information and coordinating systems including web page design and maintenance, on-line transactions, and other relevant activities.

4. Qualifications of the personnel performing the tasks; and a demonstrated track-record of performing activities similar to those being proposed (maximum 15 points). Describe in detail qualifications of the in-house staff who will actually do the proposed tasks and provide resumes and information about their organizations. If a consultant or others are to be hired, include a statement as to their commitment, as well as their qualifications.

5. A sound plan of work incorporating the appropriate tasks to establish the Agricultural Marketing Resource Center (maximum 10 points). Describe in detail your plan of work to establish the Center. This plan must provide a ''road map'' for establishing the Center from start to finish. This includes time tables, project benchmarks, and the evaluation procedures used to determine the success of the effort.

6. Amount and type of linkages within the agriculture community (Maximum 10 points). Describe in detail the types of linkages and support the applicant has from the agriculture community, including development organizations, cooperatives, and other agribusinesses. Discuss the nature of these relationships and any joint activities with them.

7. Amount and type of resources to sustain the Center once established (Maximum 10 points). Described in detail the various sources of funding and in-kind support available to the applicant to sustain operations once the Center has been established and grant funding exhausted. Discuss how the Center will retain its in-house expertise after grant funds are exhausted.

What and Where To Submit

An original and two copies of the proposal, with all required forms and documentation, must be submitted in one package to: Dr. Thomas H. Stafford, Director, Cooperative Marketing Division, Rural Business-Cooperative Service, USDA, Stop 3252, Room 4204, 1400 Independence Avenue SW, Washington, D.C. 20250–3252. Applications sent electronically or by facsimile will not be accepted.

When To Submit

The deadline for receipt of an application is 4:00 p.m. eastern time on April 30, 2001. The application deadline is firm as to date and hour and applies to submission of the original application and two copies to the National Office in Washington, DC. The Agency will not consider any application received after the deadline.

Grantee Requirements

The grantee will be required to do the following.

1. Sign a Value-Added Agricultural Product Market Development Grant Agreement acceptable to RBS.

2. Sign required Federal grant making forms.

3. Use Standard Form 270, ''Request for Advance or Reimbursement'' to request advances and reimbursements.

4. Submit a Standard Form 269, ''Financial Status Report'' and list expenditures according to agreed upon budget categories on a quarterly basis starting with the first full quarter after the grant award.

5. Submit quarterly performance reports which compare accomplishments to the objectives; if established objectives are not met, the report must discuss problems or delays that may affect completion of the project, establish objectives for the next reporting period; and discuss compliance with any special conditions on the use of awarded funds.

6. Maintain a financial management system that is acceptable to the Agency.

7. Collect and maintain data provided by the independent producers on race, sex, and national origin.

8. Submit a final project performance report.

Other Federal Statutes and Regulations That Apply

Several other Federal statutes and regulations apply to proposals considered for review and to the grant awarded. These include, but are not limited to:

7 CFR part 15, subpart A—Nondiscrimination in Federally Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964.

7 CFR part 3015—Uniform Federal Assistance Regulations.

7 CFR part 3017—Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR part 3018—New Restrictions on Lobbying.

7 CFR part 3019—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

7 CFR part 3052—Audits of States, Local Governments, and Non-Profit Organizations.

Paperwork Reduction Act

The reporting requirements contained in this NOFA have received temporary emergency clearance by the Office of Management and Budget (OMB) under Control Number 0570–0040. However, in accordance with the Paperwork Reduction Act of 1995, RBS will seek standard OMB approval of the reporting requirements contained in this NOFA. Comments should be submitted within 60 days of May 7, 2001.

Abstract: RBS, an Agency within the USDA Rural Development mission area, will administer the VADG program. The primary objective of this program is to establish the Agricultural Marketing Resource Center. This Center will have the capabilities, including electronic

capabilities, to coordinate and provide to independent producers and processors of value-added agricultural commodities and products of agricultural commodities information on value-added research, business operations, legal issues, financial issues, and logistical assistance related to value-added processing. The Center will also develop a strategy to establish a nationwide market information and coordination system.

Public Burden in This NOFA

At this time, the Agency is requesting OMB clearance of the following burden:

Standard Form 424 ''Application for Federal Assistance.''

This form is used by applicants as a required face sheet for applications for Federal assistance.

Standard Form 424A ''Budget Information—Non-construction Programs.''

This form must be completed by applicants to show the project's budget breakdown, both as to expense categories and the division between Federal and non-Federal sources.

Standard Form 424B ''Assurances—Non-Construction Programs.''

This form must be completed by the applicant to give the Federal government certain assurances that the applicant has the legal authority to apply for Federal assistance and the financial capacity to pay the non-Federal share of project costs. The applicant also gives assurance it will comply with various legal and regulatory requirements as described in the form.

The grant awardee will be required to do the following.

1. Sign a Value-Added Agricultural Product Market Development Grant Agreement acceptable to RBS.
2. Use Standard Form 270, ''Request for Advance or Reimbursement'' to request advances and reimbursements.
3. Submit a Standard Form 269, ''Financial Status Report'' and list expenditures according to agreed upon budget categories on a quarterly basis starting with the first full quarter after the grant award.
4. Submit quarterly performance reports which compares accomplishments to the objectives. If established objectives are not met, discuss problems, delays, or other problems that may affect completion of the project; establish objectives for the next reporting period; and discuss compliance with any special conditions on the use of awarded funds.
5. Maintain a financial management system that is acceptable to the Agency.
6. Collect and maintain data provided by the independent producers on race, sex, and national origin.
7. Submit a final project performance report.

Project Proposal

The applicant must submit a project proposal containing the elements described in this NOFA and in the format prescribed. The elements of the proposal are: (1) Table of Contents providing page numbers for each component of the proposal; (2) a project Summary, not to exceed one page, that includes a description of the project and the names of individuals working on the project; and (3) a project narrative that discusses the goals of the Center, the specific tasks to be performed, and the seven criteria which are the basis for selection for funding.

Project Reporting Requirements

The grant Awardee will be required to submit written performance reports on a quarterly basis. The performance report shall include, but need not be limited to: (1) A comparison of actual accomplishments to the objectives; (2) if objectives were not met, reasons why they were not; (3) problems, delays, or adverse conditions which will materially affect attainment of planned project objectives; (4) objectives established for the next reporting period; and (5) status of compliance with any special conditions on the use of awarded funds.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 13 hours per response.

Respondents: Non-profit corporations and institutions of higher education.

Estimated Number of Respondents: 40.

Estimated Number of Responses per Respondent: 1.2.

Estimated Number of Responses: 48.

Estimated Total Annual Burden on Respondents: 628 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, (202) 692–0043.

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 estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this NOFA will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Comments on the paperwork burden may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Rural Development, U.S. Department of Agriculture, Stop 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742.

Dated: February 26, 2001.

William F. Hagy III,

Acting Administrator, Rural Business-Cooperative Service, United States Department of Agriculture.

[FR Doc. 01–5372 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Funds Availability (NOFA) Inviting Applications for the Value-Added Agricultural Product Market Development Grant Program (VADG) (Independent Producers)

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS) announces the availability of approximately $20,000,000 in competitive grant funds to help independent producers enter into value-added activities under 231(a) of the Agriculture Risk Protection Act of 2000. RBS hereby requests proposals from eligible independent producers of agricultural commodities interested in a competitively awarded grant to develop business plans to establish a viable marketing opportunity for their value-added product; or to acquire capital to establish a value-added business venture or alliance that will allow the producers to better compete in domestic and international markets. Up to $10,000,000 will be allocated for the first competition, with unused funds being made available in a second competition. The maximum award per grant is $500,000.

DATES: The deadline for receipt of an application for the first competition is 5 p.m. eastern time on April 23, 2001.

Applications for the second competition are due 4 p.m. eastern time on June 27, 2001. The application deadlines are firm as to date and hour. The agency will not consider any application received after the deadline. Comments regarding the information collection requirements under the Paperwork Reduction Act of 1995 must be received on or before May 7, 2001 to be assured of consideration.

ADDRESSES: Send proposals and other required materials to Dr. Thomas H. Stafford, Director, Cooperative Marketing Division, Rural Business-Cooperative Service, USDA, Stop 3252, Room 4204, 1400 Independence Avenue SW., Washington, DC 20250–3252. Telephone: (202) 690–0368, E–Mail: thomas.stafford@usda.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas H. Stafford, Director, Cooperative Marketing Division, Rural Business-Cooperative Service, USDA, STOP 3252, 1400 Independence Ave. SW., Washington, DC 20250–3252. Telephone (202) 690–0368, Facsimile (202) 690–2723, E-mail: thomas.stafford@usda.gov. You may also obtain information from the RBS website at: *http://www.rurdev.usda.gov/rbs/coops/vadg.htm.*

SUPPLEMENTARY INFORMATION:

Background

This solicitation is issued pursuant to section 231 of the Agriculture Risk Protection Act of 2000 (Pub. L. 106–224) authorizing the establishment of the Value-Added Agricultural Product Market Development grants. The Secretary of Agriculture has delegated the program's administration to USDA's Rural Business-Cooperative Service for the fiscal year ending September 30, 2001.

The primary objective of this grant program is to encourage producers of agricultural commodities and products of agricultural commodities to further refine these products increasing their value to end users. These grants will facilitate greater participation in markets for value-added agricultural commodities and facilitate the opening of new markets for value-added products. These grants will be used to fund ventures for a variety of agricultural commodities. Grants will only be awarded if projects or ventures are determined to be economically viable and sustainable.

Since there are numerous eligible uses for a VADG grant, applicants must carefully list each activity they will undertake and the order each activity will be completed. This is critical since payments for subsequent activities will be made based on the successful completion of prerequisite activities. The Agency reserves the right to terminate the grant award if a prerequisite activity was not successful or if it showed the venture has a low probability of success. For example, business operations plan development will not be funded until a feasibility study has been completed and the results of the study show the venture has a strong chance of success.

Applicants must provide matching non-Federal funds at least equal to the grant. Grant funds will be disbursed pursuant to 7 CFR parts 3015 and 3019. Matching funds must be used to support the overall purpose of the VADG program.

All forms required to apply are available from the Cooperative Services Program web-site at *http://www.rurdev.usda.gov/rbs/coops/vadg.htm,* by calling (202) 690–0368, or facsimile (202) 690–2723. Forms may be requested via the internet by sending a message with your name, mailing address (not e-mail), and phone number to *thomas.stafford@usda.gov.* When calling or e-mailing, please indicate you are requesting forms for fiscal year (FY) 2001 Value-Added Product Market Development Grant Program. Forms will be mailed to you (not e-mailed or faxed) as quickly as possible. Forms are also available from most local USDA Rural Development offices.

Definitions

Agency—The Rural Business-Cooperative Service (RBS) or its successor.

Agricultural Product—Plant and animal products and their by-products to include aquaculturally produced fish and seafood products and forestry products.

Business Plan—A defined program of economic activities to determine the viability of a potential value-added venture including feasibility studies, marketing plans, business operations plans, and legal evaluations.

Independent Producers—Agricultural producers, including associations of producers and producer-owned corporations, who do not produce the agricultural product under contract or joint ownership with any other organization.

Matching Funds—Cash or confirmed funding commitments from non-Federal sources. Matching funds must be at least equal to the grant amount. In-kind contributions as defined at 7 CFR 3019.23 can be used as matching funds. Examples of in-kind contributions include volunteer services furnished by professional and technical personnel, donated supplies and equipment, and donated office space.

Value-Added—Changes in the raw or partly processed agriculturally produced commodity that results in a product having a higher value to potential buyers. Examples include processing wheat into flour, slaughtering livestock or poultry, and collecting and converting methane from animal waste to generate energy.

Recipient Eligibility Requirements

Potential recipients of the grant must be Independent Producers as defined above.

The project proposed must add value as defined above to an agricultural product or a product of an agricultural product.

Proposal Preparation

A proposal should contain the following:

(1) *Form SF–424,* ''Application for Federal Assistance.''

(2) *Form SF–424A,* ''Budget Information—Non-Construction Programs.''

(3) *Form SF–424B,* ''Assurances—Non-Construction Programs.''

(4) *Table of Contents.* For ease of locating information, each proposal must contain a detailed Table of Contents immediately following the required forms. The Table of Contents should include page numbers for each component of the proposal. Pagination should begin immediately following the Table of Contents.

(5) *Proposal Summary.* A summary of the Project Proposal, not to exceed one-page, should include the following: title of the project; description of the project including goals and tasks to be accomplished; names of the individuals responsible for conducting and completing the tasks; and the expected timeframe for completing all tasks.

(6) *Proposal Narrative.* The narrative portion of the project proposal must include at least the following:

(i) Project Title. The title of the proposed project must be brief, yet represent the major thrust of the project.

(ii) Information sheet. A separate one-page information sheet which lists each of the seven evaluation criteria listed in this NOFA under the ''Evaluation Criteria and Weights'' section, followed by the page numbers of all relevant material and documentation contained in the proposal which addresses or supports that criteria.

(iii) Goals of the Project. A clear statement of the ultimate goal of the project must be presented. It must describe the value-added venture to be developed and all the organizational

tasks and their sequence that need to be completed before operations can begin. Examples of similar types of operations should be presented and discussed in detail.

(iv) Specific Tasks to Be Completed. The narrative must list the specific tasks that will be funded by the grant. For example, a group of producers may want to have a feasibility study conducted and a business operations plan drafted. The details of these two tasks must be presented and discussed. This includes the order in which they will be completed and an estimate of the time necessary to complete the tasks. The Agency reserves the right to terminate the grant if a prerequisite activity was not successful or it showed the venture had a low probability of success.

(v) Evaluation Criteria. Each of the seven evaluation criteria listed in the Evaluation Criteria and Weights section of this NOFA must be addressed specifically and individually by category. These criteria should be in narrative form with any specific supporting documentation.

(7) *Verification of Matching Funds.* Present a copy of a bank statement if matching funds are in cash or a copy of the confirmed funding commitment from the funding source. If in-kind match is included, so state and provide verification of all commitments and how those commitments are priced.

(8) *Budget.* A detailed breakdown of estimated costs and a project budget.

Grant Amounts

The amount of funds available for VADG grants in FY 2001 is $20,000,000. The actual number of grants funded will depend on the quality of proposals received and the amount of funding requested. Maximum amount of Federal funds awarded for any one proposal will be $500,000. Up to $10,000,000 will be awarded in the first round of competition with any residual amount awarded in the second round. Eligible applicants not awarded in the first round will automatically be included in the second competition, unless an applicant wishes to submit a modified proposal.

In the event that the applicant is awarded a grant that is less than the amount requested, they will be required to modify their application to conform to the reduced amount before execution of the grant agreement. The Agency reserves the right to reduce or de-obligate the award, if acceptable modifications are not submitted by the awardee within 15 working days from the date the application is returned to the applicant. Any modifications must be within the scope of the original application.

Eligible Grant and Matching Funds Uses

Grant funds may be used to pay up to 50 percent of the costs for carrying out relevant projects. Applicant's contribution in cash or in-kind must be in accordance with 7 CFR parts 3015 and 3019. Grant and the recipient's matching funds may be used for, but are not limited to, the following purposes:

1. Conduct a feasibility analysis of the proposed value-added venture to help determine the potential success of the venture. Funds can be used to hire a qualified consultant.

2. Develop a business operations plan that provides comprehensive details on the management, planning, and other operational aspects of the proposed venture. Funds can be used to hire a qualified consultant.

3. Develop a business marketing plan for the proposed value-added product or products including the identification of a market window, the identification of potential buyers, a description of the distribution system, and possible promotional campaigns. Funds can be used to hire a qualified consultant.

4. Establish a working capital account to fund operations prior to obtaining sufficient cash flow from operations. Funds from this account can be used for, but are not limited to:

(a) hiring an attorney to provide legal advice and to draft articles of incorporation, bylaws, and other legal documents related to the proposed venture;

(b) hiring a Certified Public Accountant or other qualified individual to design an accounting system for the proposed venture; and

(c) pay salaries, utilities, and other operating costs to finance inventories, purchase office equipment, computers, and supplies, and finance other related activities necessary to establish alliances or business ventures that allow producers to better compete in domestic or international markets for value-added products.

Ineligible Grant Uses

Grant and matching funds cannot be used to:

1. Plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility);

2. Purchase, rent, or install fixed equipment;

3. Repair or maintain privately owned vehicles;

4. Pay for the preparation of the grant application;

5. Fund political activities;

6. Pay costs incurred prior to receiving this grant;

7. Fund any activities prohibited by 7 CFR parts 3015 and 3019; and

8. Fund architectural or engineering design work for the physical facility that are often part of the project feasibility study.

Methods for Evaluating and Ranking Applications

Applications will be evaluated by a panel of agricultural economists and other technical experts appointed by RBS. Applications will be evaluated competitively and points awarded as specified in the ''Evaluation Criteria and Weights'' section of this NOFA. After assigning points upon those criteria, applications will be listed in initial rank order and presented, along with funding level recommendations, to the Administrator of RBS, who will award the grants. The Administrator reserves the right to add 10 points to any proposal to ensure geographic distribution. The Administrator further reserves the right to add 10 points to any proposal to ensure commodity type distribution. Applications will then be funded in final rank order until all available funds have been expended. Applicants must score 65 points or more during the first round to be considered for funding. Unused remaining funds from the first competition will be allocated to the second competition. Unless the proposal is withdrawn, eligible, but unfunded, proposals from the first competition will be considered in the second competition, with or without a revision by the applicant.

Evaluation Criteria and Weights

RBS will initially determine whether the submitting organization is eligible and whether the application contains the information required by this NOFA. Prior to technical examination, each proposal will be reviewed for responsiveness to the funding solicitation. Submissions that do not fall within the guidelines as stated in this NOFA will be eliminated from the competition and will be returned to the applicant. After this initial screening, RBS will use the following criteria to rate and rank proposals received in response to this NOFA. Failure to address any of the following criteria will disqualify the proposal.

1. Technical feasibility of the value-added activity (Maximum 20 points). Describe in detail the operations of the proposed venture. This must include the value-added activity being proposed, the technology to be used and its availability, and examples of similar ventures. Projects will be evaluated

under this criteria for their overall ability to (1) operate efficiently, (2) maximize returns to producers, (3) be sustainable, and (4) improve the local rural economy.

2. Level of producer commitment (Maximum 20 points). Describe in detail the number of independent producers who will participate in the venture and their total level of production, the number and type of written commitments received, and the amount of funds raised from the independent producers.

3. Level of commitment from end-users of the product to be produced (Maximum 15 points). Describe in detail who will purchase the output of the venture; estimate the amount to be purchased; provide any completed marketing studies; and provide any letters of intent or similar commitment from the potential end-users.

4. Qualifications of personnel performing the proposed tasks and a demonstrated track-record of performing activities similar to those being proposed (Maximum 15 points). Describe in detail qualifications of the individuals who will actually do the proposed tasks and provide resumes and information about their organizations. If a consultant or others are to be hired, include a statement as to their commitment, as well as their qualifications.

5. Plan of work incorporating the appropriate tasks to accomplish the stated objectives (Maximum 15 points). The work plan must include the specific tasks that will be completed using the grant and matching fund money. Describe in detail the various tasks to be performed. For example, if the task is a feasibility study, the work plan must include the various aspects of the venture that will be analyzed. The work plan must present the order the tasks will be undertaken and the estimated time for completing each task. If the grant and match will be used for working capital, a detailed description of how the capital will be used must be included. Sufficient detail must be provided to determine whether or not funds are being used for qualified purposes.

6. Project cost per producer (Maximum 10 points). Calculated by dividing the estimated total number of producers benefiting from the venture by the project funding (grant amount plus the applicant's match). Scores will be assigned based on all applications in the competition.

7. Level of support from different development groups and agencies (Maximum 5 points). Describe in detail the involvement of other groups, state agencies, and local agencies in the venture and the kind of support they are providing. This can be financial and in-kind support.

What and Where To Submit

An original and two copies of the proposal, with all required forms and documentation, must be submitted in one package to: Dr. Thomas H. Stafford, Director, Cooperative Marketing Division, Rural Business-Cooperative Service, USDA, Stop 3252, Room 4204, 1400 Independence Avenue SW., Washington, DC 20250–3252. Applications sent electronically or by facsimile will not be accepted.

When To Submit

The deadline for receipt of first round applications is 4 p.m. eastern time on April 23, 2001. The deadline for receipt of second round applications is 4 p.m. eastern time on June 27, 2001. The application deadline is firm as to date and hour and applies to submission of the original application and two copies to the National Office in Washington, DC. The Agency will not consider any application received after the deadline.

Grantee Requirements

Grantees will be required to do the following:

1. Sign a Value-Added Agricultural Product Market Development Grant Agreement similar to the one published at the end of this NOFA.

2. Sign required Federal grant-making forms.

3. Submit a feasibility study showing the viability of the venture, if any Federal grant and matching funds are to be used as working capital.

4. Use Standard Form 270, ''Request for Advance or Reimbursement'' to request advances and reimbursements. Requests to be submitted on a quarterly or less frequent basis.

5. Submit a Standard Form 269, ''Financial Status Report'' and list expenditures according to agreed upon budget categories on a semi-annual basis. Reports are due by April 30 and October 30 after the grant is awarded.

6. Submit semi-annual performance reports which compare accomplishments to the objectives; if established objectives are not met, discuss problems, delays, or other problems that may affect completion of the project; establish objectives for the next reporting period; and discuss compliance with any special conditions on the use of awarded funds.

7. Upon completion of each task outlined in the proposal, grant recipients will deliver the results of the study or activity to RBS, accompanied by all applicable supporting data. These include, but are not limited to, feasibility studies, marketing plans, business operation plans, articles of incorporation and bylaws, or an accounting of how working capital funds were spent. All items delivered to RBS will be held in confidence to the extent permitted by law.

8. Maintain a financial management system that is acceptable to the Agency.

9. Collect and maintain data on race, sex, and national origin provided by the membership of the Independent Producers as defined above.

10. Submit a final project performance report.

Other Federal Statutes and Regulations That Apply

Several other Federal statutes and regulations apply to proposals considered for review and to grants awarded. These include but are not limited to:

7 CFR part 15, subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture-Effectuation of title VI of the Civil Rights Act of 1964;

7 CFR part 3015—Uniform Federal Assistance Regulations;

7 CFR part 3017—Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);

7 CFR part 3018—New Restrictions on Lobbying;

7 CFR part 3019—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; and

7 CFR part 3052—Audits of States, Local Governments, and Non-Profit Organizations.

Paperwork Reduction Act

The reporting requirements contained in this notice have received temporary emergency clearance by the Office of Management and Budget (OMB) under Control Number 0570–0039. However, in accordance with the Paperwork Reduction Act of 1995, RBS will seek standard OMB approval of the reporting requirements contained in this Notice and hereby opens a 60-day public comment period.

Abstract: RBS, an Agency within the USDA Rural Development mission area, will administer the VADG grant program. The intent of the VADG grant program is to develop a business plan for viable marketing opportunities for a value-added agricultural commodity or product of an agricultural product; or to acquire capital to establish a value-

added business venture or alliance that will allow the producers to better compete in domestic and international markets.

Public Burden in This Notice

At this time, the Agency is requesting OMB clearance of the following burden:

Form SF–424 ''Application for Federal Assistance.'' This form is used by applicants as a required face sheet for applications for Federal assistance.

Form SF–424A ''Budget Information-Non construction Programs.'' This form must be completed by applicants to show the project's budget breakdown, both as to expense categories and the division between Federal and non-Federal sources.

Form SF–424B ''Assurances-Non Construction Programs.'' This form must be completed by the applicant to give the Federal government certain assurances that the applicant has the legal authority to apply for Federal assistance and the financial capacity to pay the non-Federal share of project costs. The applicant also gives assurance it will comply with various legal and regulatory requirements as described in the form.

Grantees will be required to do the following:

1. Grant Agreement. Sign a Value-Added Agricultural Product Market Development Grant Agreement similar to the one published at the end of this NOFA.

2. Feasibility Study. Submit a feasibility study showing the viability of the venture if any Federal grant and matching funds are to be used as working capital.

3. Payment requests. Use Standard Form 270, ''Request for Advance or Reimbursement'' to request advances and reimbursements. Requests to be submitted on a quarterly or less frequent basis.

4. Report Financial Status. Submit a Standard Form 269, ''Financial Status Report'' and list expenditures according to agreed upon budget categories on a semi-annual basis. Reports are due by April 30 and October 30, after the grant is awarded.

5. Performance Reports. Submit semi-annual performance reports which compares accomplishments to the objectives; if established objectives are not met, discuss problems, delays, or other problems that may affect completion of the project; establish objectives for the next reporting period; and discuss compliance with any special conditions on the use of awarded funds.

6. Study Results. Upon completion of each task outlined in the proposal, grant recipients will deliver the results of the study or activity to RBS, accompanied by all applicable supporting data. These include, but are not limited to, feasibility studies, marketing plans, business operation plans, articles of incorporation and bylaws, or an accounting of how working capital funds were spent. All items delivered to RBS will be held in confidence to the extent provided for by law.

7. Financial Management System. Maintain a financial management system that is acceptable to the Agency.

8. Civil Rights Data. Collect and maintain data on sex, race, and national origin of the Independent Producers membership.

9. Final Performance Report. Submit a final project performance report.

Project Proposal

The applicant must submit a project proposal containing the elements described in this notice and in the format prescribed. The elements of the proposal are: (1) Table of contents providing page numbers for each component of the proposal; (2) a project summary, not to exceed one page, that includes the title of the project, a description of the project, and the names of individuals working on the project; and (3) a project narrative that discusses the goals of the project, the specific tasks to be completed, and the seven criteria which is the basis for selection for funding.

Project Reporting Requirements

Awardees will be required to submit written project performance reports on a semi-annual basis. The project performance report shall include, but need not be limited to: (1) A comparison of actual accomplishments to the objectives; (2) problems in meeting established objectives; (3) problems, delays, or adverse conditions which will materially affect completion of the project; (4) objectives established for the next reporting period; (5) status of compliance with any special conditions on the use of awarded funds.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 8.2 hours per response.

Respondents: Associations of independent producers and entities representing steering committees of independent producers.

Estimated Number of Respondents: 120.

Estimated Number of Responses per Respondent: 2.5.

Estimated Number of Responses: 300.

Estimated Total Annual Burden on Respondents: 2,460 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, (202) 692–0043.

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 estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Comments on the paperwork burden may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Rural Development, U.S. Department of Agriculture, Stop 0742, 1400 Independence Avenue SW, Washington, DC 20250–0742.

Dated: February 26, 2001.

William F. Hagy III,

Acting Administrator, Rural Business-Cooperative Service, United States Department of Agriculture.

Rural Business-Cooperative Service

Value-Added Agricultural Product Market Development Grant Agreement (VADG)

This Grant Agreement (Agreement) dated _____, between _____ (Grantee), and the United States of America, acting through the Rural Business-Cooperative Service of the Department of Agriculture (Grantor), for $____ in grant funds under the VADG program, delineates the agreement of the parties.

Now, Therefore, in consideration of the grant;

The parties agree that:

1. All the terms and provisions of the application submitted by the Grantee for this VADG grant, including any attachments or amendments, are incorporated and included as part of this Agreement. Any changes to these documents or this agreement must be approved in writing by the Grantor.

2. As a condition of the Agreement, the Grantee certifies that it is in compliance with and will comply in the course of the Agreement with all applicable laws, regulations, Executive Orders, and other generally applicable requirements, including those contained in 7 CFR 3015.205(b), which are incorporated into this agreement by reference, and such other statutory provisions as are specifically contained herein. The Grantee will comply with title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and Executive Order 12250;

3. The provisions of 7 CFR part 3015, ''Uniform Federal Assistance Regulations,'' part 3016, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' or part 3019, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations,'' as applicable are incorporated herein and made a part hereof by reference;

Further, the Grantee agrees that it will:

1. Not use grant funds to plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility); or to purchase, rent, or install fixed equipment.

2. Use Grant Funds only for the purposes and activities specified in the proposal approved by the Agency including the approved budget. Any uses not provided for in the approved budget must be approved in writing by the Agency in advance of obligation by the grantor.

3. Submit a feasibility study, business operations plans, and other studies and plans required by the Grantor if any part of the grant will be used to establish a working capital account.

4. Deliver the results of a study or activity to the Grantor upon completion of each task outlined in the proposal. These include, but are not limited to, feasibility studies, marketing plans, business operations plans, articles of incorporation and bylaws, and accounting of how working capital funds were spent. All items delivered to the Grantor will be held in confidence to the extent provided by law.

5. Request any cash advances in the minimum amount needed and timed to the actual, immediate cash requirements for carrying out the grant purpose. Standard Form 270, ''Request for Advance or Reimbursement,'' will be used for this purpose.

6. Submit a Standard Form 269, ''Financial Status Report'' and list expenditures according to agreed upon budget categories on a semi-annual basis. Reports are due by April 30 and October 30 after the grant is awarded.

7. Provide periodic reports as required by the Grantor. A financial status report and a project performance report will be required on a semi-annual basis (due April 30 and October 30). The financial status report must show how grant funds and matching funds have been used to date and project the funds needed and their purposes for the next quarter. A final report may serve as the last quarterly report. Grantees shall constantly monitor performance to ensure that time schedules are being met and projected goals by time periods are being accomplished. The project performance reports shall include the following:

a. A comparison of actual accomplishments to the objectives for that period.

b. Reasons why established objectives were not met, if applicable.

c. Reasons for any problems, delays, or adverse conditions which will affect attainment of overall program objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular objectives during established time periods. This disclosure shall be accomplished by a statement of the action taken or planned to resolve the situation.

d. Objectives and timetables established for the next reporting period.

e. The final report will also address the following:

(i) What have been the most challenging or unexpected aspects of this program?

(ii) What advice you would give to other organizations planning a similar program. These should include strengths and limitations of the program. If you had the opportunity, what would you have done differently?

(iii) If an innovative approach was used successfully, the grantee should describe their program in detail so that other organizations might consider replication in their areas.

8. Collect and maintain data on producer-members by race, sex, and national origin. The grantee must ensure that their recipients also collect and maintain data on beneficiaries by race, sex, and national origin as required by title VI of the Civil Rights Act of 1964 and must be provided to the Agency for compliance review purposes.

9. Provide Financial Management Systems which will include:

a. Records that identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;

b. Effective control over and accountability for all funds, property, and other assets. Grantees shall adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes;

c. Accounting records supported by source documentation; and

d. Grantee tracking of fund usage and records that show matching funds and grant funds are used in equal proportions. The grantee will provide verifiable documentation regarding matching fund usage, i.e., bank statements or copies of funding obligations from the matching source.

10. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least 3 years after grant closing, except that the records shall be retained beyond the 3-year period if audit findings have not been resolved. Microfilm or photocopies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts, and transcripts.

11. Not encumber, transfer or dispose of the equipment or any part thereof, acquired wholly or in part with Grantor funds without the written consent of the Grantor.

12. Not duplicate other program purposes for which monies have been received, are committed, or are applied to from other sources (public or private).

Grantor agrees to make available to Grantee for the purpose of this Agreement funds in an amount not to exceed the Grant Funds. The funds will be reimbursed or advanced based on submission of Standard Form 270.

In Witness Whereof, Grantee has this day authorized and caused this Agreement to be executed by

Attest
By _____
(Grantee)
(Title) _____
United States of America
Rural Business-Cooperative Service
By _____
(Grantor) (Name) (Title)

[FR Doc. 01–5373 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–XY–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar from India: Preliminary Results of New Shipper Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of new shipper antidumping duty administrative review: stainless steel bar from India.

SUMMARY: In response to a request from Snowdrop Trading PVT. LTD., the Department of Commerce is conducting a new shipper administrative review of the antidumping duty order on stainless steel bar from India. This review covers sales of the subject merchandise to the United States during the period February 1 through September 30, 2000.

We have preliminarily determined that Snowdrop Trading PVT. LTD. has not made sales of subject merchandise below normal value. If these preliminary results are adopted in our final results, we will instruct the Customs Service not to assess antidumping duties.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 6, 2001.

FOR FURTHER INFORMATION CONTACT: Blanche Ziv, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–4207.

Applicable Statute

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

Background

On August 3, 2000, the Department received a request from Snowdrop Trading PVT. LTD. (''Snowdrop'') to conduct a new shipper administrative review of the antidumping duty order on stainless steel bar from India. The Department published in the **Federal Register**, on September 11, 2000, a notice of initiation of a new shipper administrative review of Snowdrop covering the period February 1 through July 31, 2000 (65 FR 54840). *See* 351.214(g)(1)(A).

On September 28, 2000, the Department issued an antidumping questionnaire to Snowdrop. We received a response on October 19, 2000. We issued a supplemental questionnaire on January 22, 2001, to which we received a response on January 31, 2001.

The Department expanded the POR through September 30, 2000, in order to capture the sale and corresponding entry made by Snowdrop to the United States (*see* the memorandum from team to Susan Kuhbach, dated February 15, 2001).

Scope of Review

Imports covered by this review are shipments of stainless steel bar (''SSB''). SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.,* cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The SSB subject to these orders is currently classifiable under subheadings 7222.10.0005, 7222.10.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Treatment of Sales of Tolled Merchandise

Pursuant to 19 CFR 351.401(h), the Department will not consider a toller or subcontractor to be a manufacturer or producer when the toller or subcontractor does not acquire ownership of the finished products and does not control the relevant sales of the subject merchandise and the foreign like product. In determining whether a company that uses a subcontractor in a tolling arrangement is a producer pursuant to 19 CFR 351.401(h), we examine all relevant facts surrounding a tolling agreement. Snowdrop claims that under the tolling arrangement with its unaffiliated subcontractor, Snowdrop is the producer of the subject merchandise at issue. In support of this claim, Snowdrop reports that it: (1) Purchases all of the inputs, (2) pays the subcontractor a processing fee, and (3) maintains ownership at all times of the inputs as well as the final product. Based on this evidence, we preliminarily determine that Snowdrop is the producer of the tolled merchandise and, hence, the appropriate respondent.

United States Price

In calculating the price to the United States, we used export price (''EP''), in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation into the United States and the use of constructed export price was not otherwise indicated.

We calculated EP based on the CIF price to the United States. In accordance with section 772(c)(2) of the Act, we made deductions, as appropriate, for foreign inland freight, international freight, marine insurance, and brokerage and handling.

Normal Value

Snowdrop reported no home market sales or third country sales during the POR. Therefore, we based normal value on constructed value (''CV''). In accordance with section 773(e) of the Act, we calculated CV for Snowdrop based on the sum of the respondent's cost of materials, labor, overhead, general and administrative expenses (''GNA''), profit, and U.S. packing costs. With respect to G&A, we used the amounts reported by Snowdrop in its

October 19, 2000 response. We calculated profit using the 1999–2000 financial statements submitted by Snowdrop (*see* calculation memo to the file dated February 28, 2001).

Preliminary Results of the Review

As a result of our comparison of EP and CV, we preliminarily determine the following weighted-average dumping margin:

Manufacturer/exporter	Period of review	Margin (percent)
Snowdrop Trading PVT. LTD.	2/1/00–9/30/00	0.00

The above deposit rate will be effective upon publication of the final results of this new shipper review for all shipments of SSB from India entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act.

Public Comment

Interested parties may request a hearing within 30 days of the date of publication of this notice. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs (*see* below). Interested parties may submit written arguments in case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the date of filing the case briefs. Parties who submit briefs in these proceedings should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f)(3).

The Department will issue the final results of this administrative review within 90 days from the issuance of these preliminary results.

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

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

Dated: February 28, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–5440 Filed 3–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Insular Affairs

[Docket No. 990813222–0035–03]

RIN 0625–AA55

Allocation of Duty-Exemptions for Calendar Year 2001 Among Watch Producers Located in the Virgin Islands

AGENCY: Import Administration, International Trade Administration, Department of Commerce; Office of Insular Affairs, Department of the Interior.

ACTION: Notice.

SUMMARY: This action allocates calendar year 2001 duty-exemptions for watch producers located in the Virgin Islands pursuant to Pub. L. 97–446, as amended by Pub. L. 103–465 (''the Act'').

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 482–3526.

SUPPLEMENTARY INFORMATION: Pursuant to the Act, the Departments of the Interior and Commerce (the Departments) share responsibility for the allocation of duty exemptions among watch assembly firms in the United States insular possessions and the Northern Mariana Islands. In accordance with Section 303.3(a) of the regulations (15 CFR 303(a)), the total quantity of duty-free insular watches and watch movements for calendar year 2001 is 1,866,000 units for the Virgin Islands (65 F.R. 8048, February 17, 2000).

The criteria for the calculation of the calendar year 2001 duty-exemption allocations among insular producers are set forth in Section 303.14 of the regulations (15 CFR 303.14).

The Departments have verified and adjusted the data submitted on application form ITA–334P by Virgin Islands producers and inspected their current operations in accordance with Section 303.5 of the regulations (15 CFR 303.5).

In calendar year 2000 the Virgin Islands watch assembly firms shipped 624,215 watches and watch movements into the customs territory of the United States under the Act. The dollar amount of creditable corporate income taxes paid by Virgin Islands producers during calendar year 2000 plus the creditable wages paid by the industry during calendar year 2000 to residents of the territory was $3,175,576.

There are no producers in Guam, American Samoa or the Northern Mariana Islands.

The calendar year 2001 Virgin Islands annual allocations, based on the data verified by the Departments, are as follows:

Name of firm	Annual allocation
Belair Quartz, Inc.	500,000
Hampden Watch Co., Inc.	200,000
Unitime Industries, Inc.	500,000
Tropex, Inc.	300,000

The balance of the units allocated to the Virgin Islands is available for new entrants into the program or producers who request a supplement to their allocation.

Timothy J. Hauser,

Acting Under Secretary for International Trade, Department of Commerce.

Nikolao Pula,

Acting Director, Office of Insular Affairs, Department of the Interior.

[FR Doc. 01–5439 Filed 3–5–01; 8:45 am]

BILLING CODE 3510–DS–P; 4310–93–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcement of the American Petroleum Institute's Standards Activities

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of intent to develop or revise standards and request for public comment and participation in standards development.

SUMMARY: The American Petroleum Institute (API), with the assistance of other interested parties, continues to develop standards, both national and international, in several areas. This notice lists the standardization efforts currently being conducted by API committees. The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of API is being undertaken as a public service. NIST does not necessarily endorse, approve, or recommend the standards referenced.

ADDRESSES: American Petroleum Institute, 1220 L Street, NW., Washington, DC 20005; telephone (202) 682–8000, *http://www.api.org.*

FOR FURTHER INFORMATION CONTACT: All contact individuals listed in the supplementary information section of this notice may be reached at the American Petroleum Institute.

SUPPLEMENTARY INFORMATION:

Background

The American Petroleum Institute develops and publishes voluntary standards for equipment, materials, operations, and processes for the petroleum and natural gas industry. These standards are used by both private industry and by governmental agencies. All interested persons should contact the appropriate source as listed for further information.

Pipeline Committee

New (1160) Pipe Integrity in High Consequence Areas (HCAs)
New (1133) Guidelines for Onshore Hydrocarbon Pipelines Crossing Floodplains
1109 Marking Liquid Petroleum Pipeline Facilities
1129 Assurance of Hazardous Liquid Pipeline System Integrity
1130 Computational Pipeline Monitoring

For Further Information Contact: Andrea Johnson, Standards and Training Resource Group, email: johnsona@api.org.

Committee on Marketing

New (1582) Similarity Calculations and Software for Aviation Jet Fuel Filter/Separators
2610 Design, Construction, Operation, Maintenance, and Inspection of Terminal and Tank Facilities
1621 Bulk Liquid Stock Control at Retail Outlets
1584 Four-inch Aviation Hydrant System
1585 Guidance for Cleaning Hydrant Systems
1004 Bottom Loading and Vapor Recovery for MC–306 Tank Motor Vehicles
2510 Design and Construction of Liquefied Petroleum Gas Installations
1501 Recommended Practice for Retail or Consumer Aviation Fueling Facilities
1560 Lubricant Service Designations for Automotive Manual Transmissions, Manual Transaxles, and Axles
1621 Bulk Liquid Stock Control
1631 Interior Lining of Underground Storage Tanks
1637A Equipment Marking Color System Chart

For Further Information Contact: David Soffrin, Standards and Training Resource Group, email: soffrind@api.org.

Committee on Refining

575 Inspection of Atmospheric & Low Pressure Storage Tanks
577 Welding Inspection and Metallurgy
530 Calculation of Heater Tube Thickness in Petroleum Refineries
661 Air-Cooled Heat Exchangers
662 Plate Heat Exchangers
598 Fire Test for Evaluation of Valve Stem Packing
599 Metal Plug Valves
600 Steel Gate Valves
608 Metal Ball Valves
620 Design & Construction of Large Welded LP Tanks
650 Welded Steel Tanks for Oil Storage
653 Tank Repair, Inspection, and Alteration
610 Centrifugal Pumps
612 Steam Turbines
617 Centrifugal Compressors
673 Centrifugal Air Compressors
682 Shaft Sealing Systems for Centrifugal and Rotary Pumps
687 Rotor Repair
541 FWSC Induction Motors
545 Lightning Protection for Storage Tanks
552 Transmission Systems
526 Flanged Steel Pressure Relief Valves

Meetings/Conferences: The Spring Refining Meeting will be held May 7–9, 2001, in Atlanta, Georgia at the Hyatt Regency Hotel. The Fall Refining Meeting will be held September 24–26, 2001, in Los Angeles, California at the Westin Bonaventure Hotel. Interested parties may visit the API Events calendar at *http://www.api.org/events* for more information regarding participation in these meetings.

For Further Information Contact: David Miller, Standards and Training Resource Group, email: miller@api.org.

Committee on Safety and Fire Protection

2003 Venting Atmospheric and Low-Pressure Tanks
2015 Standard on Safe Entry and Cleaning of Petroleum Storage Tanks
New (2016) Recommended Practice for Safe Entry and Cleaning of Petroleum Tanks
2023 Guide for Safe Storage of Asphalt
2027 Ignition Hazards
2028 Flame Arrestors for Piping Systems
2216 Ignition Risks of Vapors
2350 Overfill Protection

For Further Information Contact: David Soffrin, Standards and Training Resource Group, email: soffrind@api.org.

Committee on Petroleum Measurement

2.2C Calibration of Tanks by Optimal Methods
7.0 Temperature Determination
8 Sampling, Parts 1–4
9.1 Hydrometer Test of Crude Oil
9.2 Pressure Hydrometer Test Method for Density or Relative Density
9.3 TH Test Method for Density and API Gravity of Crude
10.1 Determination of Sediment in Crude Oil
10.3 Determination of Water and Sediment in Crude Oil
10.5 Determination of Water in Petroleum Products by Distillation
10.6 Determination of Water in Petroleum Products by Centrifuge
10.6 Test for Water in Crude Oil by KF Method
10.9 Test for Water in Crude Oil by CKF Method
11.1 VCF, incorporating all Chapter 11.1 Volume I through Volume XIV, 11.2.1, 11.2.1M
New (11.2) Compressibility Factors
14.1 Natural Gas Sampling
15 SI Guidelines
19.1 Fixed Roof Tanks
19.3 Part D, Fugitive Emissions
Draft Standard of Measurement of Crude Oil by Coriolis Meter

Meetings/Conferences: The Spring Measurement Meeting will be held

March 26–30, 2001, in San Antonio, Texas at the Hyatt Regency Hotel. The Fall Measurement Meeting will be held October 15–19, 2001, in Memphis, Tennessee at the Peabody Hotel. Interested parties may visit the API Events calendar at *http://www.api.org/events* for more information regarding participation in these meetings.

FOR FURTHER INFORMATION CONTACT: Jon Noxon, Standards and Training Resource Group, email: noxonj@api.org.

Committee on Exploration and Production:

2B Offshore Tubulars
2C Offshore Cranes
2MT1 Carbon Manganese Steel Plates
5B Threading and Gauging
5CT Casing & Tubing
5L Line Pipe
6A Valves and Wellhead Equipment
6AF Capabilities of API Flanges
6D Pipeline Valves
6J Testing Elastomers
4F Drilling & Well Servicing Equipment
7 Rotary Drill Stem Elements
7K Drilling Equipment
7L Inspection, Maintenance, Repair & Remanufacture of Drilling Equipment
8A Drilling & Production Hoisting Equipment
8B Inspection, Maintenance, Repair & Remanufacture of Hoisting Equipment
8C Drilling & Production Hoisting Equipment, PSL1/2
10A Well Cements
10D Casing Centralizers
New Packer Specification
11S4 Sizing & Selection of ESPIs
13A Drilling Fluid Materials
13B–2 Field Testing Oil-based Fluids
New (14FZ) Offshore Electrical Systems/Zone Classification
14J Offshore Hazards Analysis
15HR High Pressure Pipe
15LE PE Pipe
15LR Low Pressure Pipe
16C Choke & Kill Systems
16D Control Systems
17A Design and Operation of Subsea Production Systems
17B Flexible Pipe
17C TFL Systems
New (17F) Design and Operation of Subsea Production Control Systems
17J Unbonded Flexible Pipe
New (17K) Bonded Flexible Pipe
59 Well Control Practices
64 Diverter Systems
T2 Training Personnel using OSAPE

Meetings/Conferences: The Summer Standardization Measurement Meeting will be held June 25–29, 2001, in Calgary, Alberta, Canada at the Hyatt Regency Hotel. Interested parties may visit the API Events calendar at *http://www.api.org/events* for more information regarding participation in this meeting.

For Further Information Contact: Mike Spanhel, Standards and Training Resource Group, email: spanhel@api.org.

Dated: February 27, 2001.

Karen Brown,

Acting Director.

[FR Doc. 01–5381 Filed 3–5–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 00314073-1042-02; I.D. 022701G]

RIN 0648-ZA83

Fisheries Finance Program; Program Notice

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

ACTION: Notice of Federal fisheries loan availability

SUMMARY: The Fisheries Finance Program (FFP) has a $23.7 million loan authority in fiscal year 2001. NMFS now accepts loan applications from qualified applicants. Until April 1, 2001, NMFS reserves all loan funds for certain priority lending purposes. If any loan funds remain unreserved after April 1, 2001, they are available for non-priority lending purposes as well.

DATES: Effective March 6, 2001.

ADDRESSES: (1) *Applicants in the Alaskan, Northwest, and Southwest Regions*: Kimberly Ott, Northwest Financial Services Branch (F/SF23), 7600 Sand Point Way, NE (BIN C15700), Building 1, Seattle, WA 98115;

(2) *Applicants in the Northeast Region*: Leo Erwin, Northeast Financial Services Branch (F/SF21), One Blackburn Drive, Gloucester, MA 01930; and

(3) *Applicants in the Southeast Region*: Kell Freeman, Southeast Financial Services Branch (F/SF22), 9721 Executive Center Drive North, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Michael L. Grable, 301-713-2390, fax 301-713-1306, E-mail Michael.Grable@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

(1) *Notice purpose*. The notice's purpose is to:

(a) Announce the availability of FFP loans;

(b) Describe the FFP's lending purposes;

(c) Explain the amount of loan authority available in fiscal year 2001;

(d) Establish the basis for selecting backlogged loan applications for the $5 million FFP loan authority dedicated to purchasing halibut and sablefish individual fishing quota (IFQ);

(e) Establish priority lending purposes for which NMFS until April 1, 2001, reserves the $18.7 million non-dedicated loan authority;

(f) Establish non-priority lending purposes for which NMFS allows any of the $18.7 million unreserved on and after April 1, 2001 to be used; and

(g) Provide for a fiscal year 2002 waiting list for potential loan applicants for whom sufficient fiscal year 2001 loan authority is unavailable.

(2) *FFP description*. The FFP is a direct loan program under Title XI of the Merchant Marine Act, 1936, as amended. Debt maturities can be up to 25 years, but not longer than the financed property's economically useful life. Interest rates, which are fixed, equal the U.S. Treasury's borrowing cost at the time the loan is funded plus 2 percent. There are no prepayment penalties. Loans may equal 80 percent of financed property's depreciated cost, and may generally be either original financing or refinancing of existing loans.

FFP loans generally require experienced fisheries borrowers with strong primary and secondary means of repayment, including personal guarantees.

FFP loans generally have longer maturities and somewhat lower interest rates than private fisheries credit. This stretches the service of lower-cost FFP debt over a longer repayment period more consistent with cyclical fisheries economics.

For further FFP details, see the FFP's operating rules at 50 CFR part 253, subpart B.

(3) *FFP lending purposes*. These are the FFP's statutory lending purposes:

(a) Fishing vessel construction, reconstruction, reconditioning, and acquisition. The FFP rules, however, prohibit loans that increase existing harvesting capacity. FFP loans may not, consequently, originally finance either vessel construction or reconstruction that increases vessel harvesting capacity. Nevertheless, FFP loans remain available for refinancing existing

vessel loans for all eligible purposes because this does not increase harvesting capacity. Additionally, FFP loans remain available for originally financing the purchase and/or reconditioning of used vessels;

(b) Fisheries shoreside facilities construction, reconstruction, reconditioning, and acquisition;

(c) Aquacultural facilities construction, reconstruction, reconditioning, and acquisition;

(d) IFQ acquisition. Only entry level or small boat fishermen in the halibut and sablefish fisheries are presently eligible for these loans. Eligibility in additional fisheries depends on Fishery Management Council requests;

(e) Fishing capacity reduction under section 312(b)-(e) of the Magnuson-Stevens Fishery Conservation and Management Act. Before we can make a loan for this purpose, a Fishery Management Council must request a fishing capacity reduction program, we must approve the requested program, and harvesters in the reduction fishery voting in a referendum must approve a landing fee for repaying the loan; and

(f) Acquiring pollock fishing vessels or shoreside facilities. This dedicated use of FFP loan ceilings was available in FY 1999 only to communities eligible to participate in the Western Alaska Community Development Program.

(4) *What determines annual FFP loan ceilings*. Congress annually authorizes FFP loan ceilings. Since 1992, Congress has done this by appropriating FCRA costs at rates projected in the President's annual budgets.

FCRA cost is the loan loss that the Office of Management and Budget (OMB) projects for different Federal loan categories. A loan ceiling is the amount that a stated FCRA cost appropriation produces at a stated FCRA cost rate. The following table shows, for example, the loan ceiling effect of different FCRA cost rates for a $0.1 million FCRA cost appropriation:

FCRA Cost Appropriation	Rate	Loan Ceiling
$0.1 million	1%	$10 million
$0.1 million	2%	$5 million
$0.1 million	5%	$2 million
$0.1 million	10%	$1 million
$0.1 million	20%	$0.5 million
$0.1 million	50%	$0.2 million

The FFP uses FCRA cost appropriations as lending capital, and borrows the balance from the U.S. Treasury. If, for example, the FFP had a $0.1 million FCRA cost appropriation at a one percent FCRA cost rate, the FFP's lending capital would be the $0.1 million FCRA cost appropriation plus $9.9 million borrowed from the U.S. Treasury. The FFP would then make loans worth $10 million, using their repayment proceeds to repay (with interest) the Treasury's loan to the FFP.

(5) FFP's FY 2001 loan ceiling. The President's FY 2001 budget established a 1 percent FCRA cost rate for all FFP loan authority that the budget requested. None of the President's budgets have ever requested loan authority for this loan purpose. When Congress first dedicated FCRA cost to this loan purpose, OMB established a 2 percent FCRA cost rate for these loans, and this FCRA cost rate has since applied to all subsequent FCRA cost appropriations dedicated to these loans (fiscal years 1998 and 1999).

Consequently, the FFP's apportioned loan ceiling for FY 2001 is:

Loan Purpose	Appropriation	Cost Rate	Ceiling
IFQ	$0.100 million	2%	$05.0 million
Other Purposes	$0.187 million	1%	$18.7 million
Totals	$0.287 million	–	$23.7 million

(6) *Catalog of Federal Domestic Assistance*. The FFP is listed in the ''Catalog of Federal Domestic Assistance'' under number 11.415: Fisheries Finance Program.

II. Expected $5 Million Ceiling For IFQ Loans During FY 2001

Backlogged IFQ applications from fiscal 2000 exceed the $5 million loan ceiling for this purpose during fiscal year 2001. NMFS will not, consequently, accept new IFQ loan applications during FY 2001. Instead, NMFS will select $5 million worth of backlogged applications for processing. This accords with NMFS' previous **Federal Register** notice (65 FR 16179, March 27, 2000). NMFS will use for FY 2001 selection the same random process it used for FY 1999 and FY 2000 selection. NMFS' previous **Federal Register** notice requested, but did not receive, public comment about this.

III. Expected $18.7 Million Ceiling For Other Loan Purposes During FY 2001

(1) *Priority lending purposes*. These are the priority lending purposes for this $18.7 million loan ceiling:

(a) Fishing Capacity Reduction. This is the highest priority because harvesting overcapitalization is a major national fisheries problem;

(b) Supporting the existing FFP credit portfolio. These include: refinancing loans, assuming loans, and other loan servicing actions that protect the Government's interest in the existing FFP portfolio and limit loan loss exposure;

(c) Backlogged FY 2000 loan applications. This includes about $4.0 million in FFP loan applications backlogged from FY 2000; and

(d) Marine and closed system aquaculture. This excludes land-based aquaculture not occurring in closed systems.

(2) *Non-priority lending purposes*. These are the non-priority lending purposes for this $18.7 million loan ceiling:

(a) Land based aquaculture in open systems;

(b) Fisheries shoreside facilities; and

(c) Fishing vessels.

(3) *Reserving FY 2001 loan ceiling*.

(a) Before April 1, 2001. Before this date, NMFS will reserve the entire $18.7 million loan ceiling for applications that involve the priority lending purposes;

(b) April 1 through September 30, 2001. If any of the $18.7 million loan ceiling remains unreserved after April 1, 2001, the unreserved amount will then be available to reserve for applications involving any FFP lending purpose; and

(c) Fishing Capacity Reduction Exclusion. Because this is the highest FFP lending priority, NMFS may at any time during FY 2001 consider reserving for this purpose any or all of the $18.7 million FFP loan ceiling not previously reserved for another purpose. NMFS will do so only for accepted fishing capacity reduction program requests whose further processing requires FY 2001 loan approval, but will not do so at the expense of applicants for other lending purposes who have already paid their application fee. There presently are no such requests.

(4) *Application fee*. Subject to loan ceiling availability, NMFS will reserve loan ceiling for an application only upon the applicant's payment of an application fee. Fifty percent of this fee is non-refundable (NMFS earns the remainder upon loan approval).

(5) *Losing loan ceiling reservations.* NMFS intends to ensure that it obligates this entire fiscal year 2001 loan ceiling before October 1, 2001. If an applicant with a loan ceiling reservation does not comply with NMFS' loan processing requirements promptly enough for NMFS to prospectively achieve this intention, NMFS may transfer the loan ceiling reservation to another applicant who can and will comply.

(6) *Applications and waiting list.* All potential applicants must first discuss their loan projects with the appropriate NMFS Regional Financial Services Branch (see **ADDRESSES**).

If a potential applicant appears to be ineligible for an FFP loan or unable to meet the FFP's loan risk criteria, NMFS will take no further action.

If, however, a potential applicant prospectively appears to be both eligible and able to meet the loan risk criteria, NMFS will then either advise the applicant that it may submit an application and application fee or add the applicant to the FFP waiting list for submitting future applications when lending priorities and/or unreserved loan ceilings permit.

NMFS will reserve sufficient loan ceiling for every applicant that submits an application and application fee after NMFS advises the applicant that it may do so.

Although NMFS advises a potential applicant that it may submit a loan application and application fee, only subsequent loan investigation and analysis will determine whether, and under what conditions, NMFS will approve a loan.

Subject to fiscal year 2002 loan priorities and loan ceilings, NMFS will consider as FY 2002 application candidates all parties on the FY 2001 waiting list for whom NMFS did not reserve FY 2001 loan ceiling. NMFS will do so in the chronological order in which parties were added to the waiting list.

All FFP loans are subject to the FFP operating rules. Potential applicants should see these rules (50 CFR part 253, subpart B) for further eligibility and qualification details.

IV. Administrative Requirements

The Debt Collection Improvement Act of 1996 bars additional Federal loans (other than disaster loans) to delinquent Federal borrowers (excluding debt under the Internal Revenue Code of 1986).

Loan applicants are subject to name-check reviews intended to reveal whether applicant principals have been convicted of, or are facing, criminal charges for fraud, theft, perjury, or other matters affecting the applicant's honesty, integrity, or credit-worthiness.

False application statements can result in loan denial, loan termination, and possible punishment by fines or imprisonment as provided in 18 U.S.C. 1001.

Applicants must complete a Form CD-511 because they are subject to 15 CFR part 26 (Federal assistance debarment) and the lobbying provisions of 31 U.S.C. 1352 (using appropriated funds to influence Federal financial transactions). NMFS will furnish this form when it advises potential applicants to submit their applications.

V. Classification

Neither the Administrative Procedure Act nor any other law requires prior notice and opportunity for public comment about this loan notice. Consequently, the Regulatory Flexibility Act does not require a regulatory flexibility analysis.

This notice is not significant for purposes of Executive Order 12866.

FFP applications are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

This notice refers to collection-of-information requirements subject to the Paperwork Reduction Act. Applications for FFP loans have been approved by OMB under control number 0648-0012. Public reporting burden for this collection of information is estimated to average 11.5 hours per application, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Michael L. Grable (see the **FOR FURTHER INFORMATION CONTACT** section above).

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Dated: February 28, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–5434 Filed 3–5–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030101B]

Mid-Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Information and Education Committee, Large Pelagic Committee, Executive Committee, and Law Enforcement Committee will hold a public meeting.

DATES: The meeting will be held on Tuesday, March 20, 2001, through Thursday March 22, 2001. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Golden Inn, Oceanfront at 78th Street, Avalon, NJ; telephone: 609–368–5155.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: *Tuesday, March 20, 2001, 1 p.m. to 5 p.m.*—Information and Education Committee program.

Wednesday, March 21, 2001, 8 a.m. to 9 a.m.—the Large Pelagics Committee will meet

9 a.m. to 5 p.m.—Council will meet.

Thursday, March 22, 2001, 8 a.m. to 9 a.m.—the Executive Committee and Law Enforcement Committee will meet.

9 a.m. to 1 p.m.—Council will meet.

Agenda items for this meeting are: Review and discuss new bycatch reduction technologies; review recent NMFS actions and rules affecting Highly Migratory Species (HMS); review, discuss, and adopt Framework 2 management measures regarding extension of *Illex* moratorium, *Loligo* exemption in *Illex* fishery, real time management of *Loligo*, rule roll-over for mackerel; address preparation of an Environmental Impact Statement (EIS), or Supplemental Environmental Impact Statement (SEIS), to assess potential affects on the human environment owing to initiation of Amendment 13 to the Surfclam and Ocean Quahog Fishery

Management Plan (FMP), which deals with new surfclam overfishing definition, fishing gear impacts on essential fish habitat (EFH), multi-year quotas, reversal of the requirement of regulatory action to suspend the surfclam size limit, development of a vessel monitoring system; address preparation of an EIS, or SEIS, to assess potential effects on the human environment owing to initiation of Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass FMP, which deals with future commercial fishery management measures for black sea bass, and fishing gear impacts on EFH; the Executive Committee will review outcomes from the February Coordinating Council meeting, and review outcomes from NMFS meeting on National Environmental Policy Act (NEPA) requirements/responsibilities (potential EFH and EIS impacts); the Law Enforcement Committee will address means to better integrate and synchronize timing of law enforcement comments regarding proposed management actions and enforceability; the Council will hear organizational and committee reports including the New England Council's report where the Council may address possible actions on herring, groundfish, monkfish, red crab, scallops, skates, and whiting. Council may also address possible actions from the South Atlantic Council meeting on dolphin/wahoo; may discuss whiting management and possible impacts on the Mid-Atlantic Council fisheries; and may address and recommend a position regarding joint venture processing allocation for mackerel.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, these issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final actions to address such emergencies.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: March 1, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–5438 Filed 3–5–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030101A]

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of committee meetings.

SUMMARY: Two committees of the North Pacific Fishery Management Council (Council) will meet in Anchorage, AK.

DATES: The meeting will be held on March 20-23, 2001.

ADDRESSES: The meeting will be held at the Hilton Hotel, 500 W. Third Avenue, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council Staff, North Pacific Fishery Management Council; 907–271–2809.

SUPPLEMENTARY INFORMATION: The Council's Gulf of Alaska Rationalization Committee will meet beginning at 8 a.m. on Tuesday, March 20, and continue on Wednesday, March 21, until their agenda is completed. The Committee will continue discussions on the aspects of rationalizing the groundfish fisheries in the Gulf of Alaska, focusing on the following points:

1. Determine whether rationalization in the Gulf of Alaska is needed;
2. If so, for what species and/or areas;
3. Determine the need for analyses of the economic impacts of:
   a. individual fishing quotas;
   b. processor quotas;
   c. cooperatives; and/or
   d. community quotas.

The Council's Bering Sea/Aleutian Islands Crab Rationalization Committee will also meet at the hotel, beginning at 10 a.m. on Thursday, March 22, continuing through Friday, March 23. The Committee will continue their task of developing alternatives, elements, and options for rationalization of the Bering Sea/Aleutian Islands crab fisheries. Committee recommendations will be considered by the Council when tasking staff with an analysis for future crab management programs.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907-271-2809, at least 5 working days prior to the meeting date.

Dated: March 1, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–5437 Filed 3–5–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Procedures in Considering Requests Under the Textile and Apparel "Short Supply" Provisions of The African Growth and Opportunity Act and The United States-Caribbean Basin Trade Partnership Act

March 2, 2001.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Notice of Procedures.

SUMMARY: This notice sets forth the procedures the Committee for the Implementation of Textile Agreements (the Committee) will follow in implementing certain provisions of the Trade and Development Act of 2000 (the Act). Title I of the Act (the African Growth and Opportunity Act or the AGOA) and Title II of the Act (the United States-Caribbean Basin Trade Partnership Act or the CBTPA) provide for quota- and duty-free treatment for qualifying textile and apparel products from designated beneficiary countries. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. However, the AGOA and the CBTPA authorize quota- and duty-free treatment for apparel

articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, provided the President has determined that such yarns or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner and has proclaimed such treatment. The President has delegated to the Committee the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA and the CBTPA and has ordered the Committee to establish procedures to ensure appropriate public participation in any such determination. The Committee hereby notifies interested parties of the procedures it will follow in considering requests.

EFFECTIVE DATE: March 6, 2001.

FOR FURTHER INFORMATION CONTACT: Philip J. Martello, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 112(b)(5)(B) of the Act and Section 211 of the Act, amending Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act; Sections 1 and 6 of Executive Order No. 13191 of January 17, 2001.

Background

The AGOA and the CBTPA provide for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. In addition, the AGOA provides for preferential treatment for apparel articles wholly assembled in one or more lesser developed beneficiary sub-Saharan African countries regardless of the country of origin of the fabric used to make such articles. Both the AGOA and the CBTPA provide for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary countries, from fabric or yarn that is not formed in the United States or a beneficiary country, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabric or yarn, under the rules of origin for the North American Free Trade Agreement.

In addition, the AGOA and the CBTPA authorize quota- and duty-free treatment for apparel products assembled in a beneficiary country from yarn or fabric that cannot be supplied by the U.S. industry in commercial quantities in a timely manner. More specifically, the AGOA authorizes quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabric or yarn that is not formed in the United States or a beneficiary sub-Saharan African country, provided the President has determined that such yarns or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner and has proclaimed such treatment. (Section 112(b)(5)(B) of the Act). Similarly, the CBTPA authorizes quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more the CBTPA beneficiary countries from yarns or fabrics that are not formed in the United States or in one or more the CBTPA beneficiary countries, provided the President has determined that such yarns or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner and has proclaimed such treatment. (Section 211 of the Act, amending Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act).

Under these provisions (the Short Supply Provisions), interested parties may request that the President proclaim quota- and duty-free treatment for apparel articles assembled from a fabric or yarn that cannot be supplied by the domestic industry in commercial quantities in a timely manner. In order to proclaim such treatment, the Act requires the President to submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate within 60 calendar days of the request setting forth the proposed action to be proclaimed and the reasons for such actions. Moreover, within these 60 calendar days, the President must seek advice from the appropriate advisory committees and the U.S. International Trade Commission (USITC) and consult with the Congressional committees. The President may not proclaim quota- and duty-free treatment under the Short Supply Provisions until 60 calendar days after the report, including the advice obtained from the USITC and the appropriate advisory committees, has been submitted to the Congressional committees.

In Executive Order No. 13191, the President delegated to the Committee the authority under the Short Supply Provisions to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and ordered the Committee to establish procedures to ensure appropriate public participation in any such determination. The Committee and the United States Trade Representative (USTR) were jointly authorized to obtain advice from the appropriate advisory committees, to submit a report to the Congressional committees cited above, and to consult with those Congressional committees. The USTR was authorized to obtain advice from the USITC. The Committee intends to comply with the following procedures in carrying out this authority.

These agency procedures are not subject to the requirement to provide prior notice and opportunity for public comment, pursuant to 5 U.S.C. 553(b)(A).

Procedures for Considering Requests

The Committee will consider requests sent to Chairman, Committee for the Implementation of Textile Agreements, Room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230. The Committee will consider only requests that address a single yarn or single fabric. The term ''a single yarn or single fabric'' means a single product, which may be classified in more than one heading of the Harmonized Tariff Schedule of the United States or may be only part of a heading.

In considering requests, the Committee will consider of particular relevance the following information: (1) The requester's description of the yarn or fabric that is the subject of the request; (2) The basis for the requester's belief that the product cannot be supplied by the domestic industry in commercial quantities in a timely manner, which may include (if available) correspondence with manufacturers of the product that is the subject of the request, manufacturers of substitutable products, and/or manufacturers of similar products; (3) The basis for the requester's belief that other products that are supplied by the domestic industry in commercial quantities in a timely manner are not substitutable for the product that is the subject of the request for purposes of the intended use.

Within seven days of receipt of a request, the Committee will determine whether the request provides the information necessary for the Committee to consider the request in light of the considerations set forth above. If the request does not, the Committee will promptly notify the

requester of the reasons for this determination, and the request will not be considered. However, the Committee will reevaluate any request that is resubmitted with additional information.

If the Committee determines that the request provides the information necessary for the Committee to consider the request in light of the considerations set forth above, the Committee will cause to be published in the **Federal Register** a notice seeking public comments regarding the request, which will include a summary of the request and the date by which comments must be received. If a comment submitted alleges that the product can be supplied by a domestic manufacturer in commercial quantities in a timely manner, the Committee will closely review any supporting documentation, such as a signed statement by a manufacturer of the yarn or fabric stating that it produces the product that is the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

Prior to determining that a fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner, the Committee, working with the USTR, will seek advice from appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) and will consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and USTR will obtain the advice of the USITC.

With respect to any request considered by the Committee, the Committee will make a determination within 60 calendar days of receipt. If the Committee makes a negative determination, it will cause this determination and the reasons therefore to be published in the **Federal Register.** If the Committee makes an affirmative determination, it will submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the action proposed to be proclaimed, the reasons for such action, and the advice obtained. In the event the President proclaims that a fabric or yarn is eligible for preferential treatment under the Short Supply Provisions, the Proclamation will be published in the **Federal Register**.

Business Confidential Information, Public Reading Room

The Committee will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law.

As noted above, the Committee will cause to be published in the **Federal Register** a notice seeking public comments regarding a request that is being considered, a notice which will include a summary of the request. Moreover, the Committee will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, NW., Washington, DC 20230. Persons submitting a request or comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–5501 Filed 3–2–01; 12:17 pm]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in Guatemala

February 28, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: March 6, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

These specific limits and guaranteed access levels do not apply to goods that qualify for quota-free entry under the Trade and Development Act of 2000.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 75673, published on December 4, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 28, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 28, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the period which began on January 1, 2001 and extends through December 31, 2001.

Effective on March 6, 2001, you are directed to reduce the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
347/348	2,033,348 dozen.
443	70,212 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

These specific limits and guaranteed access levels do not apply to goods that qualify for quota-free entry under the Trade and Development Act of 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–5394 Filed 3–5–01; 8:45 am]

BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request.

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), 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. Sec. 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 requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed renewal of its AmeriCorps*NCCC Team Leader Application, OMB Control Number 3045–0005. This form is used to collect information that will be used by AmeriCorps*NCCC staff in the evaluation and selection of Team Leaders.

Copies of the information collection requests can be obtained by contacting the office listed in the address section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by May 7, 2001.

ADDRESSES: Comments may be sent to the Corporation for National and Community Service, Attention: Mr. Philip Shaw, AmeriCorps*National Civilian Community Corps, 1201 New York Ave., NW., 9th Floor, Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Philip Shaw, (202) 606–5000, ext. 476.

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the 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 expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses).

Background

The Team Leader Application form is completed by applicants who wish to serve as Team Leaders at AmeriCorps*NCCC regional campuses.

Current Action

The Corporation seeks to renew and revise the current form. When revised, the form will include discussion concerning an additional application consideration period and will be used for the same purpose and in the same manner as the existing form. The Corporation also seeks to continue using the current form until the revised form is approved by OMB. The current form is due to expire on September 30, 2001.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: AmeriCorps*NCCC Team Leader Application Form.

OMB Number: 3045–0005.

Agency Number: None.

Affected Public: Citizens of diverse ages and backgrounds who are committed to national service.

Total Respondents: 500.

Frequency: Bi-Annually.

Average Time Per Response: Two hours.

Estimated Total Burden Hours: 2,000 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

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

Dated: February 28, 2001.

Fred Peters,

*Acting Director, AmeriCorps*National Civilian Community Corps.*

[FR Doc. 01–5313 Filed 3–5–01; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection Submission to Office of Management and Budget for Review; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

The Corporation for National and Community Service (hereinafter the ''Corporation'') has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, (44 U.S.C. Chapter 35)). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation, Tracy Stone, Director, AmeriCorps Promise Fellows, (202) 606–5000, extension 173. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 565–2799 between 8:30 a.m. and 5:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: Brenda Aguilar, OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–6466, within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including 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.

Description

The AmeriCorps Promise Fellows program supports a leadership cadre of

AmeriCorps members spearheading community efforts to provide young people with five basic promises:

- Ongoing relationships with caring adults—parents, mentors, tutors or coaches;
- Safe places with structured activities during nonschool hours;
- Healthy start and future;
- Marketable skills through effective education; and
- Opportunities to give back through community service.

The 2001 AmeriCorps Promise Fellows Application Instructions provide the requirements, instructions and forms that eligible applicants need to complete an application to the Corporation for funding.

The Corporation seeks public comment on the forms, the instructions for the forms, and the instructions for the narrative portion of these application instructions.

Type of Review: New collection.

Agency: Corporation for National and Community Service.

Title: 2001 AmeriCorps Promise Fellows Application Instructions.

OMB Number: None.

Agency Number: None.

Affected Public: Governor-appointed state commissions on national and community service (State Commissions); nonprofit organizations proposing to sponsor AmeriCorps Promise Fellows in more than one state; Indian Tribes; and local government agencies, institutions of higher education, or public or private nonprofit organizations in states or U.S. territories that do not have a State Commission.

Total Respondents: 90.

Frequency: Once per year.

Average Time Per Response: 28 hours.

Estimated Total Burden Hours: 2,520 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Technical Assistance Call

The Corporation will host a conference call to provide technical assistance regarding the 2001 AmeriCorps Promise Fellows Application Instructions. The primary purpose of these calls is to offer technical assistance to interested applicants to the program. The call will occur on Wednesday, March 21, 2001, at 2 p.m. Eastern time. To register for this call, please contact Austin Holland at (202) 606–5000, extension 274 or *aholland@cns.gov* to receive the information you need to join the call.

Dated: February 28, 2001.

Tracy Stone,

Director, AmeriCorps Promise Fellows.

[FR Doc. 01–5312 Filed 3–5–01; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, Defense.

ACTION: Notice.

In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs/TRICARE Management Activity announces a proposed new public health information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed new 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and, (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received on or before May 1, 2001.

ADDRESSES: Written comments and recommendations on the information collection should be sent to the TRICARE Management Activity (Optimization & Integration), Attention: LTC Scott Goodrich, MC, USA, Deputy Director, Population Health Programs, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041–3206.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection, please write to the above address.

Title; Associated Form; and OMB Number: Health Evaluation Assessment Review (HEAR) Survey 2.X.

Needs and Uses: The objective of this work is to design and implement the HEAR 2.X. The HEAR is a tool that will help to define the health status of a population. The survey is a self-reported health assessment tool designed to provide information regarding: (1) An individual's health risk factors and preventive care needs. These are reported to both the individual and their primary care manager; (2) which individuals are likely to use high levels of medical resources; and, (3) risk factors, care levels, and healthcare utilization for use in strategic planning for population health management and resource utilization at the Office of the Assistant Secretary of Defense (Health Affairs), TRICARE Management Activity, Regional, Major Command, Military Treatment Facility, and provider level healthcare. In addition, the HEAR 2.X will provide information in support of Healthy People 2010 and other population health programs. These data will provide needed information to better plan, deliver, and evaluate health care provided in the Military Health System.

Affected Public: Individual households.

Annual Burden Hours: 703,427.71 hours.

Number of Respondents: 2,106,071.

Responses per Respondent: 1 each year.

Average Burden per Response: 20 Minutes (0.334).

Frequency: Once.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This request encompasses all activities required to develop and implement the HEAR 2.X survey. The HEAR is a unified approach to assess health and fitness for active duty and other DoD health care beneficiaries. The information is primarily used by health care personnel to plan health care delivery needs and to: (1) Identify patients requiring clinical preventive care (e.g., cholesterol screening, mammography, prostate exam, etc.); (2) target individuals who could benefit from counseling services associated with high risk behaviors (e.g., excessive alcohol consumption, smoking, drinking and driving, etc.); (3) categorize patients into one of three primary care levels according to the complexity and intensity of care required; (4) predict which patients will be high users of health care resources; (5) empower individuals to take responsibility for their own health; and, (6) assess the health status of the population so patients, providers, resource managers, commanders, and health planners at all levels can work towards improving health and managing care.

Dated: February 27, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–5382 Filed 3–5–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Interactive Customer Evaluation System (ICE); OMB Number 0704–[To Be Determined].

Type of Request: New Collection.

Number of Respondents: 2,880.

Responses Per Respondent: 1.

Annual Responses: 2,880.

Average Burden Per Response: 3 minutes.

Annual Burden Hours: 144.

Needs and Uses: Members of the public who respond to this interactive customer evaluation system are authorized customers and have been provided a service through DoD customer service organizations. They have the opportunity to give automated feedback to the service provider on the quality of their experience and their satisfaction level. Customers also have the opportunity to provide any comments that might be beneficial in improving the process and in turn service to the customer. This is a management tool for improving customer services.

Affected Public: Individuals or Households; Business or Other For-Profit.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing. Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: February 27, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–5383 Filed 3–5–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Form, and OMB Number: Request for Information Regarding Deceased Debtor; DD Form 2840; OMB Number 0730–[To Be Determined].

Type of Request: New Collection.

Number of Respondents: 10,000.

Responses per Respondent: 1.

Annual Responses: 10,000.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 833.

Needs and Uses: Defense Finance and Accounting Service maintains updated debt accounts and initiates debt collection action for separated military members, out-of-service civilian employees, and other individuals not on an active federal government payroll system. When notice is received that an individual debtor is deceased, an effort is made to ascertain whether the decedent left an estate by contacting clerks of probate courts. If it is determined that an estate was established, attempts are made to collect the debt from the estate. If no estate appears to have been established, the debt is written off as uncollectable. This form is used to obtain information on deceased debtors from probate courts.

Affected Public: Individuals or Households; State, Local or Tribal Government.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing. Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: February 27, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–5384 Filed 3–5–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Forms, and OMB Number: Dependency Statement—Parent, Child Born Out of Wedlock, Incapacitated Child Over Age 21, Full Time Student 21–22 Years of Age, and Ward of a Court; DD Forms 137–3, 137–4, 137–5, 137–6, 137–7; OMB Number 0730–[To Be Determined].

Type of Request: New Collection.

Number of Respondents: 19,440.

Responses per Respondent: 1.

Annual Responses: 19,440.

Average Burden per Response: 1.25 hours.

Annual Burden Hours: 24,300.

Needs and Uses: The information collection requirement is necessary to certify dependency or obtain informaton to determine entitlement to basic allowance for housing (BAH) with dependent rate, travel allowance, or Uniformed Services Identification and Privilege Card. Information regarding a parent, a child born out-of-wedlock, an incapacitated child over age 21, a student 21–22, or a ward of a court is provided by the military member or by another individual who may be a member of the public. Pursuant to 37 U.S.C. 401, 403, 406, and 10 U.S.C. 1072 and 1076, the member must provide at least one-half of the claimed child's monthly expenses. DoDFMR 7000.14, Vol. 7A, defines dependency and directs that dependency be proven. Dependency claim examiners use the information from these forms to determine the degree of benefits. The requirement to provide the information decreases the possibility of monetary allowances being approved on behalf of ineligible dependents.

Affected Public: Individuals or Households.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing. Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: February 27, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–5385 Filed 3–5–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Form Number, and OMB Number: Application for Establishment of Air Force Junior ROTC Unit; AFOATS Form 59; OMB Number 0701–0114.

Type of Request: Extension.

Number of Respondents: 40.

Responses per Respondent: 1.

Annual Responses: 40.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 20.

Needs and Uses: The information collection requirement is necessary to obtain information about schools that would like to host an Air Force Junior ROTC unit. Respondents are high school officials who provide information about their school. The completed form is used to determine the eligibility of the school to host an Air Force JROTC unit.

Affected Public: Not-For-Profit Institutions; State, Local or Tribal Government.

Frequency: On Occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing. Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: February 27, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–5386 Filed 3–5–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Federal Advisory Committee for the End-to-End Review of the U.S. Nuclear Command and Control System (NCCS)

ACTION: Notice of establishment.

SUMMARY: The NCCS End-to-End Review is being established in consonance with the public interest and in accordance with the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act,'' Title 5 U.S.C., Appendix 2. This advisory committee will provide advice and recommendations to the Secretary of Defense, in his role and the President's NCCS Executive Agent, regarding the full range of U.S. Nuclear Command and Control System (NCCS) policies, responsibilities, functions, management structures and capabilities to meet National and Departmental/Agency policy and guidance. It will identify opportunities to enhance system effectiveness and efficiency, identify emerging issues for consideration or action, and will recommend cost-effective changes to the system where warranted. The End-to-End Review Federal Advisory Committee will consist of a balanced membership of approximately four senior members from the private sector, appointed by the Secretary of Defense, and two senior members currently serving in governmental positions.

FOR FURTHER INFORMATION CONTACT: Contact William L. Jones, U.S. Nuclear Command and Control System Support Staff, 703–681–8681.

Dated: February 28, 2001.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–5388 Filed 3–5–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Education Activity (DoDEA); Overseas Dependents' Schools National Advisory Panel (NAP) on the Education of Dependents With Disabilities.

ACTION: Notice.

SUMMARY: Pursuant to Public Law 92–463, as amended (5 U.S.C. app. 2 § 10), the Federal Advisory Committee Act, notice is hereby given that a meeting of the Overseas Dependents' School National Advisory Panel (NAP) on the Education of Dependents with Disabilities is scheduled to be held from 8 a.m. to 3 p.m. on May 8–10, 2001. The meeting is open to the public and will be held at the Department of Defense Education Activity, 4040 North Fairfax Drive, Arlington, VA 22203. The purpose of the meeting is to: (1) Review the response to the NAP's recommendations from its April 2000 meeting; (2) review and comment on data and information provided by the Department of Defense Education Activity; and (3) review and comment on a subcommittee report on special education services for secondary level students with disabilities. Persons desiring to attend the meeting or desiring to make oral presentations or submit written statement for consideration by the panel must contact Ms. Diana Patton by April 30, 2001, at (703) 696–4492, extension 1947 or at her email address, *dpatton@hq.odedodea.edu.*

Dated: February 28, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 01–5387 Filed 3–3–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board (DSB) Task Force on E-Commerce will

meet in closed session on March 28, 2001; April 25–26, 2001; May 1–2, 2001; June 5–6, 2001; June 26–27, 2001; and July 24–25, 2001, at SAIC, Inc., 4001 N. Fairfax Drive, Arlington, VA. This Task Force will review the DoD's current implementation status of a e-commerce tools and make any appropriate recommendations that might enhance opportunities for cost reduction, capital and manpower efficiency.

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 review and evaluate the Department's new procurement approaches and its current implementation status in light of the fact that the Department has one of the largest acquisition systems in the world for both goods and services.

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)(4), and that accordingly these meetings will be closed to the public.

Dated: February 28, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–5389 Filed 3–5–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 7, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 28, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Report of Infants and Toddlers Receiving Early Intervention Services and of Program Settings Where Services are Provided in Accordance with Part C, and Report on Infants and Toddlers Exiting Part C.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 57; Burden Hours: 5,472.

Abstract: This package provides instructions and forms necessary for States to report, by race and ethnicity, the number of infants and toddlers with disabilities who: (a) Are served under the Individuals with Disibilities Education Act (IDEA), Part C; (b) are served in different program settings; and (c) exit Part C because of program completion and for other reasons. Data are obtained from state and local service agencies and are used to assess and monitor the implementation of IDEA and for Congressional reporting.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address Sheila_Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–5363 Filed 3–5–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 7, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed

information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 28, 2001.

John Tressler,

Leader,Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Report of Children with Disabilities Unilaterally Removed or Suspended/Expelled for More Than 10 Days.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 58; Burden Hours: 149,350.

Abstract: This package provides instructions and a form for States to report the number of children and youth and the number of acts involving students served under the Individuals with Disabilities Education Act (IDEA) involving a unilateral removal by school personnel or long-term suspension/expulsion. The form satisfies reporting requirements and is used by the Office of Special Education Programs (OSEP) to monitor State Educational Agencies (SEAs) and for Congressional reporting.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address Sheila_Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–5364 Filed 3–5–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 7, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 28, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Part B, Individuals with Disabilities Education Act (IDEA) Implementation of FAPE Requirements.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 58; Burden Hours: 272,890.

Abstract: This package provides instructions and forms necessary for States to report the settings in which children with disabilities served under IDEAN/–B receive special education and related services. The form satisfies reporting requirements and is used by the Office of Special Education Programs (OSEP) to monitor State Educational Agencies (SEAs) and for Congressional reporting.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address Sheila_Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–5365 Filed 3–5–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 7, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 28, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Report of Children with Disabilities Receiving Special Education under Part B of the Individuals with Disabilities Education Act (IDEA).

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 58; Burden Hours: 30,682.

Abstract: This package provides instructions and a form necessary for States to report the number of children with disabilities served under IDEA-B that receive special education and related services. It serves as the basis for distributing federal assistance, monitoring, implementing, and Congressional reporting.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address Sheila_Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–5366 Filed 3–5–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 7, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 28, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Personnel Employed to Provide Special Education and Related Services for Children with Disabilities.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 58; Burden Hours: 107,590.

Abstract: This package provides instructions and a form necessary for States to report Personnel serving

children with disabilities served under the Individuals with Disabilities Education Act, Part B (IDEA–B). This form satisfies reporting requirements and is used by the Office of Special Education Programs (OSEP) for monitoring, implementing IDEA, and Congressional reporting.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address Sheila__Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–5367 Filed 3–5–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 7, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 28, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Report of Early Intervention Services on an Individualized Family Service Plan (IFSPs) Provided to Infants, Toddlers and Their Families in Accordance with Part C and Report of Number and Type of Personnel Employed and Contracted to Provide Early Intervention Services.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary).

Reporting and Recordkeeping Hour Burden: Responses: 57; Burden Hours: 5,187.

Abstract: This package provides instructions and forms necessary for States to report, by race and ethnicity, the number of infants and toddlers with disabilities and their families receiving different types of Part C services, and the number of personnel employed and contracted to provide services for infants and toddlers with disabilities and their families. Data are obtained from state and local service agencies and are used to assess and monitor the implementation of the Individuals with Disabilities Education Act (IDEA) and for Congressional reporting.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address Sheila__Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–5368 Filed 3–5–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 7, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and

proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 28, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Report of Children with Disabilities Exiting Special Education During the School Year.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 58; Burden Hours: 53,244.

Abstract: This package provides instructions and a form necessary for States to report the number of students aged 14 and older served under the Individuals with Disabilities Education Act, Part B (IDEA–B) exiting special education. The form satisfies reporting requirements and is used by the Office of Special Education Programs (OSEP) to monitor State Educational Agencies (SEAs) and for Congressional reporting.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address Sheila_Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–5369 Filed 3–5–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Acting Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by March 5, 2001. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before May 7, 2001.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: March 1, 2001.

Joe Schubart,

Acting Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Revision.

Title: Joint Special Leveraging Educational Assistance Partnership (SLEAP) and Leveraging Educational Assistance and Partnership (LEAP) Formulas Grant Application Collection.

Abstract: The LEAP and SLEAP programs use matching Federal and State funds to provide a nationwide system of grants to assist postsecondary educational students with substantial financial need. On this application the states provide information the Department requires to obligate funds and for program management. The signed assurances legally bind the states to administer the programs according to regulatory and statutory requirements. With the clearance of this collection, the Department is seeking to automate the application for web-based applying for both the LEAP Program and the subprogram, SLEAP. There are no significant changes to the current LEAP form data elements. There are, however, some additional items pertaining to the SLEAP Program which combines the application into one form for both programs.

Additional Information: Because of the recent changes (December, 2000) to the law, the time schedule of having to

go live with the information collection early enough for states to apply for funding and the awarding of funds to states by July 1, 2001, the Department is requesting emergency approval.

Frequency: Annually

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs

Reporting and Recordkeeping Hour Burden

Responses: 56.

Burden Hours: 112.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov, or should be faxed to 202–708–9346.

Comments regarding burden and/or the collection activity requirements, contact Joseph Schubart at (202) 708–9266 or his internet address Joe_Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–5430 Filed 3–5–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory

Notice of Intent To Issue a Financial Assistance Solicitation (PS)

AGENCY: National Energy Technology Laboratory (NETL), Department of Energy (DOE).

ACTION: Notice of Intent to Issue a Financial Assistance Solicitation (PS).

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Solicitation No. DE–PS26–01NT40868 entitled ''Gas Storage Program Solicitation.'' The general goal of this research and development effort is to support further development of the innovative gas storage concepts that are required to meet the needs of the natural gas industry and end-use customers of the U.S. through the year 2015. The Gas Storage Program's ''Advanced Storage Concepts (ASC)'' projects have been exploring alternatives to service the need for new storage development and expansion in close proximity to areas of growing residential natural gas use and existing and planned industrial and power generation facilities without conventional storage options.

DATES: The solicitation will be available on the DOE/NETL's Internet address at *http://www.netl.doe.gov/business* on or about March 16, 2001. Based on the information contained herein, prospective Applicants are encouraged to begin defining their requirements and potential teaming arrangements prior to release of the solicitation.

FOR FURTHER INFORMATION CONTACT: Kelly A. McDonald, Contract Specialist, MS I07, U.S. Department of Energy, National Energy Technology Laboratory, 3610 Collins Ferry Road, P.O. Box 880, Morgantown, WV 26507–0880, E-mail Address: *kelly.mcdonald@netl.doe.gov*, Telephone Number: (304) 285–4113.

SUPPLEMENTAL INFORMATION: It is anticipated that this action will consist of a single solicitation with three (3) multiple needs areas that specifically address: (1) Proof-of-concept studies or demonstrations aimed at establishing the potential for full-scale field deployment and commercialization of previously developed technologies such as Lined Rock Cavern, Refrigerated-Mined Rock Cavern, Gas Storage as Hydrates, or Gas Storage in Basalt (a CD–ROM publication titled ''Advanced Gas Storage Concepts: Technologies for the Future,'' which contains the final reports of the Lined Rock Cavern, Refrigerated-Mined Rock Cavern, and Gas Storage as Hydrates concepts, is available through the CD–ROM Ordering System at the NETL website *http://www.netl.doe.gov/publications*); (2) development of new ideas for innovative storage alternatives; or (3) development of technological innovations in salt brine disposal to overcome the dominant barrier to developing salt cavern storage in areas remote to ocean disposal. Proposed approaches are anticipated that will include teaming arrangements and can encompass any combination of theory, laboratory validation of concepts, field validation of concepts, proof-of-concept demonstration, or commercial technology demonstration. The overall goal of this solicitation shall be to work toward a demonstration of the storage concept at a commercially scalable size. It is anticipated that the work performed under this action will consist of three (3) phases similar to the following:

Phase I—Concept Definition and Research, Development and Testing (RD&T) Planning;

Phase II—Research, Development and Testing; and,

Phase III—Preliminary Engineering Design of the Storage Technology.

The maximum period of performance for all three (3) phases is estimated at forty-eight (48) months. The goal of this procurement is to encourage private sector firms to proceed with detailed engineering design and obtain private sector funding for the construction and operation of an advanced natural gas storage technology. It is recognized that each Applicant may propose varying scopes of effort for one or more of the three (3) phases, and consequently, an Applicant is not required to perform all Phase I activities if significant work on Phase I type activities has previously been completed. If the Applicant proposes to initially proceed to Phase II or III efforts, information must be included in their application which demonstrates the merit of the previous research and reference to the results. For successful Applicants proposing to Phase II or III, the cost of work performed by the Recipient to satisfy the Phase I or II requirements prior to the execution of the resulting agreement will not be considered when calculating cost-share. Due to the nature and objective of this solicitation, it is anticipated that a mixture of proposals will be accepted with staggered beginning dates, and it is therefore anticipated that any Applicant selected for award shall proceed on it's own schedule, independent of any other application. The schedule will be based on the best estimate of the time it will take the team to complete the three (3)-phase effort, address the objective of the advanced natural gas storage program, and meet the government's target date for completion of the Preliminary Engineering Design.

DOE anticipates multiple cooperative agreement awards under each area of interest resulting from this solicitation, and no fee or profit will be paid to a Recipient or Subrecipient under the awards. This particular program is covered by section 3001 and 3002 of the Energy Policy Act (EPAct), 42 U.S.C. 13542 for financial assistance awards. EPAct 3002 requires a cost-share commitment of at least twenty (20) percent from non-Federal sources for research and development projects and at least fifty (50) percent for demonstration and commercial projects. Depending on the phase and maturation stage of the agreement, cost-share expectations will range from 20 to 50 percent. The particular program is also covered by section 2306 of EPAct, 42 U.S.C. 13525 for financial assistance awards. In order for a company to be eligible for an award under this solicitation, the Applicant must be a United States-owned company. If the Applicant is not a United States-owned company, it must be incorporated or organized in a foreign country that

affords treatment to United States-owned companies that is comparable to treatment the United States affords foreign-owned companies. This eligibility requirement also applies to all companies participating in any joint venture, ''team'' arrangement, or as a major subcontractor. The solicitation will contain as part of the application package the applicable EPAct representation form(s). At current planning levels, and subject to the availability of funds, DOE expects to provide up to approximately $4,000,000 to support work under this solicitation. Applications which include performance of Federal agencies and agents (i.e. Management and Operations (M&O) contractors and/or National Laboratories) as a subcontractor will be acceptable under this solicitation if the proposed use of any such entities is specifically authorized by the executive Federal agency managing the M&O or National Laboratory, and the work is not otherwise available from the private sector. Such work, if approved, would be accomplished through a direct transfer of funding from the NETL to the M&O contractor and/or National Laboratory. Even though participation of an M&O and/or National Laboratory may be appropriate, their participation cannot exceed fifty (50) percent of the Applicant's total estimated project cost.

Telephone requests, written requests, E-mail requests, or facsimile requests for a copy of the solicitation package will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. The actual solicitation document will allow for requests for explanation and/or interpretation.

Issued in Morgantown, WV, on February 20, 2001.

Randolph L. Kesling,

Director, Acquisition and Assistance Division.

[FR Doc. 01–5433 Filed 3–5–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: proposed collection; comment request.

SUMMARY: The EIA is soliciting comments on the proposed three-year extension to the Form EIA–63A, ''Annual Solar Thermal Collector Manufacturers Survey,'' and EIA–63 B, ''Annual Photovoltaic Module/Cell Manufacturers Survey.''

DATES: Comments must be filed on or before May 7, 2001. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to James Holihan, Energy Information Administration, EIA–52, Renewable Energy Branch, Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0650, telephone (202) 287–1735; e-mail *jholihan@eia.doe.gov;* FAX (202) 287–1946. Alternatively, Fred Mayes may be contacted by telephone at (202) 287–1750; FAX at (202) 287–1946, or e-mail at fred.mayes@eia.doe.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of any forms and instructions should be directed to James Holihan at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. No. 93–275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Pub. L. No. 95–91, 42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) of the collections under section 3507(a) of the Paperwork Reduction Act of 1995.

The forms currently are used to gather information on the supply and distribution of solar thermal collectors, photovoltaic cells, and photovoltaic modules. Specifically, the forms collect information on manufacturing, imports, exports, and shipments. The EIA has been collecting this information annually and proposes to continue the surveys. The data collected will be published in the Renewable Energy Annual and will also be available through EIA's Internet site at *http://www.eia.doe.gov/fuelrenewable.html*.

II. Current Actions

The EIA will request a three-year extension through August 31, 2004 to continue using Forms EIA–63A and EIA–63B. No substantive modifications to the currently approved forms will be proposed unless substantive suggestions are received and approved.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments. (If the notice covers more than one form, add ''Please indicate to which form(s) your comments apply.'')

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent to the Request for Information

A. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

B. Can the information be submitted by the due date?

C. Public reporting burden for this collection is estimated to average 3 hours per response. The estimated burden includes the total time necessary to provide the requested information. In your opinion, how accurate is this estimate?

D. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur any start-up costs for reporting, or any recurring

annual costs for operation, maintenance, and purchase of services associated with the information collection?

E. What additional actions could be taken to minimize the burden of this collection of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

F. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential User of the Information to be Collected

A. Is the information useful at the levels of detail to be collected?

B. For what purpose(s) would the information be used? Be specific.

C. Are there alternate sources for the information and are they useful? If so, what are their weaknesses and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC, February 26, 2001.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 01–5432 Filed 3–5–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–747–000 and ER01–747–001]

Attala Generating Company, L.L.C.; Notice of Issuance of Order

February 28, 2001.

Attala Generating Company, L.L.C. (Attala) submitted for filing a rate schedule under which Attala will engage in wholesale electric power and energy transactions at market-based rates. In its application, Attala also requested waiver of various Commission regulations. In particular, Attala requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Attala.

On February 15, 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 Attala 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, Attala 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 Attala's issuances 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 19, 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. 01–5338 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP94–2–010]

Columbia Gas Transmission Corporation; Notice of Refund Report

February 28, 2001.

Take notice that on February 19, 2001, Columbia Gas Transmission Corporation (Columbia) tendered for filing with the Federal Energy Regulatory Commission (Commission) its Refund Report made to comply with the April 17, 1995 Settlement (Settlement) in Docket No. GP94–02, et al. as approved by the Commission on June 15, 1995 (Columbia Gas Transmission Corp., 71 FERC ¶ 61,337 (1995)).

On January 22, 2001 Columbia states that it made refunds, as billing credits and with checks, in the amount of $308,341.85. The refunds represent deferred tax refunds received from Trailblazer Pipeline Company and Overthrust Pipeline Company. These refunds were made pursuant to Article VIII, Section E of the Settlement using the allocation percentages shown on Appendix G, Schedule 5 of the Settlement. The refunds include interest at the FERC rate, in accordance with the Code of Federal Regulations, Subpart F, Section 154.501(d).

Columbia states that copies of its filing have been mailed to all affected customers and state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before March 9, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission, and are available for public inspection in the Public Reference Room. This filing may be viewed on the web 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. 01–5341 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–039]

Columbia Gas Transmission Corporation; Notice of Filing of Refund Report

February 28, 2001.

Take notice that on February 20, 2001, Columbia Gas Transmission Corporation Columbia) filed a refund report in the above referenced docket, pursuant to

Section 154.501(e) of the Federal Regulatory Commission's (Commission) regulations.

Columbia states that it made a filing on December 15, 2000, pursuant to a settlement approved by the Commission in Docket no. RP95–408 (79 FERC ¶61,044), to share gains from the sale of certain gathering and products extraction facilities. The Commission approved the filing on January 31, 2001. Columbia states that the instant filing shows that Columbia made the refund, including interest through the date of refund, which was January 22, 2001.

Columbia states that copies of its filing have been mailed to all affected customers and state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before March 9, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web 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. 01–5354 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT00–34–003]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

February 28, 2001.

Take notice that on February 14, 2001, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheet listed below to become effective January 1, 2001. DIGP states that the reason for this filing is to correct a typographical error in four of the negotiated rates.

Substitute Fourth Revised Sheet No. 9

DIGP states that a copies of this filing are being served on its customers and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web 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. 01–5342 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–021]

Dominion Transmission, Inc.; Notice of Compliance Filing

February 28, 2001.

Take notice that on February 23, 2001, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Second Revised Sheet No. 1404, with an effective date of November 1, 2000.

DTI states that the filing is being made to comply with the Commission's January 24, 2001, Letter Order in the Docket No. RP96–383–016.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protest must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission, and are available for public inspection in the Public Reference Room. This filing may be viewed on the web 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. 01–5355 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–022]

Dominion Transmission, Inc.; Notice of Compliance Filing

February 28, 2001.

Take notice that on February 23, 2001, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute First Revised Sheet No. 1406, with an effective date of November 1, 2000.

DTI states that the tariff sheet is being made to comply with the Commission's January 24, 2001, Letter Order in Docket No. RP96–383–017.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protest must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web 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. 01–5356 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–845–000]

FirstEnergy Generation Corporation; Notice of Issuance of Order

February 28, 2001.

On December 28, 2000, FirstEnergy Generation Corporation, (hereafter ''GENCO'', a recently formed subsidiary of FirstEnergy Services Corporation) filed with the Commission an application seeking the authority to sell energy and capacity at market-based rates. In its filing, GENCO also requested certain waivers and authorizations. In particular, GENCO requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liabilities by GENCO. On February 22, 2001, the Commission issued an Order Accepting For Filing Market-Based Rate Tariff And Granting Waivers And Blanket Authorizations (Order), in the above-docketed proceeding.

The Commission's February 22, 2001 Order granted the request for blanket approval under part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days of the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by GENCO 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.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, GENCO is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of GENCO, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of GNECO's issuances of securities or assumptions of liabilities. * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is March 26, 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. 01–5336 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–234–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

February 28, 2001.

Take notice that on February 22, 2001, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1 the following tariff sheets, effective April 1, 2001:

Forty-Sixth Revised Sheet No. 8A
Thirty-Eighth Revised Sheet No. 8A.01
Thirty-Eighth Revised Sheet No. 8A.02
Forty-Second Revised Sheet No. 8B
Thirty-Fifth Revised Sheet No. 8B.01

FGT states that the tariff sheets listed above are being filed pursuant to Section 27 of the General Terms and Conditions (GTC) of FGT's Tariff which provides for the recovery by FGT of gas used in the operation of its system and gas lost from the system or otherwise unaccounted for. The fuel reimbursement charges pursuant to Section 27 consist of the Fuel Reimbursement Charge Percentage (FRCP), designed to recover current fuel usage on an in-kind basis, and the Unit Fuel Surcharge (UFS), designed to recover or refund previous under or overcollections on a cash basis. Both the FRCP and the UFSs are applicable to Market Area deliveries and are effective for seasonal periods, changing effective each April 1 (for the Summer Period) and each October 1 (for the Winter Period).

FGT states that it is filing herein to establish an FRCP of 2.90% to become effective April 1, 2001 based on the actual company fuel use, lost and unaccounted for volumes and Market Area deliveries for the period from April 1, 2000 through September 30, 2000. The proposed FRCP of 2.90%, to become effective April 1, 2001, is an increase of 0.65% from the currently effective FRCP of 2.25%. In addition, FGT states that it is filing to establish a Unit Fuel Surcharge (UFS) of ($0.0056), a decrease of $0.0127 from the currently effective UFS of $0.0071.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web 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. 01–5360 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–838–000]

FPL Energy Vanscycle, L.L.C.; Notice of Issuance of Order

February 28, 2001.

FPL Energy Vanscycle, L.L.C. (FPL Vanscycle) submitted for filing a rate schedule under which FPL Vanscycle will engage in wholesale electric power and energy transactions at market-based rates. In its application, FPL Vanscycle also requested waiver of various Commission regulations. In particular, FPL Vanscycle requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by FPL Vanscycle.

On February 15, 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 FPL Vanscycle 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, FPL Vanscycle 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 FPL Vanscycle's issuances 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 19, 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. 01–5337 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–68–000]

Georgia Power Company, Southern Power Company; Notice of Filing

February 28, 2001.

Take notice that on February 20, 2001, Georgia Power Company and Southern Power Company jointly filed certain errata to their February 12, 2001, ''Application for Approval of the Disposition of Jurisdictional Facilities Under section 203 of the Federal Power Act,'' in the above-referenced docket, in the form of corrected pages to the filing, as well as redlined pages showing the changes made.

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 9, 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. 01–5340 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–67–000]

Indiana Michigan Power Company; Notice of Filing

February 28, 2001.

Take notice that on February 22, 2001, Indiana Michigan Power Company (I&M), a wholly-owned subsidiary of American Electric Power, Inc., a public utility holding company filed with the Federal Energy Regulatory Commission a supplement to its application filed on February 12, 2001 pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities to Wabash Valley Power Association (WVPA). I&M has agreed to sell to WVPA for $550,000 approximately 15 miles of 34.5 kV transmission lines used to deliver power primarily to WVPA member Midwest Energy Cooperative (formerly Fruit Belt Electric Cooperative).

Copies of I&M's filing were served upon WVPA and the public service commissions of Indiana and Michigan.

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 9, 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. 01–5339 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3090]

Village of Lyndonville Electric Department; Notice of Authorization for Continued Project Operation

February 28, 2001.

On January 27, 1999, the Village of Lyndonville Electric Department, licensee for the Vail Project No. 3090, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 3090 is located on the Passumpsic River in Caledonia County, Vermont.

The license for Project No. 3090 was issued for a period ending January 31, 2001. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 3090 is issued to the Village of Lyndonville Electric Department for a period effective February 1, 2001, through January 31, 2002, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before February 1, 2002, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to Section 15 of the FPA, notice is hereby given that the Village of Lyndonville Electric Department is authorized to continue operation of the Vail Project No. 3090 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Secretary.

[FR Doc. 01–5352 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP94–367–012]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

February 28, 2001.

Take notice that on February 22, 2001, National Fuel Gas Supply Corporation (National) tendered for filing to be part of its FERC Gas Tariff, Fourth Revised Volume No. 1, to comply with the Letter Order issued by the Federal Energy Regulatory Commission (Commission) on February 7, 2001. Pursuant to the Letter Order the revised rates are to be effective on April 1, 2001.

National states that the revised tariff sheets reflect updates to the pro forma sheets National filed on September 29, 2000, at Docket No. RP94–367–011 which establish its unbundled gathering rates.

National states that copies of this filing were served upon its current customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web 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. 01–5353 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2901]

Nekoosa Packaging Corporation; Notice of Authorization for Continued Project Operation

February 28, 2001.

On December 29, 1998, Nekoosa Packaging Corporation, licensee for the Holcomb Rock Project No. 2901, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2901 is located on the James River in Amherst and Bedford Counties, Virginia.

The license for Project No. 2901 was issued for a period ending January 31, 2001. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2901 is issued to Nekoosa Packaging Corporation for a period effective

February 1, 2001, through January 31, 2002, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before February 1, 2002, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Nekoosa Packaging Corporation is authorized to continue operation of the Holcomb Rock Project No. 2901 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Secretary.

[FR Doc. 01–5347 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2060]

Niagara Mohawk Power Corporation; Notice of Authorization for Continued Project Operation

February 28, 2001.

On January 28, 1999, Niagara Mohawk Power Corporation, licensee for the Carry Falls Project No. 2060, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2060 is located on the Raquette River in St. Lawrence County, New York.

The license for Project No. 2060 was issued for a period ending January 31, 2001. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2060 is issued to Niagara Mohawk Power Corporation for a period effective February 1, 2001, through January 31, 2002, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before February 1, 2002, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Niagara Mohawk Power Corporation is authorized to continue operation of the Carry Falls Project No. 2060 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Secretary.

[FR Doc. 01–5345 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–7–001]

Overthrust Pipeline Company; Notice of Tariff Filing

February 28, 2001.

Take notice that on February 20, 2001, Overthrust Pipeline Company (Overthrust) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Third Revised Sheet No. 56, to be effective February 12, 2001.

Overthrust stated that the purpose of this filing was to comply with the Commission's February 12, 2001, order in Docket No. GT01–7–000, wherein the Commission approved certain tariff sheets and rejected Sheet No. 56 without prejudice to Overthrust filing a correctly paginated version. Therefore, Overthrust has modified the pagination of Sheet No. 56.

Overthrust states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah, and the Public Service Commission of Wyoming.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web 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. 01–5343 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2897]

S. D. Warren Company; Notice of Authorization for Continued Project Operation

February 28, 2001.

On January 22, 1999, S. D. Warren Company, licensee for the Saccarappa Project No. 2897, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2897 is located on the Presumpscot River in Cumberland County, Maine.

The license for Project No. 2897 was issued for a period ending January 26, 2001. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the

prior license until a new license is issued, or the project is otherwise disposed of as provided section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the mirror or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2897 is issued to S. D. Warren Company for a period effective January 27, 2001, through January 26, 2002, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before January 27, 2002, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that S. D. Warren Company is authorized to continue operation of the Saccarappa Project No. 2897 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Secretary.

[FR Doc. 01–5346 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2931]

S.D. Warren Company; Notice of Authorization for Continued Project Operation

February 28, 2001.

On January 22, 1999, S.D. Warren Company, licensee for the Gambo Project No. 2931, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2931 is located on the Presumpscot River in Cumberland County, Maine.

The license for Project No. 2931 was issued for a period ending January 26, 2001. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2931 is issued to S.D. Warren Company for a period effective January 27, 2001, through January 26, 2002, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before January 27, 2002, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(12) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to seciton 15 of the FPA, notice is hereby given that S.D. Warren Company is authorized to continue operation of the Gambo Project No. 2931 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Secretary.

[FR Doc. 01–5348 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2941]

S.D. Warren Company; Notice of Authorization for Continued Project Operation

February 28, 2001.

On January 22, 1999, S.D. Warren Company, licensee for the Little Falls Project No. 2941, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2941 is located on the Presumpscot River in Cumberland County, Maine.

The license for Project No. 2941 was issued for a period ending January 26, 2001. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2941 is issued to S.D. Warren Company for a period effective January 27, 2001, through January 26, 2002, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before January 27, 2002, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the

Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that S.D. Warren Company is authorized to continue operation of the Little Falls Project No. 2941 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Secretary.

[FR Doc. 01–5350 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2942]

S.D. Warren Company; Notice of Authorization for Continued Project Operation

February 28, 2001.

On January 22, 1999, S.D. Warren Company, licensee for the Dundee Project No. 2942, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2942 is located on the Presumpscot River in Cumberland County, Maine.

The license for Project No. 2942 was issued for a period ending January 26, 2001. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2942 is issued to S. D. Warren Company for a period effective January 27, 2001, through January 26, 2002, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before January 27, 2002, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that S. D. Warren Company is authorized to continue operation of the Dundee Project No. 2942 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Secretary.

[FR Doc. 01–5351 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2932]

S. D. Warren Company; Notice of Authorization for Continued Project Operation

February 28, 2001.

On January 22, 1999, S. D. Warren Company, licensee for the Mallison Falls Project No. 2932, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2932 is located on the Presumpscot River in Cumberland County, Maine.

The license for Project No. 2932 was issued for a period ending January 26, 2001. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions and of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to Section 15 of the FPA, notice is hereby given that an annual license for Project No. 2932 is issued to S. D. Warren Company for a period effective January 27, 2001, through January 26, 2002, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before January 27, 2002, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that S. D. Warren Company is authorized to continue operation of the Mallison Falls Project No. 2932 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Secretary.

[FR Doc. 01–5349 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–205–001]

Southern Natural Gas Company; Notice of Tariff Filing

February 28, 2001.

Take notice that on February 23, 2001, Southern Natural Gas Company (Southern), tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets, with an effective date of February 1, 2001:

Fourth Revised Sheet No. 23
Third Revised Sheet No. 24
Third Revised Sheet No. 25
Substitute Third Revised Sheet No. 208

Southern states that the purpose of the filing is to clarify that Southern may file either the negotiated rate contract or a tariff sheet with the contract information and negotiated rate formula or rate and to provide an explanation of Southern's proposal regarding the prevention of cost-shifting from negotiated rate shippers to recourse rate shippers both in compliance with the Commission's order dated January 24, 2001 in Docket No. RP01–205.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web 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. 01–5359 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–71–026]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

February 28, 2001.

Take notice that on February 16, 2001 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed below with a proposed effective date of February 1, 2001:

Substitute Eleventh Revised Sheet No. 42
Substitute Ninth Revised Sheet No. 46
Fifth Revised Sheet No. 171

Transco states that the purpose of the instant filing is to supplement Transco's compliance filing in Docket Nos. RP97–71–021 & RP97–71–020 of February 1, 2001 (February 1 Filing), which inadvertently neglected to reflect the Rate Schedule IT tariff modifications specifically relating to transportation serve received at Washington Storage field and delivered in Zone 3. These modifications are necessary in order to comply with the Commission's final resolution of the backhaul rate equals to the forward haul rate under Transco's Rate Schedule IT. Accordingly, Transco is submitting Substitute Eleventh Revised sheets No. 42 and Substitute Ninth Revised Sheet No. 46 to replace the respective tariff sheets in the February 1 Filing and also submitting Fifth Revised Sheet No. 171 as an addition to the February 1 Filing.

Transco states that copies of the filing are being mailed to each of its affected customers, interested State Commissions, and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commissions, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commissions's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commissions's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web 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. 01–5357 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–288–012

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

February 28, 2001.

Take notice that on February 22, 2001, Transwestern Pipeline Company (Transwestern) tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, proposed to become effective on February 23, 2001.

Eighth Revised Sheet No. 5B.05
Original Sheet No. 5B.08

Transwestern states that the above sheets are being filed to describe a negotiated rate agreement with Richardson Products Company in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Transwestern further states that copies of the filing have been mailed to each of its customers and interested State Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such protest must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web 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. 01–5358 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–40–000]

Tucson Electric Power Company v. Gray Davis, Governor of the State of California, The State of California, and California Power Exchange Corporation; Notice of Complaint

February 28, 2001.

Take notice that on February 27, 2001, Tucson Electric Power Company (Tucson Electric) tendered for filing a complaint against the above-styled parties alleging that Respondents violated Section 203 of the Federal Power Act. In addition, Tucson Electric alleged that the California Power Exchange Corporation (''PX'') has failed to collect the duly filed rates from Pacific Gas & Electric Company and Southern California Edison Company, in accordance with the rates, terms and conditions of the PX's FERC-filed tariffs.

Copies of the filing were served upon Respondents and their known counsel, and upon the California Public Utilities Commission.

Any person desiring to be heard or to protest this 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 must be filed on or before March 19, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before March 19, 2001. 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. 01–5400 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2009]

Virginia Electric and Power Company; Notice of Authorization for Continued Project Operation

February 28, 2001.

On January 28, 1999, Virginia Electric and Power Company, licensee for the Roanoke Rapids and Gaston Project No. 2009, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2009 is located on the Roanoke River in Halifax, Northampton, and Warren Counties, North Carolina and Brunswick and Mecklenburg Counties, Virginia.

The license for Project No. 2009 was issued for a period ending January 31, 2001. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on section 9(b) of the Administrative procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2009 is issued to Virginia Electric and Power Company for a period effective February 1, 2001, through January 31, 2002, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. if issuance of a new license (or other disposition) does not take place on or before February 1, 2002, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Virginia Electric and Power Company is authorized to continue operation of the Roanoke Rapids and Gaston Project No. 2009 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Secretary.

[FR Doc. 01–5344 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1279–000, *et al.*]

Connecticut Energy Cooperative, Inc., *et al.*; Electric Rate and Corporate Regulation Filings

February 27, 2001.

Take notice that the following filings have been made with the Commission:

1. Connecticut Energy Cooperative, Inc.

[Docket No. ER01–1279–000]

Take notice that on February 20, 2001, Connecticut Energy Cooperative, Inc. (the Co-op), petitions the Commission for acceptance of Co-op Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

The Co-op intends to engage in wholesale electric power and energy purchases and sales as a marketer. The Co-op is not in the business of generating or transmitting electric power. The Co-op is a privately owned business with no corporate parents or affiliates.

Comment date: March 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Carolina Power & Light Company

[Docket No. ER00–1491–001]

Take notice that on February 20, 2001, Carolina Power & Light Company (CP&L), re-filed the Service Agreement with Allegheny Energy Supply Company, LLC in this Docket.

CP&L is requesting an effective date of January 20, 2000 for this agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: March 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. American Electric Power Service Corporation

[Docket No. ER01–1280–000]

Take notice that on February 20, 2001, the American Electric Power Service Corporation (AEPSC), tendered for filing an executed Interconnection and Operation Agreement between Ohio Power Company and Duke Energy Hanging Rock, LLC. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Revised Volume No. 6, effective June 15, 2000.

AEP requests an effective date of March 1, 2001.

A copy of the filing was served upon the Ohio Public Utilities Commission.

Comment date: March 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Southern Company Services, Inc.

[Docket No. ER01–1281–000]

Take notice that on February 20, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company (APC), tendered for filing an Interconnection Agreement (IA) by and between APC and GenPower Kelley, L.L.C. (GenPower). The IA allows GenPower to interconnect its generating facility to be located in Walker County, Alabama, to APC's electric system.

An effective date of February 19, 2001 has been requested.

Comment date: March 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Company Services, Inc.

[Docket No. ER01–1282–000]

Take notice that on February 20, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company (MPC), and Savannah Electric and Power Company (collectively referred to as Southern Companies), tendered for filing an agreement for network integration transmission service between Southern Companies and Southern Wholesale Energy, a department of SCS, as agent for MPC, under the Open Access Transmission Tariff of Southern Company (FERC Electric Tariff, Fourth Revised Volume No. 5) for the delivery of power to the Aleco Fire Tower Road Substation of Singing River EPA, a member cooperative of South Mississippi Electric Power Association (SMEPA). This agreement is being filed in conjunction with a power sale by SCS, as agent for MPC, to SMEPA under Southern Companies' Market-Based Rate Power Sales Tariff.

Comment date: March 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Xcel Energy Services, Inc.

[Docket No. ER01–1283–000]

Take notice that on February 20, 2001, Xcel Energy Services, Inc. (XES), on behalf of Public Service Company of Colorado (Public Service), tendered for filing the Master Power Purchase and Sale Agreement between Public Service and Colorado River Commission, which is an umbrella service agreement under Public Service's Rate Schedule for Market-Based Power Sales (Public Service FERC Electric Tariff, First Revised Volume No. 6).

XES requests that this agreement become effective on February 1, 2001.

Comment date: March 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Mississippi Power Company

[Docket No. ER01–1284–000]

Take notice that on February 20, 2001, Mississippi Power Company and Southern Company Services, Inc., its agent, tendered for filing a Service Agreement with South Mississippi Electric Power Association for twelve (12) Delivery Points, pursuant to the Southern Companies' Electric Tariff, FERC Electric Tariff, First Revised Volume No. 4. The agreement will permit Mississippi Power to provide wholesale electric service to South Mississippi Electric Power Association at the new service delivery points.

Copies of the filing were served upon South Mississippi Electric Power Association, the Mississippi Public Service Commission, and the Mississippi Public Utilities Staff.

Comment date: March 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Consumers Energy Company

[Docket No. ER01–1285–000]

Take notice that on February 20, 2001, Consumers Energy Company (Consumers), tendered for filing a Letter Agreement Between Mirant Zeeland, L.L.C. (Customer) and Consumers, dated February 5, 2001, (Agreement). Under the Agreement, Consumers is to perform certain preliminary activities associated with providing an electrical connection between Customer's generating plant and Consumers' transmission system.

Consumers requested that the Agreement be allowed to become effective February, 5, 2001.

Copies of the filing were served upon Customer and the Michigan Public Service Commission.

Comment date: March 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. PJM Interconnection, L.L.C.

[Docket No. ER01–1286–000]

Take notice that on February 20, 2001, PJM Interconnection, L.L.C. (PJM), tendered for filing a request to amend the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement) to waive for this year the requirement of Section 7.1 of the Operating Agreement that PJM retain an independent consultant to propose candidates for the two seats on PJM's Board of Managers (''PJM Board'') for which an election is required at PJM's 2001 Annual Meeting. PJM states that the PJM Members Committee has approved the requested amendment.

PJM requests that its filing become effective on April 22, 2001.

Copies of this filing were served upon all PJM members and all electric utility regulatory commissions in the PJM control area.

Comment date: March 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Entergy Services, Inc.

[Docket No. ER01–1287–000]

Take notice that on February 20, 2001, Entergy Services, Inc., as agent for System Energy Resources, Inc. and Entergy Arkansas, Inc., tendered, pursuant to Section 205 of the Federal Power Act, a revised Appendix B to the Grand Gulf Accelerated Recovery Tariff (GGART-A) to reflect the termination of the amortization component of the GGART-A.

ESI requests an effective date of July 1, 2001.

A copy of this filing has been served upon the state regulators of the Entergy operating companies.

Comment date: March 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Kentucky Utilities Company

[Docket No. ER01–1288–000]

Take notice that on February 20, 2001, Kentucky Utilities Company (KU), tendered for filing information to establish a new interconnection point under FERC Rate Schedule 203, the Interconnection Agreement between KU and East Kentucky Power Cooperative.

Comment date: March 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. New England Power Pool

[Docket No. ER01–1289–000]

Take notice that on February 20, 2001, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to terminate the NEPOOL membership of Alternate Power Source, Inc. (APS) as of March 5, 2001 unless APS cures its existing defaults. The NEPOOL Participants Committee states that APS has suspended its participation in the NEPOOL markets pending the earlier of a cure of its defaults or the effectiveness of its termination from the Pool.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment date: March 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. American Transmission Company

[Docket No. ER01–1290–000]

Take notice that on February 21, 2001, American Transmission Company LLC (ATCLLC), tendered for filing a revised Service Agreement No. 96 to include amended exhibits to the Distribution-Transmission Agreement between ATCLLC and Edison Sault Electric Company previously filed in this docket on December 27, 2000.

ATCLLC requests an effective date of January 1, 2001.

Comment date: March 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. California Independent System Operator Corporation

[Docket No. ER01–1291–000]

Take notice that on February 21, 2001, the California Independent System Operator Corporation, tendered for filing an Amendment to Schedule 1 of the Participating Generator Agreement between the ISO and Energy 2001, Inc. (Energy 2001) for acceptance by the Commission.

The ISO states that this filing has been served on Energy 2001 and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective January 29, 2001.

Comment date: March 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. UGI Power Supply, Inc.

[Docket No. ER01–1292–000]

Take notice that on February 21, 2001, UGI Power Supply, Inc. (UGI Power Supply), tendered for filing a notice of cancellation of its Rate Schedule FERC No. 1, pursuant to section 205 of the Federal Power Act, 16 U.S.C. 824d (1994), and Section 35.15 of the Commission's regulations, 18 CFR 35.15.

UGI Power Supply proposes that this cancellation become effective as of April 22, 2001.

Comment date: March 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Allegheny Energy Service Corporation, on Behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER01–1293–000]

Take notice that on February 21, 2001, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Service Agreement Nos. 342 and 343 to add Ameren Energy Marketing Company to Allegheny Power's Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96–58–000.

The proposed effective date under the Service Agreements is February 20, 2001 or a date ordered by the Commission.

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 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Idaho Power Company

[Docket No. ER01–1294–000]

Take notice that on February 21, 2001, Idaho Power Company (Idaho Power), tendered for filing a long-term service agreement under its open access transmission tariff in the above-captioned proceeding.

Idaho Power requests the Commission accept this Service Agreement for filing and designate an effective date of April 1, 2001.

Comment date: March 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Cleco Power LLC

[Docket No. ER01–1295–000]

Take notice that on February 21, 2001, Cleco Power LLC (Cleco), tendered for filing under Section 205 of the Federal Power Act a Phase-Shifting Transformer Funding Agreement between Cleco and Acadia Power Partners, LLC. The agreement provides for the terms and conditions under which Cleco will construct a phase-shifting transformer at Cleco's Beaver Creek substation.

Comment date: March 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Southwest Power Pool, Inc.

[Docket No. ER01–1296–000]

Take notice that on February 21, 2001, Southwest Power Pool, Inc. (SPP), tendered for filing an enclosed Interconnection and Operating Agreement (Agreement) between WFEC GENCO L.L.C. (Genco), Western Farmers Electric Cooperative (WFEC), and SPP.

SPP seeks an effective date of February 22, 2001, for this Agreement.

Copies of this filing were served on Genco and WFEC.

Comment date: March 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. California Independent System Operator Corporation

[Docket No. ER01–1297–000]

Take notice that on February 21, 2001, the California Independent System Operator Corporation, tendered for filing an Amendment to Schedule 1 of the Participating Generator Agreement between the ISO and Sierra Pacific Industries (Sierra Pacific) for acceptance by the Commission.

The ISO states that this filing has been served on Sierra Pacific and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective January 26, 2001.

Comment date: March 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Duquesne Light Company

[Docket No. ER01–1298–000]

Take notice that February 22, 2001, Duquesne Light Company (DLC) filed a Service Agreement dated February 21, 2001 with Dynegy Power Marketing, Inc. under DLC's Open Access Transmission Tariff (Tariff). The Service

Agreement adds Dynegy Power Marketing, Inc. as a customer under the Tariff.

DLC requests an effective date of February 21, 2001 for the Service Agreement.

Comment date: March 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Public Service Company of New Mexico

[Docket No. ER01–1299–000]

Take notice that on February 22, 2001, Public Service Company of New Mexico (PNM) filed a Notice of Cancellation with the Federal Energy Regulatory Commission with respect to Rate Schedule FERC No. 75. By its terms, the Public Service Company of New Mexico and San Diego Gas & Electric Company 1988–2001 100 MW System Power Agreement on file as PNM Rate Schedule FERC No. 75, is to terminate on April 30, 2001.

Consistent with this agreement, PNM requests that cancellation of the related rate schedule become effective on April 30, 2001.

A copy of the filing has been served upon San Diego Gas & Electric Company and an informational copy was provided to the New Mexico Public Regulation Commission. The Notice of Cancellation has been posted and is available for public inspection during normal business hours at PNM's offices in Albuquerque, New Mexico.

Comment date: March 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Whiting Clean Energy, Inc.

[Docket No. ER01–1300–000]

Take notice that on February 22, 2001, Whiting Clean Energy, Inc. (WCE), an indirect wholly owned subsidiary of NiSource Inc., tendered for filing its FERC Electric Rate Schedule 1 and a Statement of Policy and Code of Conduct.

WCE seeks an effective date of April 25, 2001 for the tariff sheets submitted with this filing.

WCE states that it meets all requirements to sell electric energy and capacity at market based rates. In addition, WCE states Statement of Policy and Code of Conduct meets all Commission requirements regarding transactions and relationships with its franchised public utility affiliates.

Comment date: March 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. International Transmission Company and Michigan Electric Transmission Company

[Docket No. ER01–1301–000]

Take notice that on February 22, 2001, International Transmission Company (ITC) and Michigan Electric Transmission Company (Michigan Transco) tendered for filing a Joint Open Access Transmission Tariff (JOATT) which is to supersede and replace the Consumers Energy Company's (Consumers) and ITC's existing JOATT (Consumers/ITC's FERC Electric Tariff, Original Volume No. 1). The new JOATT reflects the transfer of Consumers' transmission assets to Michigan Transco.

Copies of the filing were served upon all customers under the Consumers/ITC JOATT and upon the Michigan Public Service Commission.

Comment date: March 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. American Ref-Fuel Company of Niagara, L.P.

[Docket No. ER01–1302–000]

Take notice that on February 22, 2001, American Ref-Fuel Company of Niagara, L.P. submitted for filing, pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's regulations, a Petition for authorization to make sales of electric capacity and energy at market-based rates and for related waivers and blanket authorizations.

Comment date: March 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. International Transmission Company

[Docket No. ER01–1303–000]

Take notice that on February 22, 2001, International Transmission Company submitted for filing an unexecuted Interconnection Agreement with Dearborn Industrial Generation, L.L.C.

Comment date: March 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. Pacific Gas and Electric Company

[Docket No. ER01–1304–000]

Take notice that on February 22, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing Agreements between PG&E and Calpine Construction Finance Company, L.P. (Calpine) on behalf of Los Medanos Energy Center (LMEC), which Agreements include: a Generator Special Facilities Agreement (GSFA); a Letter Agreement Supplementing, Clarifying, and Modifying the Generator Special Facilities Agreement between Pacific Gas and Electric Company and Calpine Construction Finance Company, L.P. on behalf of Los Medanos Energy Center (Supplemental Letter Agreement); and a Letter Agreement Documenting Revised System Upgrade Work for the Los Medanos Energy Center and Notice to Proceed (Documenting Letter Agreement).

The GSFA permits PG&E to recover the ongoing costs associated with installing, owning, operating and maintaining Special Facilities necessary for the interconnection of LMEC to the PG&E transmission system. The Supplemental Letter Agreement and the Documenting Letter Agreement clarify and replace language in the GSFA. The Supplemental Letter Agreement further establishes the intent of the parties with respect to the rates and rate methodology set forth in the agreements, and the Documenting Letter Agreement provides the Notice to Proceed for PG&E to commence construction.

Copies of this filing have been served upon LMEC, Calpine, the California Independent System Operator, and the California Public Utilities Commission (CPUC).

Comment date: March 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

28. Bethlehem Steel Corporation

[Docket No. ER01–1312–000]

Take notice that on February 22, 2001, Bethlehem Steel Corporation (Bethlehem) petitioned the Commission for acceptance of Bethlehem Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Bethlehem intends to engage in wholesale electric power and energy purchases and sales as a marketer. Bethlehem is a Delaware corporation headquartered in Bethlehem, Pennsylvania. Bethlehem and its affiliates are engaged in the production of a wide variety of steel mill products and Bethlehem owns generation facilities in Maryland, New York, and Indiana.

Comment date: March 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

29. New England Power Pool

[Docket No. ER01–1313–000]

Take notice that on February 22, 2001, the New England Power Pool (NEPOOL) Participants Committee submitted revisions to Market Rule 5 relating to

eligibility for units to receive Uplift payments.

It is requested that the revisions become effective on the earlier of two days following a Commission order approving the changes, or April 23, 2001, sixty days after the filing.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment date: March 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

30. American Electric Power Service Corporation

[Docket No. OA01–4–000]

Take notice that on February 20, 2001, American Electric Power Service Corporation, on behalf of the operating companies of the American Electric Power System (AEP) submitted for filing updated Procedures for Implementation of FERC Standards of Conduct.

AEP requests an effective date of February 20, 2001.

Copies of AEP's filing have been served upon AEP's transmission customers and the public service commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Tennessee, Texas, Virginia and West Virginia and the Oklahoma Corporation Commission.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

31. Sempra Energy

[Docket No. ER01–1193–000]

Take notice that on February 16, 2001, Sempra Energy tendered for filing a request for withdrawal of its February 7, 2001, Petition for Waivers, and Blanket approvals in the above-referenced docket.

Comment date: March 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

32. PacifiCorp

[Docket No. ER01–814–001]

Take notice that on February 22, 2001, PacifiCorp tendered for filing, an amendment to its original filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: March 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

33. Illinois Power Company and Dynegy Midwest Generation, Inc.

[Docket No. EC01–71–000]

Take notice that on February 22, 2001, Illinois Power Company (Illinois Power) and Dynegy Midwest Generation, Inc. (Dynegy Midwest) filed a joint application under Section 203 of the Federal Power Act requesting the Commission to authorize the indirect transfer of generation-related facilities consisting of generator step-up and station power transformers with associated generation lead lines, switches, circuit breakers and foundations from Illinois Power to Dynegy Midwest.

Comment date: March 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

34. Entergy Services, Inc.

[Docket No. ER01–894–002]

Take notice that on February 20, 2001, Entergy Services, Inc. (Entergy), on behalf of the Entergy Operating Companies, tendered for filing the Third Revised Network Integration Transmission Service Agreement (NITSA) between Entergy and East Texas Electric Cooperative, Inc., Sam Rayburn G&T Electric Cooperative, Inc., and Tex-La Electric Cooperative, Inc., as an amendment to its January 5, 2001 filing in Docket No. ER01–894–000. The Third Revised NITSA adds the Line No. 81 Settlement Agreement between Jasper-Newton Electric Cooperative, Inc. and Entergy, dated February 1, 2001, to the NITSA.

Comment date: March 13, 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. 01–5335 Filed 3–5–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6940–8]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Fort James Camas Mill, Camas, Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to state operating permit.

SUMMARY: Pursuant to Clean Air Act Section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator is hereby granting in part and denying in part a petition to object to a State operating permit issued by the Washington Department of Ecology (Ecology) to Fort James Camas Mill, Camas, Washington. This order constitutes final action on the petition submitted by Mr. Carl D. Larkins. Pursuant to section 505(b)(2) of the Clean Air Act (Act), petitioner may seek judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of this decision under section 307 of the Act.

ADDRESSES: Copies of the final order, the petition, and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 10, Office of Air Quality, 1200 Sixth Avenue, Seattle, Washington 98101. The final order is also available electronically at the following address: *http://www.epa.gov/ttn/oarpg/t5sn.html*

FOR FURTHER INFORMATION CONTACT: William M. Hedgebeth, Office of Air Quality, EPA Region 10, telephone (206) 553–1059, e-mail *hedgebeth.william@epa.gov.* Interested parties may also contact the Washington Department of Ecology, Industrial Section, 300 Desmond Drive, Lacey, Washington 98503, mailing address P.O. Box 47600, Olympia, Washington 98504–7600.

SUPPLEMENTARY INFORMATION: The Clean Air Act affords EPA the opportunity for a 45-day period to review, and object to as appropriate, operating permits proposed by State permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after

the expiration of this review period to object to State operating permits if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

Mr. Carl D. Larkins submitted a petition to the Administrator on November 24, 1999, seeking EPA's objection to the operating permit issued to Fort James Camas Mill, Camas, Washington. The petitioner maintains that the Fort James Camas Mill operating permit is inconsistent with the Act because the permit fails to: (1) provide sufficient basis for providing compliance assurance for certain permit conditions; and (2) provide sufficient basis for using surrogate parameters as compliance indicators in certain permit conditions. The order granting in part and denying in part this petition explains the reasons behind EPA's conclusion that: (1) Petitioner adequately demonstrated in certain instances that the Fort James Camas Mill permit did not satisfy all the requirements of 40 CFR Part 70; and (2) petitioner in other instances failed to demonstrate that the Fort James Camas Mill permit does not assure compliance with the Clean Air Act on the grounds raised.

Pursuant to sections 505(b)and 505(e) of the Clean Air Act (42 U.S.C. 7661d(b) and (e)) and 40 CFR 70.7(g) and 70.8(d), Ecology has 90 days from the receipt of the Administrator's order to resolve the objections identified in sections C(1), C(2), C(5), C(8), C(12), C(15), D(2), and D(5) of the order, and submit a proposed determination of termination, modification, or revocation and reissuance of the Fort James Title V permit in accordance with EPA's objection.[1]

Dated: January 19, 2001.

Charles E. Findley,

Acting Regional Administrator, Region X.

[FR Doc. 01–5415 Filed 3–5–01; 8:45 am]

BILLING CODE 6560–50–P

[1] The description on page 5 of the Administrator's order of the procedures for resolving the objection is in error. As provided in 40 CFR 70.7(g)(4), Ecology has 90 days from the receipt of the order to resolve the objection issues, not two 90 day periods.

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority; Comments Requested.

February 21, 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 May 7, 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 Les Smith, Federal Communications Commissions, Room 1 A–804, 445 Twelfth Street, SW., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0570.

Title: Section 76.982 Continuation of rate agreements.

Form Number: n/a.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities, State, Local or Tribal Government.

Number of Respondents: 25.

Estimated Time Per Response: 0.5 hours.

Total Annual Burden: 13 hours.

Total Annual Costs: $2,600.00.

Needs and Uses: The information collection requirements reported under this control number enable the Commission to determine the extent of rate regulation agreements that pre-date the Cable Television Consumer Protection and Competition Act of 1992 and that are still in effect.

OMB Control Number: 3060–0609.

Title: Section 76.934(e) Petitions for Extension of Time.

Form Number: n/a.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities, State, Local or Tribal Government.

Number of Respondents: 35.

Estimated Time Per Response: 4 hours.

Total Annual Burden: 140 hours.

Total Annual Costs: $84,000.00.

Needs and Uses: The information collection requirements reported under this control number are used by the Commission to grant temporary relief to small systems who demonstrate a need for an extension of time to come into compliance with rate regulation.

OMB Control Number: 3060–0562.

Title: Section 76.916 Petition for Recertification.

Form Number: n/a.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities, State, Local or Tribal Government.

Number of Respondents: 10.

Estimated Time Per Response: 10.

Total Annual Burden: 100 hours.

Total Annual Costs: $6,530.00.

Needs and Uses: The information collection requirements reported under this control number are used by the Commission to implement section 76.916 Petition for Recertification, by franchising authorities wishing to request certification after its requests for certification have been revoked or denied.

OMB Control Number: 3060–0610.

Title: Section 76.916 Notice to Commission of Rate Change While Complaint Pending.

Form Number: n/a.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 400.

Estimated Time Per Response: .50 hours.

Total Annual Burden: 200 hours.

Total Annual Costs: $40,000.00.

Needs and Uses: The information collection requirements reported under this control number are used by the Commission to review pending cable service tier rate complaints.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–4920 Filed 3–5–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

February 26, 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 April 5, 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., Washington, 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.: 3060–0281.

Title: Section 90.651, Supplemental Reports Required of Licensees Authorized under this Subpart.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 16,408.

Estimated Time Per Response: .166 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 2,724 hours.

Total Annual Cost: N/A.

Needs and Uses: In Report and Order in WT Docket No. 97–153 (FCC 99–9), the Commission revised rule section 90.651 for reporting the number of mobile units placed in operation from eight months to 12 months. The radio facilities addressed in this subpart of the rules are allocated on and governed by regulations designed to award facilities on a need basis determined by the number of mobile units served by each base station. This is necessary to avoid frequency hoarding by applicants. This rule requires licensees to report the number of mobile units served.

The Commission licensing personnel use the information to maintain an accurate database of frequency users. The Commission and the public use the data base information in spectrum planning, interference resolution and licensing activities.

OMB Control No.: 3060–0291.

Title: Section 90.477, Interconnected Systems.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 1,000.

Estimated Time Per Response: .50 hours.

Frequency of Response: On occasion and annual reporting requirements, and recordkeeping requirement.

Total Annual Burden: 500 hours.

Total Annual Cost: N/A.

Needs and Uses: This rule section allows private land mobile radio licensees to use common point telephone interconnection with telephone service costs distributed on a non-profit cost sharing basis. Records of such arrangements must be placed in the licensee's station file and made available to participants in the sharing arrangement and the Commission upon request.

Federal Communications Commission.

William F. Canton,

Deputy Secretary.

[FR Doc. 01–5393 Filed 3–5–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–36–A (Auction No. 39); DA 01–477]

Auction of Licenses for the VHF Public Coast and Location and Monitoring Services Spectrum Scheduled for June 6, 2001

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the auction of 16 VHF public coast licenses and 241 multilateration Location and Monitoring Services Spectrum scheduled for June 6, 2001. The notice seeks comments on reserve prices or minimum opening bids and other procedural issues regarding Auction No. 39.

DATES: Comments are due on or before March 9, 2001, and reply comments are due on or before March 16, 2001.

ADDRESSES: An original and four copies of all pleadings must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW., TW–A325, Washington, DC 20554, in accordance with § 1.51(c) of the Commission's rules.

FOR FURTHER INFORMATION CONTACT: Kenneth Burnley, Auctions Attorney, or Lyle Ishida, Auctions Analyst, at (202) 418–0660; or Linda Sanderson, Project Manager, at (717) 338–2888.

SUPPLEMENTARY INFORMATION: This is a summary of a public notice released February 23, 2001 that announces the auction of 16 VHF public coast licenses and 241 multilateration Location and Monitoring Service (''LMS'') licenses (''Auction No. 39'') to commence on June 6, 2001. This auction will include the licenses that remained unsold in Auctions No. 20 and No. 21, which closed on December 14, 1998 and March 5, 1999, respectively. Auction No. 39 will include the following:

- *VHF Public Coast.* Specifically, sixteen licenses will be available in

geographic areas known as VHF Public Coast Areas (VPCs). There are two categories of VPCs: maritime VPCs and inland VPCs. All of the VHF Public Coast licenses to be offered in Auction No. 39 are inland VPC licenses. Inland VPCs are identical to the Commerce Department's Economic Areas, no part of which is within 100 miles of a major waterway. Each VPC license has seven 25 kHz channel pairs, adding up to 350 kHz.

Inland VPCs	Channel Pairs (total kHz available)
Inland Border VPCs:, VPCs 10, 11	24, 26, 27, 28, 85, 86, 87 (350 kHz)
Inland Non-Border VPCs:	24, 26, 27, 28, 85, 86, 87 (350 kHz)
VPCs 12–15, 23, 26, 38 VPCs 16, 18, 19, 20, 21, 22, 40	24, 26, 27, 28, 84, 86, 87 (350 kHz)

• *LMS*. Three blocks of spectrum are allocated for LMS systems:

Block A: 904.000–909.750 MHz and 927.750–928.000 MHz;

Block B: 919.750–921.750 MHz and 927.500–927.750 MHz;

Block C: 921.750–927.250 MHz and 927.250–927.500 MHz.

A geographic licensing area is comprised of each of these spectrum blocks. LMS spectrum is licensed in 176 Economic Areas (EAs). In Auction No. 39, 241 LMS licenses will be available: 117 licenses will be auctioned in Block A, 61 licenses will be auctioned in Block B, and 63 licenses will be auctioned in Block C.

A list of licenses available for this auction is included in Attachment A of the Public Notice. The Balanced Budget Act of 1997 requires the Commission to ''ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed . . . before issuance of bidding rules, to permit notice and comment on proposed auction procedures. . . .'' Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific procedures prior to the start of each auction. We therefore seek comment on the following issues relating to Auction No. 39.

I. Auction Structure

A. Simultaneous Multiple Round Auction Design

1. We propose to award the licenses in a single, simultaneous multiple-round auction. As described further, this methodology offers every license for bid at the same time in successive bidding rounds. We seek comment on this proposal.

B. Upfront Payments and Initial Maximum Eligibility

2. The Bureau has delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned taking into account such factors as the population in each geographic license area, and the value of similar spectrum. As described further, the upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on licenses. Upfront payments related to the specific spectrum subject to auction protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the auction. With these guidelines in mind, we propose for Auction No. 39, to calculate upfront payments on a license-by-license basis using the following formulas:

• VHF Public Coast

Inland VPC Licenses: $.075 * MHz * Pops (the result rounded to the nearest hundred for results less than $10,000) with a minimum upfront payment of $2,500 per license.

• LMS

Block A: $0.0004 * MHz * Pops (the result rounded to the nearest hundred for results less than $10,000) with a minimum upfront payment of $1,000 per license.

Block B: $0.0005 * MHz * Pops (the result rounded to the nearest hundred for results less than $10,000) with a minimum upfront payment of $1,000 per license.

Block C: $0.0005 * MHz * Pops (the results rounded to the nearest hundred for results less than $10,000 and to the nearest thousand for results greater than $10,000) with a minimum upfront payment of $1,000 per license.

3. A complete list of all licenses, including the related license area population and upfront payment, are listed as Attachment A of the Public Notice. We seek comment on this proposal.

4. We further propose that the amount of the upfront payment submitted by a bidder will determine the initial maximum eligibility (as measured in bidding units) for each bidder. Upfront payments will not be attributed to specific licenses, but instead will be translated into bidding units to define a bidder's initial maximum eligibility, which cannot be increased during the auction. The maximum eligibility will determine the licenses on which a bidder may bid in each round of the auction. Thus, in calculating its upfront payment amount, an applicant must determine the maximum number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. We seek comment on this proposal.

C. Activity Rules

5. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to either place a valid bid and/or be the standing high bidder during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule will either use an activity rule waiver, if any remain, or lose bidding eligibility in the auction.

6. We propose to divide the auction into two stages: Stage One and Stage Two—each characterized by an increased activity requirement. The auction will start in Stage One. We propose that the auction will generally advance to the next stage when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is approximately thirty percent or below for three consecutive rounds of bidding. However, we further propose that the Bureau retain the discretion to change stages unilaterally by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentage of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. We seek comment on these proposals.

7. For Auction No. 39, we propose the following activity requirements:

Stage One: In each round of Stage One, a bidder desiring to maintain its current eligibility is required to be active on licenses encompassing at least

80 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the current round activity by five-fourths (5/4).

Stage Two: In each round of Stage Two, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. In this final stage, reduced eligibility for the next round will be calculated by multiplying the current round activity by fifty-fortyninths (50/49). We seek comment on these proposals. If commenters believe that these activity rules should be changed, they should explain their reasoning and comment on the desirability of an alternative approach. Commenters are advised to support their claims with analyses and suggested alternative activity rules.

D. Activity Rule Waivers and Reducing Eligibility

8. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

9. The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an ''automatic waiver'') at the end of any bidding period where a bidder's activity level is below the minimum required unless: (i) there are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

10. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding period by using the reduce eligibility function in the bidding software. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

11. A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a bidding period in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids will not keep the auction open.

12. We propose that each bidder in Auction No. 39 be provided with five activity rule waivers that may be used at the bidder's discretion during the course of the auction as set forth. We seek comment on this proposal.

E. Information Relating to Auction Delay, Suspension, or Cancellation

13. For Auction No. 39, we propose that, by public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. We seek comment on this proposal.

II. Bidding Procedures

A. Round Structure

14. The Commission will use its Automated Auction System to conduct the electronic simultaneous multiple round auction format for Auction No. 39. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction, and will be included in the registration mailings. The auction format will consist of sequential bidding rounds; each followed by the release of round results. Details regarding the location and format of round results will be included in the same public notice.

15.The Bureau has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors. We seek comment on this proposal.

B. Reserve Price or Minimum Opening Bid

16. The Balanced Budget Act calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses are subject to auction (*i.e.*, because the Commission has accepted mutually exclusive applications for those licenses), unless the Commission determines that a reserve price or minimum bid is not in the public interest. Consistent with this mandate, the Commission has directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction.

17. Normally, a reserve price is an absolute minimum price below, which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum-opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which no bids are accepted. It is generally used to accelerate the competitive bidding process. Also, in a minimum opening bid scenario, the auctioneer generally has the discretion to lower the amount later in the auction. It is also possible for the minimum opening bid and the reserve price to be the same amount.

18. In light of the Balanced Budget Act, the Bureau proposes to establish minimum opening bids for Auction No. 39. The Bureau believes a minimum opening bid, which has been utilized in other auctions, is an effective bidding tool. A minimum opening bid, rather than a reserve price, will help to regulate the pace of the auction and provides flexibility.

19. Specifically, for Auction No. 39, the Commission proposes the following formulae for calculating minimum opening bids on a license-by-license basis:

- VHF Public Coast

Inland VPC Licenses: $.011 * MHz * Pops (the result rounded to the nearest hundred for results less than $10,000) with a minimum of no less than $2,500 per license.

• LMS

Block A: $0.0004 * MHz * Pops (the result rounded to the nearest hundred for results less than $10,000) with a minimum of no less than $1,000 per license.

Block B: $0.0005 * MHz * Pops (the result rounded to the nearest hundred for results less than $10,000) with a minimum of no less than $1,000 per license.

Block C: $0.0005 * MHz * Pops (the result rounded to the nearest hundred for results less than $10,000 and to the nearest thousand for results greater than $10,000) with a minimum of no less than $1,000 per license.

20. The specific minimum opening bid for each license available in Auction No. 39 is set forth in Attachment A of the Public Notice. Comment is sought on this proposal. If commenters believe that these minimum opening bids will result in substantial numbers of unsold licenses, or are not reasonable amounts, or should instead operate as reserve prices, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. In establishing the minimum opening bids, we particularly seek comment on such factors as, among other things, the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of the VHF public coast station and the LMS spectrum. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

C. Minimum Accepted Bids and Bid Increments

21. Once there is a standing high bid on a license, a bid increment will be applied to that license to establish a minimum acceptable bid for the following round. For Auction No. 39, we propose to use a smoothing methodology to calculate bid increments, as we have done in several other auctions. The Bureau retains the discretion to change the minimum bid increment if it determines that circumstances so dictate. The Bureau will do so by announcement in the Automated Auction System. We seek comment on these proposals.

22. The exponential smoothing formula calculates the bid increment for each license based on a weighted average of the activity received on each license in all previous rounds. This methodology will tailor the bid increment for each license based on activity, rather than setting a global increment for all licenses. For every license that receives a bid, the bid increment for the next round for that license will be established using the exponential smoothing formula.

23. The calculation of the percentage bid increment for each license in a given round is made at the end of the previous round. The computation is based on an activity index, which is calculated as the weighted average of the activity in that round and the activity index from the prior round. The activity index at the start of the auction (round 0) will be set at 0. The current activity index is equal to a weighting factor times the number of new bids received on the license in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round. The activity index is then used to calculate a percentage increment by multiplying a minimum percentage increment by one plus the activity index with that result being subject to a maximum percentage increment. The Commission will initially set the weighting factor at 0.5, the minimum percentage increment at 0.1 (10%), and the maximum percentage increment at 0.2 (20%).

Equations

$A_i = (C * B_i) + ((1–C) * A_{i-1})$

I_{i+1} = smaller of $((1 + A_i) * N)$ and M

where,

A_i = activity index for the current round (round i)

C = activity weight factor

B_i = number of bids in the current round (round i)

A_{i-1} = activity index from previous round (round $i-1$), A_0 is 0

I_{i+1} = percentage bid increment for the next round (round i+1)

N = minimum percentage increment or bid increment floor

M = maximum percentage increment or bid increment ceiling

Under the exponential smoothing methodology, once a bid has been received on a license, the minimum acceptable bid for that license in the following round will be the new high bid plus the dollar amount associated with the percentage increment (variable I_{i+1} from above times the high bid). This result will be rounded to the nearest thousand if it is over ten thousand or to the nearest hundred if it is under ten thousand.

Examples

License 1

C=0.5, N = 0.1, M = 0.2

Round 1 (2 new bids, high bid = $1,000,000)

i. Calculation of percentage increment for round 2 using exponential smoothing:

$A_1 = (0.5 * 2) + (0.5 * 0) = 1$

I_2 = The smaller of $((1 + 1) * 0.1) = 0.2$ or 0.2 (the maximum percentage increment)

ii. Minimum bid increment for round 2 using the percentage increment (I_2 from above)

0.2 * $1,000,000 = $200,000

iii. Minimum acceptable bid for round 2 = $1,200,000

Round 2 (3 new bids, high bid = $2,000,000)

i. Calculation of percentage increment for round 3 using exponential smoothing:

$A_2 = (0.5 * 3) + (0.5 * 1) = 2$

I_3 = The smaller of $((1 + 2) * 0.1) = 0.3$ or 0.2 (the maximum percentage increment)

ii. Minimum bid increment for round 3 using the percentage increment (I_3 from above)

0.2 * $2,000,000 = $400,000

iii. Minimum acceptable bid for round 3 = $2,400,000

Round 3 (1 new bid, high bid = $2,400,000)

i. Calculation of percentage increment for round 4 using exponential smoothing:

$A_3 = (0.5 * 1) + (0.5 * 2) = 1.5$

I_4 = The smaller of $((1 + 1.5) * 0.1) = 0.25$ or 0.2 (the maximum percentage increment)

ii. Minimum bid increment for round 4 using the percentage increment (I_4 from above)

0.2 * $2,400,000 = $480,000

iii. Minimum acceptable bid for round 4 = $2,880,000

D. Information Regarding Bid Withdrawal and Bid Removal

24. For Auction No. 39, we propose the following bid removal and bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bid placed in that round. By using the remove bid function in the bidding software, a bidder may effectively ''unsubmit'' any bid placed within that round. A bidder removing a bid placed in the same round is not subject to a withdrawal payment. Once a round closes, a bidder may no longer remove a bid. We seek comment on this bid removal procedure.

25. Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids from previous rounds using the withdraw bid function. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions. We seek comment

on these bid removal and bid withdrawal procedures.

26. In the *Part 1 Third Report and Order,* 63 FR 2315 (January 15, 1998), the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that, in some instances, bidders may seek to withdraw bids for improper reasons. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent any bidding abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

27. Applying this reasoning, we propose to limit each bidder in Auction No. 39 to withdraw standing high bids in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive strategic purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. We seek comment on this proposal.

C. Stopping Rule

28. For Auction No. 39, the Bureau proposes to employ a simultaneous stopping rule approach. The Bureau has discretion ''to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time.'' A simultaneous stopping rule means that all licenses remain open until the first round in which no new acceptable bids, proactive waivers, or withdrawals are received. After the first such round, bidding closes simultaneously on all licenses. Thus, unless circumstances dictate otherwise, bidding would remain open on all licenses until bidding stops on every license.

29. The Bureau seeks comment on a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this modified stopping rule. The Bureau further seeks comment on whether this modified stopping rule should be used unilaterally or only in stage two of the auction.

30. The Bureau proposes to retain the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

31. Finally, we propose that the Bureau reserve the right to declare that the auction will end after a specified number of additional rounds (''special stopping rule''). If the Bureau invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The Bureau proposes to exercise this option only in certain circumstances, such as, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the Bureau is likely to attempt to increase the pace of the auction by, for example, moving the auction into the next stage (where bidders would be required to maintain a higher level of bidding activity), increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. We seek comment on these proposals.

III. Conclusion

32. Comments are due on or before March 9, 2001, and reply comments are due on or before March 16, 2001. An original and four copies of all pleadings must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW., TW–A325, Washington, DC 20554, in accordance with § 1.51(c) of the Commission's rules. *See* 47 CFR 1.51(c). In addition, one copy of each pleading must be delivered to each of the following locations: (a) the Commission's duplicating contractor, International Transcription Service, Inc. (ITS), 1231 20th Street, NW., Washington, DC 20036; (b) Office of Media Relations, Public Reference Center, 445 Twelfth Street, SW., Suite CY–A257, Washington, DC 20554; (c) Rana Shuler, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, 445 Twelfth Street, SW., Suite 4–A628, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Public Reference Room, Room CY-A257, 445 12th Street, SW., Washington, DC 20554.

Federal Communications Commission.

Margaret Wiener,

Chief, Auctions & Industry Analysis Division, WTB.

[FR Doc. 01–5395 Filed 3–5–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 01–512]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On February 27, 2001, the Commission released a public notice announcing the March 20 and 21, 2001, meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its agenda.

FOR FURTHER INFORMATION CONTACT: Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418–2320 or dblue@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, The Portals, 445 12th Street, SW., Suite 6A207, Washington, DC 20554. The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: Released: February 27, 2001.

The North American Numbering Council (NANC) has scheduled a meeting to be held Tuesday, March 20, 2001, from 8:30 a.m. until 5:00 p.m., and on Wednesday, March 21, from 8:30 a.m., until 12 noon. The meeting will be held at the Federal Communications

Commission, Portals II, 445 12th Street, SW., Room TW–C305, Washington, DC.

This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Cheryl Callahan at the address under **FOR FURTHER INFORMATION CONTACT**, stated above.

Proposed Agenda

1. Approval of January 16–17, 2001 and February 20–21, 2001 meeting minutes.
2. North American Numbering Plan Administrator (NANPA) Report
3. Report of NANPA Oversight Working Group
—NANPA Performance Issues (if any)
—NANPA Technical Requirements Update
—2000 NANPA Performance Update
4. Report of Numbering Resource Optimization (NRO) Working Group
—Continuing Review of NANP Exhaust
—Monitoring of State Pooling Trials
5. Industry Numbering Committee Report
6. Report of Toll Free Access Codes IMG
—Competitive Bids
—Structure and Tariff Issues
—Final Technical Requirements
—Transmittal to FCC
7. Report of the Local Number Portability Administration (LNPA) Working Group
—Wireless Number Portability Subcommittee
—Revised PIM–5 Solutions for Inadvertent Porting
8. Report of Cost Recovery Working Group
—Finalize NBANC B&C Technical Requirements
9. Report of ''Big Picture'' Ad Hoc Group
10. Steering Group Meeting
—Table of NANC Projects
11. Steering Group Report
12. Report from NBANC
13. Reseller CIC IMG status report
14. Oversight of LLCs NPAC
15. Meeting Procedures IMG
16. Action Items and Decisions Reached (5 minutes each, if any)
17. Public Participation
18. Other Business

Federal Communications Commission.

Diane Griffin Harmon,

Deputy Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 01–5303 Filed 3–5–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11 a.m., Monday, March 12, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3203.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: March 2, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–5582 Filed 3–2–01; 2:21 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Notice Requesting Comments on Retail Electricity Competition Plans

AGENCY: Federal Trade Commission.

ACTION: Notice requesting comments on retail electricity competition plans.

SUMMARY: Many States have enacted and, in some cases, begun to implement legislation designed to introduce competition into the retail sale of electricity in order to encourage lower prices, better service, and greater innovation. Recently, however, substantial price increases and reliability problems in some of the areas undergoing a transition to competition raise questions about how electricity restructuring can best be designed to benefit retail customers. The Federal Trade Commission seeks to gather information about the results, to date, of different regulatory approaches to the issues that arise in restructuring the retail sale of electricity. The Commission will produce a report that discusses the advantages and disadvantages associated with different approaches to particular issues and that identifies, if warranted, areas in which additional federal legislative or regulatory action may be desirable.

DATES: Comments are due on April 3, 2001.

ADDRESSES: Any interested person may submit a written comment that will be considered part of the public record. Written presentations should be submitted in both hard copy and electronic form. Six hard copies of each submission should be addressed to Donald S. Clark, Office of the Secretary, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Submissions should be captioned ''V010003—Comments Regarding Retail Electricity Competition.'' Electronic submissions may be sent by electronic mail to retailelectricity@ftc.gov. Alternatively, electronic submissions may be filed on a 3½ inch computer disk with a label on the disk stating the name of the submitter and the name and version of the word processing program used to create the document.

FOR FURTHER INFORMATION CONTACT: Michael Wroblewski, Policy Planning, Federal Trade Commission, 600 Pennsylvania Ave., NW., Washington, DC 20580, 202–326–2155, *mwroblewski@ftc.gov* or John Hilke, Bureau of Economics, Federal Trade Commission, 1961 Stout Street, C/O HHS RM. 325, Denver, CO 80294–0101, 303–844–3565, *jhilke@ftc.gov.*

SUPPLEMENTARY INFORMATION:

Overview

In recent years, many states and the Federal government have taken steps to encourage competition in the generation sector of the electric power industry. To date, 24 states and the District of Columbia have set dates to allow customers to choose their electric power supplier. In light of recent reliability problems and increases in electricity prices in California and the western

states generally, however, some States have delayed, or are considering delaying, implementation of retail competition plans. For example, Nevada, Montana, West Virginia, and Arkansas have decided to delay, or have considered delaying, the transition to competition that they had previously established, while others have determined that restructuring is not in the public interest at this time (*e.g.*, Louisiana, Colorado, Alabama, and Mississippi).

Competition among market participants will ordinarily provide customers with the benefits of lower prices than would otherwise prevail, higher quality products and services, increased variety of products and services, and enhanced rates of innovation.[1] Effective competition may not develop instantaneously, however, after decades of pervasive regulation and local franchised monopolies. Moreover, the effectiveness of competition may be affected greatly by the rules that govern the operation of the market and that provide incentives to guide market participants' behavior.

In light of the recent increases in electric power prices and reliability difficulties, the Chairman of the Energy and Commerce Committee of the United States House of Representatives, W.J. ''Billy'' Tauzin, and the Chairman of the Subcommittee on Energy and Air Quality, Joe Barton, have requested that the Commission examine various state retail competition programs and describe those features that appear to have resulted in consumer benefits and those that have not yielded consumer benefits. In addition, the Commission has been asked to examine possible jurisdictional limitations on the states' authority to design successful retail competition plans. To comply with this request, the Commission will update its July 2000 Staff Report: Competition and Consumer Protection Perspectives on Electric Power Regulatory Reform.

For the updated report, the Commission seeks additional information about the benefits and drawbacks of state retail electricity competition plans. The Commission proposes to examine state plans that allow customers to choose their generation supplier, and state plans with unique approaches to retail electricity competition. These states may include, but are not limited to, Arizona, California, Illinois, Maine, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Texas. The Commission will work with the states to understand the various features of plans (*e.g.*, standardized labeling rules, supplier licensing requirements, provider of last resort obligations, pricing of default service) and to gather facts relevant to understanding the market reaction to a particular state's plan (*e.g.*, number of customers eligible for retail competition, rate of customer switching to new suppliers, number of new suppliers offering service).

Listed below is a series of additional questions about which the Commission seeks public comment. The Commission seeks comments on features of state retail competition plans that have benefitted consumers and those that have not. The Commission is particularly interested in receiving information about the market response to various provisions of state retail competition plans. It is not necessary to respond to each question for every state. Rather, it would be helpful for respondents to provide, for example, specific information about market responses to a particular state's retail competition plan, or a comparison of the market responses to the means individual states have used to address one or more subject matter areas (*e.g.*, provider of last resort pricing, consumer education efforts).

Specific Questions to Be Addressed

History and Overview

1. Why did the state implement retail electricity competition? What problems of the previous regulatory regime was it trying to solve?

2. What were the expected benefits of retail competition? Were price reductions expected in absolute terms or in relation to what price levels would be absent retail competition? Were the benefits of retail competition expected to be available to consumers in urban, suburban, and rural areas? Were the benefits expected to be available for residential, commercial, and industrial customers? Were the benefits expected to be comparable for each group of customers?

3. What factors or measures should the Commission examine in viewing the success of a state's retail electricity competition program? How should these measures be evaluated?

4. What are the most successful and least successful elements in the state's retail competition program? Has the state taken steps to modify the least successful elements?

Consumer Protection Issues

1. What efforts were made to educate consumers about retail competition? How was the success of these efforts measured? Were the programs successful? Who funded these efforts? Who implemented the programs?

2. Do consumers have enough information to readily make informed choices among competing suppliers? Did the state coordinate its labeling requirements about the attributes of a supplier's product, if any, with neighboring states? Is there a need for federal assistance to provide standardized supplier labeling? If so, what would be the most useful federal role?

3. Have consumers complained about unauthorized switching of their accounts to alternative suppliers (''slamming'') or the placement of unauthorized charges on their electric bills (''cramming'')? Were rules adopted to prevent these practices? Has the state taken enforcement action under its new authority against slamming and cramming? Have these actions been effective to curb the alleged abuses? Is there a need for federal assistance with slamming and cramming issues? If so, what would be the most useful federal role?

4. How did the state facilitate the ability of customers to switch to a new supplier? Have these efforts been successful? Does the state allow consumers to aggregate their electricity demand? If so, has aggregation enabled consumers to benefit from retail electricity competition? If not, why not?

5. Has the state established licensing or certification requirements for new suppliers to provide electricity to customers? Why? Which licensing provisions are designed to protect consumers? How do they operate? Has the state taken enforcement action

[1] *See generally* Letter of the Federal Trade Commission to House Commerce Committee Chairman Thomas Bliley, Analysis of H.R. 2944 at 1 (Jan. 14, 2000). The Commission has a long history of involvement in energy markets. The Commission has reviewed a series of oil and gas mergers, as well as several vertical mergers affecting the electric industry that have raised antitrust concerns. The Commission also has provided testimony on market power and consumer protection issues in the electric power industry to various Congressional Committees and has analyzed proposed comprehensive electricity legislation. The staff of the Commission has responded to requests for comments from the Federal Energy Regulatory Commission on aspects of wholesale competition and on the appropriate analytical framework for analyzing mergers. The staff also has responded to requests from a number of states for comments on how to evaluate the impact of existing market power and how to protect consumers as the states introduce retail competition in the electric power industry. Moreover, the Commission further assisted states by conducting a public workshop in September 1999 that focused on market power and consumer protection issues of interest to state regulators who are introducing competition into retail electric power markets. Workshop findings were published in a Staff Report: Competition and Consumer Protection Perspectives on Electric Power Regulatory Reform (July 2000) *http://www.ftc.gov/be/v000009.htm.*

against unlicensed firms? Have these actions been effective to curb unlicensed activity? Have these requirements acted as an entry barrier for new suppliers?

6. Did the state place any restrictions on the ability of a utility's unregulated affiliate(s) to use a similar name and/or logo as its parent utility, in order to avoid consumer confusion when the affiliate offered unregulated generation services? Why or why not? What has been the experience to date with the use of these restrictions? Are consumers knowledgeable about who their suppliers are?

7. Did the state place any restrictions on third-party or affiliate use of a utility's customer information (*e.g.*, customer usage statistics, financial information, etc.)? What were the reasons for enacting the restrictions? What has been the effect of these restrictions on new marketing activity?

8. Has the state adopted any other measures intended to protect consumers (*e.g.*, length of consumer contracts, automatic renewal provisions, etc.) as it implemented retail competition? What has been the effect of these measures?

9. To what extent have suppliers engaged in advertising to sell their product(s)? Do some suppliers claim that their product is differentiated (*e.g.*, that it has environmental benefits)? Has there been any enforcement or attempts to verify these advertising claims? Do any certification organizations, such as Green-e, operate in the state? Are they used by (or at least available to) a substantial portion of consumers?

Retail Supply Issues

1. What difficulties have suppliers encountered in entering the market? What conditions/incentives attract suppliers to retail markets? Have suppliers exited the market after beginning to provide retail service? If so, why?

2. What are the customer acquisition costs and operational costs to service retail customers? How do acquisition and operational costs compare to profit margins for electric power generation services? Do retail margins affect entry? If so, how? Did the state harmonize the procedures suppliers use to attract and switch customers with other states' procedures, in order to reduce suppliers' costs?

3. Have customers switched to new suppliers? Why or why not? Are there greater incentives for certain customer classes (*i.e.*, industrial, commercial, residential) than for others to switch suppliers? Why or why not? Are penalties or different rates applied to customers that switch back to the supplier of last resort? Are there other measures to determine whether customers are actively considering switching suppliers? If so, do these indicators show different patterns than the switching rate data?

4. Have suppliers offered new types of products and services (*e.g.*, time of day pricing, interruptible contracts, green power, etc.) in states where retail competition has been implemented? If so, describe the products and what customer response has been.

5. What are the benefits or drawbacks of the different approaches to handling the supplier of last resort obligation [2] for customers who do not choose a new supplier (*e.g.*, allow incumbent utility to retain the obligation to provide generation services to non-choosing customers, auction the obligation, or assign the obligation to non-utility parties). What has been consumer reaction to these approaches? Is provider of last resort service necessary?

Retail Pricing Issues

1. How is entry affected by the price for the provider of last resort service (for customers who do not choose) or for default service (for customer whose supplier exits the market)? How does the price for the provider of last resort or default service compare to prices offered by alternative suppliers? Is the price for provider of last resort service or default service capped? If so, for how long?

2. Has the state required retail rate reductions prior to the start of retail competition? What is the rationale for these reductions? How have state-mandated rate reductions prior to the start of retail competition affected retail competition?

3. Do any seasonal fluctuations in the price of wholesale generation cause some suppliers to enter the market only at certain times of the year? How have these suppliers fared?

4. How has the state addressed public benefit programs (*e.g.*, universal service requirements, low income assistance, conservation education, etc.) as it has implemented retail competition? Which of these programs are necessary as competition is introduced and why? Are public benefits available to all customers or are they restricted to customers of the supplier of last resort? How does this affect retail competition?

[2] ''Supplier of last resort'' obligation refers to a company's duty to provide generation services to customers who have not chosen a new supplier. This obligation may be retained by the incumbent utility, it may be auctioned to alternative suppliers, or customers may be assigned to new suppliers. Many states have combined this obligation with the default service obligation to serve customers whose chosen supplier has exited the market.

Market Structure Issues

1. How has the development of Regional Transmission Organizations (RTOs) affected retail competition in the state?

2. Did the state require the divestiture of generation assets (or impose other regulatory conditions on the use of these assets) when retail competition was introduced? To what extent was divestiture of generation assets a component of the state's handling of a utility's stranded costs? Was divestiture used to remedy a high concentration of generation assets serving the state? Was there appreciable voluntary divestiture of generation assets? Has the state examined whether there has been appreciable consolidation of ownership of generation serving the state since the start of retail competition?

3. If a utility no longer owns generation assets to meet its obligations as the supplier of last resort or default service provider, what market mechanism (*e.g.*, spot market purchases, buy back or output contracts, etc.) does it use to obtain generation services to fulfill these obligations? What share of a utility's load is obtained via the different mechanisms? How are these shares trending? Is the market mechanism transparent? Is it necessary to monitor these market mechanisms? Why or why not? If so, what should the monitor examine?

4. Explain the state's role in overseeing operation of the transmission grid in the state and the extent to which public power or municipal power transmission systems are integrated into this effort. What is the relationship between the state's role and the Federal Energy Regulatory Commission's role in transmission system operation in the state?

5. Do firms that have provider of last resort or default service obligations (formerly ''native load'' obligations in the regulated environment) receive preferential transmission treatment? If so, how does this affect wholesale electric power competition? How and by whom should retail sales of bundled transmission services (*i.e.*, retail sales of both energy and transmission services) and retail sales of unbundled transmission be regulated? If by more than one entity, how should regulation be coordinated? What should the state's role be in overseeing wholesale transmission reliability?

6. To what extent did the state identify transmission constraints affecting access to out-of-state or in-state generation prior to the start of retail competition? Is the state capable of remedying these transmission

constraints, or is federal jurisdiction necessary? How do the rationales for federal jurisdiction over electric power transmission siting compare to the reasons underlying federal jurisdiction over the siting of natural gas pipelines?

7. How have state siting regulations for new generation and transmission facilities been affected by the onset of retail competition? Has new generation siting kept pace with demand growth in the state? If not, why not? Is federal jurisdiction necessary for siting of electric power generation facilities? Has the state actively monitored and reported the relationship between in-state capacity and peak demand in the state? What incentives do suppliers have to maintain adequate reserve capacity? What are the ways to value capacity in competitive markets? Is reserve sharing still important in competitive markets? Do other institutions/market processes provide a reasonable substitute for reserve sharing?

8. Since the start of retail competition, what has been the rate of generation plant outages (scheduled and unscheduled)? To what extent has the state monitored these outages and examined their causes?

Other Issues

1. What measures has the state taken to make customer demand responsive to changes in available supply? Has the state provided utilities incentives to make customers more price responsive? Has the state moved away from average cost pricing? What effect have these measures had on demand and on demand elasticity?

2. Has the state provided mechanisms and incentives for owners of co-generation capacity to offer power during peak demand periods? Has the state identified, reported, and facilitated development of pumped storage facilities or other approaches to arbitraging between peak and off-peak wholesale electricity prices?

3. What issues have arisen under retail competition that have required cooperation or coordination with other states? What approach was taken to securing this cooperation or coordination? Are there other issues requiring cooperation that have not yet been addressed? Which of these issues are the most significant?

4. How prevalent is the use of distributed resources (*e.g.*, distributed generation) within the state? What barriers do customers face to implementing distributed resources?

5. Which specific jurisdictional issues prevent state retail competition programs from being as successful as they might be?

6. Which specific technological developments are likely to substantially affect retail or wholesale competition in the electric power industry that may alter the manner in which states structure retail competition plans? Why? What time frame is associated with these developments?

7. What are the lessons to be learned from the retail electricity competition efforts of other countries? Are there other formerly-regulated industries in the U.S. (*e.g.*, natural gas) that allow customer choice and provide useful comparisons to retail electricity competition? If so, what are the relevant insights or lessons to be learned?

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–5429 Filed 3–5–01; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Draft Guideline for Environmental Infection Control in Healthcare Facilities, 2001

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

ACTION: Notice of availability and request for public comment.

SUMMARY: This notice is a request for review of and comment on the ''Draft Guideline for Environmental Infection Control in Healthcare Facilities, 2001.'' The guideline consists of two parts, references, and appendices. Part I is entitled ''Background Information: Environmental Infection Control in Healthcare Facilities,'' and Part II is entitled ''Recommendations for Environmental Infection Control in Healthcare Facilities.'' The document was prepared by the Healthcare Infection Control Practices Advisory Committee (HICPAC), the Division of Healthcare Quality Promotion (formerly Hospital Infections Program), the Division of Bacterial and Mycotic Diseases, and the Division of Parasitic Diseases, National Center for Infectious Diseases (NCID), and the Division of Oral Health, National Center for Chronic Disease Prevention and Health Promotion, CDC.

DATES: Comments on the draft document must be submitted in writing on or before April 20, 2001.

ADDRESSES: Comments on the Draft Guideline for Environmental Infection Control in Healthcare Facilities, 2001 should be submitted to the Resource Center, *Attention:* EnviroGuide, Division of Healthcare Quality Promotion, CDC, Mailstop E–68, 1600 Clifton Road, NE., Atlanta, Georgia 30333; fax: 404–639–6459; e-mail: *envirocomments@cdc.gov;* or Internet URL: *http://www.cdc.gov/ncidod/hip/enviro/guide.htm.*

FOR FURTHER INFORMATION CONTACT: Requests for copies of the Draft Guideline for Environmental Infection Control in Healthcare Facilities, 2001 should be submitted to the Resource Center, Division of Healthcare Quality Promotion, CDC, Mailstop E–68, 1600 Clifton Road, NE., Atlanta, Georgia 30333; fax: 404–639–6459; e-mail: *envirorequests@cdc.gov;* or Internet URL: *http://www.cdc.gov/ncidod/hip/enviro/guide.htm.*

SUPPLEMENTARY INFORMATION: This 2-part document updates and replaces portions of the previously published CDC Guideline for Handwashing and Hospital Environmental Control and the Environmental Infection Control portions of the CDC Guideline for Prevention of Nosocomial Pneumonia, 1994. Part I, ''Background Information: Environmental Infection Control in Healthcare Facilities,'' serves as the background for the consensus recommendations of HICPAC that are contained in Part II, ''Recommendations for Environmental Infection Control in Healthcare Facilities.'' This guideline also identifies key process management elements to assist facilities in monitoring compliance with the evidence-based Category IA or IB recommendations provided in Part II. These include: (1) Conducting risk assessment prior to construction, renovation, demolition, or major repair projects; (2) conducting ventilation assessments related to construction barrier installation; (3) establishing and maintaining appropriate pressure differentials for special care areas [*e.g.,* operating rooms, airborne infection isolation, protective environments]; (4) evaluating non-tuberculous mycobacteria culture results for possible environmental sources; and (5) implementing infection control procedures to prevent environmental spread of antibiotic-resistant gram-positive cocci and assuring compliance with these procedures.

HICPAC was established in 1991 to provide advice and guidance to the Secretary and the Assistant Secretary for Health, DHHS; the Director, CDC, and the Director, NCID, regarding the

practice of infection control and strategies for surveillance, prevention, and control of healthcare-associated infections in U.S. healthcare facilities. The committee advises CDC on guidelines and other policy statements regarding prevention of healthcare-associated infections and related adverse events.

Dated: February 28, 2001.

Joseph R. Carter,

Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–5376 Filed 3–5–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Proposed Vaccine Information Materials for Pneumococcal Conjugate, Diphtheria, Tetanus, Acellular Pertussis (DTaP/DT) and Hepatitis B Vaccines

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: Under the National Childhood Vaccine Injury Act (42 U.S.C. 300aa–26), the CDC must develop vaccine information materials that all health care providers are required to give to patients/parents prior to administration of specific vaccines. CDC seeks written comment on proposed new vaccine information materials for pneumococcal conjugate vaccine, and revised vaccine information materials for diphtheria, tetanus, acellular pertussis (DTaP/DT) vaccines and hepatitis B vaccine.

DATES: Written comments are invited and must be received on or before May 7, 2001.

ADDRESSES: Written comments should be addressed to Walter A. Orenstein, M.D., Director, National Immunization Program, Centers for Disease Control and Prevention, Mailstop E–05, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

FOR FURTHER INFORMATION CONTACT: Walter A. Orenstein, M.D., Director, National Immunization Program, Centers for Disease Control and Prevention, Mailstop E–05, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639–8200.

SUPPLEMENTARY INFORMATION: The National Childhood Vaccine Injury Act of 1986 (Pub. L. 99–660), as amended by section 708 of Public Law 103–183, added section 2126 to the Public Health Service Act. Section 2126, codified at 42 U.S.C. 300aa-26, requires the Secretary of Health and Human Services to develop and disseminate vaccine information materials for distribution by all health care providers in the United States to any patient (or to the parent or legal representative in the case of a child) receiving vaccines covered under the National Vaccine Injury Compensation Program.

Development and revision of the vaccine information materials have been delegated by the Secretary to the Centers for Disease Control and Prevention (CDC). Section 2126 requires that the materials be developed, or revised, after notice to the public, with a 60-day comment period, and in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care provider and parent organizations, and the Food and Drug Administration. The law also requires that the information contained in the materials be based on available data and information, be presented in understandable terms, and include:

(1) A concise description of the benefits of the vaccine,

(2) A concise description of the risks associated with the vaccine,

(3) A statement of the availability of the National Vaccine Injury Compensation Program, and

(4) Such other relevant information as may be determined by the Secretary.

The vaccines initially covered under the National Vaccine Injury Compensation Program were diphtheria, tetanus, pertussis, measles, mumps, rubella, and poliomyelitis vaccines. Since April 15, 1992, any health care provider in the United States who intends to administer one of these covered vaccines is required to provide copies of the relevant vaccine information materials prior to administration of any of these vaccines. Since June 1, 1999, health care providers are also required to provide copies of vaccine information materials for the following vaccines that were added to the National Vaccine Injury Compensation Program: hepatitis B, haemophilus influenzae type b (Hib), and varicella (chickenpox) vaccines. Instructions for use of the vaccine information materials and copies of the materials can be found on the CDC website at: http://www.cdc.gov/nip/publications/VIS/. In addition, single camera-ready copies are available from State health departments. A list of State health department contacts for obtaining copies of these materials is included in a December 17, 1999 **Federal Register** notice (64 FR 70914).

Pneumococcal Conjugate Vaccine Information Materials

With the December 18, 1999, addition of pneumococcal conjugate vaccine to the National Vaccine Injury Compensation Program, CDC, as required under 42 U.S.C. 300aa-26, is proposing vaccine information materials covering that vaccine, which are included in this notice.

Revised Vaccine Information Materials for Diphtheria, Tetanus, Acellular Pertussis (DTaP/DT) Vaccines and Hepatitis B Vaccine

This notice also includes proposed revised vaccine information materials for diphtheria, tetanus and acellular pertussis vaccines (other than Td vaccine) and hepatitis B vaccine.

The DTaP/DT materials are being revised to remove references to DTP (whole cell pertussis-containing vaccine) because this vaccine is no longer used in the United States. In addition, these proposed revised materials reflect a new adverse event profile for DTaP, including updated adverse event information on acellular pertussis vaccine.

The hepatitis B materials are being revised to note a recently approved two dose schedule for administration to adolescents 11 to 15 years of age as an alternative to the three dose schedule. Interim revised hepatitis B vaccine information materials were published in a September 1, 2000 **Federal Register** notice (65 FR 53316) for use pending completion of the formal revision process.

Development of New/Revised Vaccine Information Materials

The proposed vaccine information materials included in this notice were drafted in consultation with the Advisory Commission on Childhood Vaccines, the Food and Drug Administration, the American Academy of Pediatrics, American Pharmaceutical Association, Association of American Indian Physicians, Every Child by Two, Immunization Action Coalition, Immunization, Education and Action Committee, Infectious Disease Society of America, National Association for Pediatric Nurse Associates and Practitioners and the National Vaccine Advisory Committee. Also, CDC provided copies of the draft materials to other organizations and sought their consultation; however, those organizations did not provide comments. Comments provided by the consultants were considered in drafting

the proposed vaccine information materials included in this notice.

We invite written comment on the proposed vaccine information materials that follow, entitled ''Pneumococcal Conjugate Vaccine: What You Need to Know,'' ''Diphtheria, Tetanus & Pertussis Vaccines: What You Need to Know,'' and ''Hepatitis B Vaccine: What You Need to Know.'' Comments submitted will be considered in finalizing these materials. When the final materials are published in the **Federal Register**, the notice will include an effective date for their use.

We also propose to revise the December 17, 1999, Instructions for Use of Vaccine Information Materials (Vaccine Information Statements), and interim instructions dated September 6, 2000, to add the requirement for use of the pneumococcal conjugate vaccine information materials and to note the new edition dates for the revised vaccine information materials covering diphtheria, tetanus, pertussis (DTaP/DT) vaccines and hepatitis B vaccine.

Pneumococcal Conjugate Vaccine: What You Need to Know

1. Why Get Vaccinated?

Pneumococcal disease is a serious disease that causes sickness and death. In fact, it is the leading cause of bacterial meningitis in the United States. (Meningitis is a serious infection of the covering of the brain).

Each year pneumococcal disease causes in children under five:

- 17,000 cases of invasive disease, including 700 cases of meningitis
- About 5 million ear infections
- About 200 deaths

It can also lead to other health problems, including:

- Pneumonia
- Deafness
- Brain damage

Children under 2 years old are at highest risk for serious disease.

Pneumococcus bacteria are spread from person to person through close contact.

Pneumococcal infections can be hard to treat because some bacteria have become resistant to drugs that have been used to treat them. This makes prevention of the disease even more important.

Pneumococcal conjugate vaccine can prevent serious pneumococcal disease, such as meningitis and blood infections. It also prevents some ear infections. But ear infections have many causes, and pneumococcal vaccine is effective against only some of them.

2. Pneumococcal Conjugate Vaccine

Pneumococcal conjugate vaccine is approved for infants and toddlers. Protection lasts at least 3 years, so children who are vaccinated as infants will be protected when they are at greatest risk for serious disease.

Some older children and adults may get a different vaccine called pneumococcal polysaccharide vaccine. There is a separate Vaccine Information Statement for people getting the pneumococcal polysaccharide vaccine.

3. Who Should Get the Vaccine and When?

Children under 2 years of age:

- 2 months
- 4 months
- 6 months
- 12–15 months

Children who weren't vaccinated at these ages can still get the vaccine. The number of doses needed depends on the child's age. Ask your health care provider for details.

- Children between 2 and 5 years of age:

Pneumococcal conjugate vaccine is also recommended for children between 2 and 5 years old who have not already gotten the vaccine and are at high risk of serious pneumococcal disease. This includes children who:

- Have sickle cell disease,
- Have a damaged spleen or no spleen,
- Have HIV/AIDS,
- Have other diseases that affect the immune system, such as diabetes, cancer, or liver disease, or
- Take medications that affect the immune system, such as chemotherapy or steroids.

Other children who are at increased risk of serious pneumococcal disease include those who:

- Are under 3 years of age,
- Are of Alaska Native, American Indian or African American descent, or
- Attend group day care.

The number of doses needed depends on the child's age. Ask your health care provider for more details.

Pneumococcal conjugate vaccine may be given at the same time as other routine childhood vaccines.

4. Some Children Should Not Get Pneumococcal Conjugate Vaccine or Should Wait

Children should not get pneumococcal conjugate vaccine if they had a severe (life-threatening) allergic reaction to a previous dose of this vaccine, or have a severe allergy to a vaccine component. Tell your health-care provider if your child has ever had a severe reaction to any vaccine, or has any severe allergies.

Children with minor illnesses, such as a cold, may be vaccinated. But children who are moderately or severely ill should usually wait until they recover before getting the vaccine.

5. What Are the Risks From Pneumococcal Conjugate Vaccine?

In clinical trials (nearly 60,000 doses), pneumococcal conjugate vaccine was associated with only mild reactions:

- Up to about 1 infant out of 4 had redness, tenderness, or swelling where the shot was given.
- About 1 out of 3 had a fever of over 100.4 °F, and up to about 1 in 50 had a higher fever (over 102.2 °F).
- Some children also became fussy or drowsy, or had a loss of appetite.

So far, no moderate or severe reactions have been associated with this vaccine. However, a vaccine, like any medicine, could cause serious problems, such as a severe allergic reaction. The risk of this vaccine causing serious harm, or death, is extremely small.

6. What If There Is a Moderate or Severe Reaction?

What Should I Look For?

Look for any unusual condition, such as a serious allergic reaction, high fever, or unusual behavior.

Serious allergic reactions are extremely rare with any vaccine. If one were to occur, it would be within a few minutes to a few hours after the shot. Signs can include difficulty breathing, hoarseness or wheezing, hives, paleness, weakness, a fast heart beat, dizziness, and swelling of the throat.

What Should I Do?

- Call a doctor or get the person to a doctor right away.
- Tell your doctor what happened, the date and time it happened, and when the vaccination was given.
- Ask your health care provider to file a Vaccine Adverse Event Reporting System (VAERS) form, or call VAERS yourself at 1–800–822–7967.

7. The Vaccine Injury Compensation Program

In the rare event that you or your child has a serious reaction to a vaccine, a federal program has been created to help pay for the care of those who have been harmed.

For details about the National Vaccine Injury Compensation Program, call 1–800–338–2382 or visit their website at *http://www.hrsa.gov/bhpr/vicp*

8. How Can I Learn More?

- Ask your doctor or nurse. They can give you the vaccine package insert or suggest other sources of information.
- Call your local or state health department's immunization program.
- Contact the Centers for Disease Control and Prevention (CDC):
  —Call 1–800–232–2522 (English) or 1–800–232–0233 (Español)
  —Visit the National Immunization Program's website at *http://www.cdc.gov/nip*

U.S. Department of Health & Human Services Centers for Disease Control and Prevention, National Immunization Program

Vaccine Information Statement
Pneumococcal Conjugate Vaccine
(00/00/0000) (Proposed)
42 U.S.C. 300aa–26

Diphtheria, Tetanus & Pertussis Vaccines: What You Need To Know

1. Why Get Vaccinated?

Diphtheria, tetanus, and pertussis are serious diseases caused by bacteria. Diphtheria and pertussis are spread from person to person. Tetanus enters the body through cuts or wounds.

Diphtheria causes a thick covering in the back of the throat.

- It can lead to breathing problems, paralysis, heart failure, and even death.

Tetanus (Lockjaw) causes painful tightening of the muscles, usually all over the body.

- It can lead to ''locking'' of the jaw so the victim cannot open his mouth or swallow. Tetanus leads to death in about 3 out of 10 cases.

Pertussis (Whooping Cough) causes coughing spells so bad that it is hard for infants to eat, drink, or breathe. These spells can last for weeks.

- It can lead to pneumonia, seizures (jerking and staring spells), brain damage, and death.

Diphtheria, tetanus, and pertussis vaccine (DTaP) can prevent these diseases. Most children who are vaccinated with DTaP will be protected throughout childhood. Many more children would get these diseases if we stopped vaccinating.

DTaP is a safer version of an older vaccine called DTP. DTP is no longer used in the United States.

2. Who Should Get DTaP Vaccine and When?

Children should get *5 doses* of DTaP vaccine, one dose at each of the following ages:

—2 months
—4 months
—6 months
—15–18 months
—4–6 years

DTaP may be given at the same time as other vaccines.

3. Some Children Should Not Get DTaP Vaccine or Should Wait

- Any child who has had a life-threatening allergic reaction after a dose of DTaP should not get any more doses.
- Any child who suffered a brain or nervous system disease within 7 days after a dose of DTaP should not get any more doses.
- Talk with your doctor if your child:

—Had a seizure or collapsed after a previous dose of DTaP,
—Cried non-stop for 3 hours or more after a previous dose of DTaP,
—Had a high fever (over 105 °F) after a previous dose of DTaP.

- Children who are moderately or severely ill at the time the shot is scheduled should usually wait until they recover before getting DTaP vaccine.

Ask your health care provider for more information. Children who should not get the pertussis part of the vaccine can get a vaccine called DT, which doesn't contain pertussis.

4. Older Children and Adults

DTaP should not be given to anyone 7 years of age or older. Pertussis can still strike older children, adolescents, and adults, but the pertussis vaccine is currently licensed only for children under 7.

Adolescents and adults still need protection from tetanus and diphtheria. A booster shot called Td is recommended at 11–12 years of age. It should be repeated every 10 years. There is a separate Vaccine Information Statement for Td vaccine.

5. What Are the Risks From DTaP Vaccine?

Getting diphtheria, tetanus, or pertussis disease is much riskier than getting DTaP vaccine. However, a vaccine, like any medicine, is capable of causing serious problems, such as severe allergic reactions. The risk of DTaP vaccine causing serious harm, or death, is extremely small.

Mild Problems (Common)

- Fever (up to about 1 child in 4)
- Redness or swelling where the shot was given (up to about 1 child in 4)
- Soreness or tenderness where the shot was given (up to about 1 child in 4)

These problems occur more often after the 4th and 5th doses of the DTaP series than after earlier doses.

Another mild problem is swelling of the arm or leg in which the shot was given, after the 4th or 5th dose (up to about 1 child in 30).

Other mild problems include:

- Fussiness (up to about 1 child in 3)
- Tiredness or poor appetite (up to about 1 child in 10)
- Vomiting (up to about 1 child in 50)

These problems generally occur 1–3 days after the shot.

Moderate Problems (Uncommon)

- Seizure (jerking or staring) (about 1 child out of 14,000)
- Non-stop crying, for 3 hours or more (up to about 1 child out of 1,000)
- High fever, over 105 °F (about 1 child out of 16,000)

Severe Problems (Very Rare)

- Serious allergic reaction (less than 1 out of a million doses)
- Several other severe problems have been reported after DTaP vaccine. These include:
  —Long-term seizures, coma, or lowered consciousness
  —Permanent brain damage.

These are so rare it is hard to tell if they are caused by the vaccine.

Controlling fever is especially important for children who have had seizures, for any reason. It is also important if another family member has had seizures.

You can reduce fever and pain by giving your child an aspirin-free pain reliever when the shot is given, and for the next 24 hours, following the package instructions.

6. What If There Is a Moderate or Severe Reaction?

What Should I Look For?

Any unusual conditions, such as a serious allergic reaction, high fever or behavior changes. Signs of a serious allergic reaction include difficulty breathing, hoarseness or wheezing, hives, paleness, weakness, a fast heart beat or dizziness within a few minutes to a few hours after the shot. If a high fever or seizure occurs, it is usually within 2 weeks after the shot.

What Should I Do?

- Call a doctor, or get the person to a doctor right away.
- Tell your doctor what happened, the date and time it happened, and when the vaccination was given.
- Ask your doctor, nurse, or health department to file a Vaccine Adverse Event Reporting System (VAERS) form, or call VAERS yourself at 1–800–822–7967.

7. The National Vaccine Injury Compensation Program

In the rare event that you or your child has a serious reaction to a vaccine, a federal program has been created to help pay for the care of those who have been harmed.

For details about the National Vaccine Injury Compensation Program, call 1–800–338–2382 or visit the program's website at *http://www.hrsa.gov/bhpr/vicp*

8. How Can I Learn More?

- Ask your health care provider. They can give you the vaccine package insert or suggest other sources of information.
- Call your local or state health department's immunization program.
- Contact the Centers for Disease Control and Prevention (CDC):

—Call 1–800–232–2522 (English)

—Call 1–800–232–0233 (Español)

—Visit the National Immunization Program's website at *http://www.cdc.gov/nip*

Department of Health & Human Services, Centers for Disease Control and Prevention, National Immunization Program

Vaccine Information Statement

DTaP

(00/00/0000) (Proposed)

42 U.S.C. 300aa–26

Hepatitis B Vaccine: What You Need To Know

1. Why Get Vaccinated?

Hepatitis B Is a Serious Disease

The hepatitis B virus can cause short-term (acute) illness that leads to:

- Loss of appetite
- Diarrhea and vomiting
- Tiredness
- Jaundice (yellow skin or eyes)
- Pain in muscles, joints, and stomach

It can also cause long-term (chronic) illness that leads to:

- Liver damage (cirrhosis)
- Liver cancer
- Death

About 1.25 million people in the U.S. have chronic hepatitis B virus infection. If you are infected as a young child, you are much more likely to develop chronic illness.

Each year it is estimated that:

- 200,000 people, mostly young adults, get infected with hepatitis B virus
- More than 11,000 people have to stay in the hospital because of hepatitis B
- 4,000 to 5,000 people die from chronic hepatitis B

Hepatitis B vaccine can prevent hepatitis B. It is the first anti-cancer vaccine because it can prevent a form of liver cancer.

2. How Is Hepatitis B Virus Spread?

Hepatitis B virus is spread through contact with the blood and body fluids of an infected person.

A person can get infected in several ways, such as:

- During birth when the virus passes from an infected mother to her baby
- By having sex with an infected person
- By injecting illegal drugs
- By being stuck with a used needle on the job
- By sharing personal items, such as a razor or toothbrush with an infected person

People can get hepatitis B infection without knowing how they got it. About ⅓ of hepatitis B cases in the United States have an unknown source.

3. Who Should Get Hepatitis B Vaccine and When?

(1) Everyone 18 years of age and younger

(2) Adults over 18 who are at risk

Adults at risk for hepatitis B infection include people who have more than one sex partner, men who have sex with other men, injection drug users, health care workers, and others who might be exposed to infected blood or body fluids.

If you are not sure whether you are at risk, ask your doctor or nurse.

People should get 3 doses of hepatitis B vaccine according to the following schedule. If you miss a dose or get behind schedule, get the next dose as soon as you can. There is no need to start over.

HEPATITIS B VACCINATION SCHEDULE

When?	Who?		
	Infant whose mother is infected with hepatitis B virus	Infant whose mother is not infected with hepatitis B virus	Older child, adolescent, or adult
First Dose	Within 12 hours of birth	Birth–2 months of age	Any time.
Second Dose	1–2 months of age	1–4 months of age (At least 1 month after first dose).	1–2 months after first dose.
Third Dose	6 months of age	6–18 months of age	4–6 months after first dose.

The second dose must be given at least 1 month after the first dose.
The third dose must be given at least 2 months after the second dose and at least 4 months after the first.
The third dose should not be given to infants younger than 6 months of age.

Adolescents 11 to 15 years of age may need only two doses of hepatitis B vaccine, separated by 4–6 months. Ask your health care provider for details.

Hepatitis B vaccine may be given at the same time as other vaccines.

4. Some People Should Not Get Hepatitis B Vaccine or Should Wait

People should not get hepatitis B vaccine if they have ever had a life-threatening allergic reaction to baker's yeast (the kind used for making bread) or to a previous dose of hepatitis B vaccine.

People who are moderately or severely ill at the time the shot is scheduled should usually wait until they recover before getting hepatitis B vaccine.

Ask your doctor or nurse for more information.

5. What Are the Risks From Hepatitis B Vaccine?

A vaccine, like any medicine, is capable of causing serious problems, such as severe allergic reactions. The risk of a vaccine causing serious harm, or death, is extremely small.

Getting hepatitis B vaccine is much safer than getting hepatitis B disease.

Most people who get hepatitis B vaccine do not have any problems with it.

Mild Problems

- Soreness where the shot was given, lasting a day or two (up to 1 out of 11 children and adolescents, and about 1 out of 4 adults)
- Mild to moderate fever (up to 1 out of 14 children and adolescents and 1 out of 100 adults)

Severe Problems

- Serious allergic reaction (very rare)

6. What If There Is a Moderate or Severe Reaction?

What Should I Look For?

Any unusual condition, such as a serious allergic reaction, high fever or behavior changes. Signs of a serious allergic reaction can include difficulty breathing, hoarseness or wheezing, hives, paleness, weakness, a fast heart beat or dizziness. If such a reaction were to occur, it would be within a few minutes to a few hours after the shot.

What Should I Do?

- Call a doctor or get the person to a doctor right away.
- Tell your doctor what happened, the date and time it happened, and when the vaccination was given.
- Ask your doctor, nurse, or health department to file a Vaccine Adverse Event Reporting System (VAERS) form, or call VAERS yourself at 1–800–822–7967.

7. The National Vaccine Injury Compensation Program

In the rare event that you or your child has a serious reaction to a vaccine, a federal program has been created to help pay for the care of those who have been harmed.

For details about the National Vaccine Injury Compensation Program, call 1–800–338–2382 or visit the program's website at *http://www.hrsa.gov/bhpr/vicp*

8. How Can I Learn More?

- Ask your doctor or nurse. They can give you the vaccine package insert or suggest other sources of information.
- Call your local or state health department's immunization program.
- Contact the Centers for Disease Control and Prevention (CDC):
  - —Call 1–800–232–2522 or 1–888–443–7232 (English)
  - —Call 1–800–232–0233 (Español)
  - —Visit the National Immunization Program's website at *http://www.cdc.gov/nip* or CDC's Hepatitis Branch website at *http://www.cdc.gov/ncidod/diseases/hepatitis*

Department of Health & Human Services, Centers for Disease Control and Prevention, National Immunization Program

Vaccine Information Statement
Hepatitis B
(00/00/0000) (Proposed)
42 U.S.C. 300aa–26

Dated: February 28, 2001.

Joseph R. Carter,

Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–5377 Filed 3–5–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–1168]

Relative Risk to Public Health From Foodborne Listeria Monocytogenes Among Selected Categories of Ready-to-Eat Foods; Draft Risk Assessment Document and Risk Management Action Plan; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

The Food and Drug Administration (FDA), in cooperation with the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA), and the Centers for Disease Control and Prevention is announcing the following public meeting: Relative Risk to Public Health from Foodborne *Listeria Monocytogenes* Among Selected Categories of Ready-to-Eat Foods; Draft Risk Assessment Document and Risk Management Action Plan. The purpose of the public meeting is to receive comments on the technical aspects of a draft risk assessment on the relationship between foodborne *Listeria monocytogenes* and human health, and on a proposed risk management action plan for *L. monocytogenes*. A notice of availability of the draft risk assessment and the action plan was published in the **Federal Register** of January 19, 2001 (66 FR 5515).

Date and Time: The meeting will be held on March 19, 2001, 8:30 a.m. to 4 p.m.

Location: The meeting will be held at the Hilton Hotel, 2399 Jefferson Davis Hwy., Arlington, VA 22202.

Contact: Catherine M. DeRoever, Center for Food Safety and Applied Nutrition (HFS–6), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4251, FAX 202–205–4970, e-mail: cderoeve@cfsan.fda.gov.

Registration and Requests for Oral Presentations: Send registration information (including name, title, firm name, address, telephone, and fax number), to the contact person by March 14, 2001. Interested persons may present data, information, or views orally or in writing, on the issues identified above. Written submissions must also be made to the contact person by March 14, 2001. Time allotted for each presentation may be limited. If you wish to make a formal oral presentation, you should notify the contact person before March 14, 2001, and be prepared to provide a brief statement of the general nature of the evidence you wish to present.

If you need special accommodations due to a disability, please contact Catherine M. DeRoever (address above) at least 7 days in advance.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

SUPPLEMENTARY INFORMATION: The U. S. Department of Health and Human Services and the USDA are seeking comments on the technical aspects of the draft risk assessment in the following areas: (1) The assumptions made, (2) the modeling technique, (3) the data used, and (4) the transparency of the draft risk assessment document. All public comments will be reviewed and evaluated, and the assessment will be modified, as appropriate. The agencies are also inviting comments on the risk management strategies as presented in the draft action plan.

Dated: February 28, 2001.

Ann M Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–5379 Filed 3–1–01; 4:23 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–1075]

Public Health Impact of Vibrio Parahaemolyticus in Raw Molluscan Shellfish; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA) is announcing the following meeting on: *Vibrio parahaemolyticus* in raw molluscan shellfish and human health. The purpose of the meeting is to receive comments on the technical aspects of the draft risk assessment on the relationship between *Vibrio parahaemolyticus* in raw molluscan

shellfish and human health. Notice of availability of the draft risk assessment was previously published in the **Federal Register** of January 19, 2001.

Date and Time: The meeting will be held on March 20, 2001, 9 a.m. to 3 p.m.

Location: The meeting will be held at the Hilton Hotel-Crystal City, 2399 Jefferson Davis Hwy., Arlington, VA 22202.

Contact: Catherine M. DeRoever, Center for Food Safety and Applied Nutrition (HFS–6), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–251, FAX 202–205–4970, e-mail cderoeve@cfsan.fda.gov.

Agenda: FDA is seeking comments on the draft risk assessment in the following areas: (1) The assumptions made, (2) the modeling technique, (3) the data used, and (4) the transparency of the draft risk assessment document. FDA will review and evaluate all public comments and make modifications to the risk assessment, as appropriate.

Registration and Requests for Oral Presentation: Send registration information (including name, title, firm name, address, telephone, and fax number) to the contact person by March 14, 2001. Interested persons may present data, information, or views orally or in writing, on the draft risk assessment on the relationship between *V. parahaemolyticus* in raw molluscan shellfish and human health. Written submissions must also be made to the contact person by March 14, 2001. Time allotted for each presentation may be limited. If you wish to make a formal oral presentation, you should notify the contact person before March 14, 2001, and be prepared to provide a brief statement of the general nature of the evidence you wish to present.

If you need special accommodations due to a disability, please contact Catherine M. DeRoever (address above) at least 7 days in advance.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

Dated: February 28, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–5462 Filed 3–1–01; 4:23 pm]

BILLING CODE 4162–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–1168]

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 00-048N]

Relative Risk to Public Health From Foodborne Listeria Monocytogenes Among Selected Categories of Ready-to-Eat Foods; Draft Risk Assessment Document and Risk Management Action Plan; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS, and Food Safety and Inspection Service, USDA.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA), in cooperation with the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA), and the Centers for Disease Control and Prevention, published a notice of availability of a draft risk assessment on the relationship between foodborne *Listeria monocytogenes* and human health and a proposed risk management action plan for *L. monocytogenes* in the **Federal Register** of January 19, 2001. Interested persons were given until March 20, 2001, to comment on these documents. Because a public meeting to receive comments on these documents has been scheduled close to the end of the comment period and in response to the requests of the National Food Processors Association and the LM Working Group for an extension of the comment period, FDA and FSIS are extending the comment period until May 21, 2001.

DATES: Submit written comments by May 21, 2001.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Docket No. 99N–1168, Food and Drug Administration, 5630 Fishers Lane, rm. 1060, Rockville, MD 20852. Two copies of any comments are to be submitted, except that individuals may submit one copy. Received comments may be reviewed at the FDA Dockets Management branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Submit one original and two copies of written comments to FSIS Docket Clerk, Docket No. 00–048N, U.S. Department of Agriculture, Food Safety and Inspection Service, rm. 102, Cotton Annex, 300 12th Street SW., Washington, DC 20250–3700. All comments submitted in response to this notice will be available for public inspection in the Docket Clerk's office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

For information concerning the draft risk assessment document: Sherri B. Dennis, Risk Assessment Coordinator, Center for Food Safety and Applied Nutrition (HFS–032), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–260–3984, FAX 202–260–9653, e–mail: sdennis@cfsan.fda.gov.

For information concerning the risk management action plan: Kathy Gombas, Center for Food Safety and Applied Nutrition (HFS–615), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4231, FAX 202–260–0136, e–mail: kgombas@cfsan.fda.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 19, 2001, (66 FR 5515), the Department of Health and Human Services and USDA announced the availability of two documents: A draft risk assessment on the relationship between foodborne *L. monocytogenes* and human health and a draft risk management action plan. Comments were sought on the technical aspects of the draft risk assessment in the following areas: (1) The assumptions made, (2) the modeling technique, (3) the data used, and (4) the transparency of the draft risk assessment document. The agencies also invited comments on the risk management strategies as presented in the draft action plan. Interested persons were given until March 20, 2001, to comment on the draft risk assessment and draft risk management action plan. Because a public meeting to receive comments on these documents has been scheduled close to the end of the comment period, and in response to the requests of the National Food Processors Association and the LM Working scheduled close to the end of the comment period, and in response to the requests of the National Food Processors Association and the LM Working Group for an extension of the comment period, FDA and FSIS are extending the comment period until May 21, 2001.

To be considered, submit written comments to FDA Dockets Management Branch or the FSIS Dockets Clerk (addresses above) by May 21, 2001.

Printed copies of the draft risk assessment and the risk management action plan may be requested by faxing your name and mailing address with the

names of the documents you are requesting to the CFSAN Outreach and Information Center at 1–877–366–3322. The documents may be reviewed at the FDA Dockets Management Branch or the FSIS Docket Clerk's Office at the addresses and hours noted above. The draft risk assessment and the draft risk management action plan documents are also available electronically as follows: www.cfsan.fda.gov, www.fsis.usda.gov, www.foodsafety.gov. The draft risk assessment is also available electronically at www.foodriskclearinghouse.umd.edu.

Dated: February 28, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–5378 Filed 3–1–01; 4:23 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–1075]

Public Health Impact of Vibrio Parahaemolyticus in Raw Molluscan Shellfish; Draft Risk Assessment Document; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) published a notice of availability of a draft risk assessment on the relationship between *Vibrio parahaemolyticus* in raw shellfish and human health in the **Federal Register** of January 19, 2001 (66 FR 5517). Interested persons were given until March 20, 2001, to comment on the draft risk assessment. Because a public meeting has been scheduled close to the end of the comment period, FDA is extending the comment period until May 21, 2001, in order to allow additional time for public comment.

DATES: Submit written comments by May 21, 2001.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1060, Rockville, MD 20852. Two copies of comments are to be submitted, except that individuals may submit one copy. Comments must be identified with the docket number found in brackets in the heading of this document. Received comments may be reviewed at the Dockets Management branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Sherri B. Dennis, Risk Assessment Coordinator, Center for Food Safety and Applied Nutrition (HFS–032), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–260–3984, FAX 202–260–9653, or e-mail: sdennis@cfsan.fda.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 19, 2001 (66 FR 5517), FDA announced the availability of a draft risk assessment on the relationship between *Vibrio parahaemolyticus* in raw molluscan shellfish and human health. Comments were sought on the technical aspects of the draft risk assessment in the following areas: (1) The assumptions made, (2) the modeling technique, (3) the data used, and (4) the transparency of the draft risk assessment document. Interested persons were given until March 20, 2001, to comment on the risk assessment. Because a public meeting to receive comments on the draft risk assessment has been scheduled close to the end of the comment period, FDA is extending the comment period until May 21, 2001, to allow additional time for public comment.

To be considered, written comments must be received by May 21, 2001, by the agency's Dockets Management Branch (address above).

A printed copy of the draft risk assessment may be requested by faxing your name and mailing address with the name of the document you are requesting to the CFSAN Outreach and Information Center at 1–877–366–3322. The documents may be reviewed at the Dockets Management Branch at the address and hours noted above. The draft risk assessment is available electronically as follows: www.cfsan.fda.gov, www.foodsafety.gov, and www.foodriskclearinghouse.umd.edu.

Dated: February 28, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–5461 Filed 3–1–01; 4:23 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–214]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Independent Diagnostic Testing Facility and Supporting Regulations contained in 42 CFR 401.33; *Form No.:* HCFA–R–214 (OMB# 0938–0721); *Use:* The information collection requirements associated with an Independent Diagnostic Testing Facilities involve documentation of proficiency of medical personnel and of resources; *Frequency:* Quarterly; *Affected Public:* Business or other for-profit, Federal Government and State, local and tribal government; *Number of Respondents:* 500; *Total Annual Responses:* 500; *Total Annual Hours:* 42.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm,* or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed

within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Attn.: HCFA–R–214, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 22, 2001.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–5325 Filed 3–5–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–724]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Medicare/Medicaid Psychiatric Hospital Survey Data and Supporting Regulations Contained in 42 CFR 482.60, 482.61 and 482.62; *Form No.:* HCFA–724 (OMB# 0938–0378); *Use:* The information collected on this form will assist HCFA in maintaining an accurate data base on providers participating in the Medicare psychiatric hospital program; Frequency: Annually; *Affected Public:* Federal government, Business or other for-profit, Not-for-profit institutions, and State, local or tribal government; *Number of Respondents:* 350; *Total Annual Responses:* 350; *Total Annual Hours:* 175.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm,* or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Attn.: HCFA 784, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 22, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–5326 Filed 3–5–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–417]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Hospice Request for Certification in the Medicare Program; *Form No.:* HCFA–417 (OMB # 0938–0313); *Use:* The Hospice Request for Certification Form is used for hospice identification, screening, and to initiate the certification process. The information captured on this form is entered into a data base which assists HCFA in determining whether providers have sufficient personnel to participate in the Medicare program; *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions, Federal Government, and State, local or tribal government; *Number of Respondents:* 2,286; *Total Annual Responses:* 2,286; *Total Annual Hours:* 572.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm,* or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Attn.: HCFA 417, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 22, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–5327 Filed 3–5–01; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Poison Control Stabilization and Enhancement Grant Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that up to $15 million in fiscal year (FY) 2001 funds is anticipated for up to 80 grants to regional poison control centers (PCCs) for the implementation of project grants to enhance and improve poison education, prevention and treatment services. Grants will be made in the following categories: financial stabilization grants to certified PCCs across the Nation; certification grants to non-certified PCCs; incentive grants to encourage collaboration; and system development and service access grants for rural and geographically isolated areas to allow time to obtain certified poison control services. All awards will be made under the program authority of the Poison Center Enhancement and Awareness Act (Pub. L. 106–174). This Poison Control Stabilization and Enhancement Grant Program (CFDA #93.253) will be administered by the Maternal and Child Health Bureau (MCHB), HRSA. Projects in the following four categories will be approved for up to a 3-year period, with awards in subsequent years contingent upon the availability of funds: (1) Stabilization grant awards will range from approximately $60,000 to $1,600,000 annually, depending on the size of the population served, and will be awarded for up to three years; (2) Certification grants, also population based, will range from $50,000 to $200,000 annually and will be awarded for up to three years; (3) Incentive grants will be awarded at $125,000 annually for up to two years; and (4) Service Access grant awards will be $50,000 for one year only. Funding for Poison Control Stabilization and Enhancement Grants in FY 2001 is made available under the FY 2001 Labor-HHS-Education Appropriations Act (Pub. L. 106–554).

DATES: The deadline for receipt of applications is May 8, 2001. Applications will be considered ''on time'' if they are either received on or before the deadline date or postmarked on or before the deadline date. The projected award date is September 1, 2001.

ADDRESSES: To receive a complete application kit, applicants may telephone the HRSA Grants Application Center at 1–877–477–2123 (1–877–HRSA–123) beginning March 12, 2001, or register on-line at: *http://www.hrsa.dhhs.gov/,* or by accessing *http://www.hrsa.gov/g__order3.htm* directly. This program uses the standard Form PHS 5161–1 (rev. 7/00) for applications (approved under OMB No. 0920–0428). Applicants must use Catalog of Federal Domestic Assistance (CFDA) number 93.253 when requesting application materials. The CFDA is a Government wide compendium of enumerated Federal programs, projects, services, and activities which provide assistance. All applications should be mailed or delivered to: Grants Management Officer, MCHB; HRSA Grants Application Center, 1815 N. Fort Meyer Drive, Suite 300, Arlington, Virginia 22209; telephone: 1–877–477–2123; E-mail: *hrsagac @ hrsa.gov.*

This application guidance and the required forms for the Poison Control Center Stabilization and Enhancement Grant Program may be downloaded in either WordPerfect 6.1 or Adobe Acrobat format (.pdf) from the MCHB Home Page at *http://www.mchb.hrsa.gov/.* Please contact Joni Johns, at 301/443–2088, or *jjohns@hrsa.gov/,* if you need technical assistance in accessing the MCHB Home Page via the Internet.

This announcement will appear in the **Federal Register** and on the HRSA Home Page at: *http://www.hrsa.dhhs.gov/.* **Federal Register** notices are found on the World Wide Web by following instructions at: *http://www.access.gpo.gov/su__docs/aces/aces140.html.*

FOR FURTHER INFORMATION CONTACT: Carol A. Delany, 301/443–5372, email: *cdelany@hrsa.gov/* (for questions specific to project activities of the program, program objectives); Theda Duvall, 301/443–1440, email *tduvall@hrsa.gov/* (for grants policy, budgetary, and business questions).

SUPPLEMENTARY INFORMATION:

Program Background and Objectives

Of an estimated four million poisonings in the United States each year, more than two million are reported to PCCs. More than 90 percent of these poisonings occur in the home and 60 percent of the poisoning victims are children under age six. United States PCCs provide easy access, free of charge, to persons seeking help, including a telephone hotline staffed by toxicology professionals and immediate information and treatment advice regarding suspected toxic exposures to drugs, chemicals, plants, and other substances.

The ready accessibility of high quality poison control services has been proven to decrease the severity of illness, prevent deaths and significantly reduce health care costs. Despite the life-saving, cost-effective contributions of poison control centers to the health and well-being of the U.S. population, chronic underfunding has reduced the number of centers significantly in the past three decades. At the present time, funding instability continues to threaten the existence of the poison control centers which serve this country. Unstable funding has also had an adverse impact on the capacity of the PCCs to enhance and improve services and develop a comprehensive National system.

Public Law 106–174, the ''Poison Control Center Enhancement and Awareness Act,'' was enacted on February 25, 2000, to respond to this crisis. It authorizes funding to stabilize centers financially and encourage the enhancement and improvement of poison education, prevention and treatment services. It contains provisions designed to increase the number of Americans with access to quality poison control services and decrease the use of more expensive emergency medical services, by: establishing a national toll-free telephone number with related nationwide media and advertising campaigns to ensure access to PCCs for all Americans; educating the public and health care providers about poison prevention and the availability of poison control resources in local communities; and establishing a grant program to improve the financial stability of PCCs and strengthen poisoning prevention and treatment programs and services.

Public Law 106–554 includes an appropriation of $20 million to fund activities specified under Public Law 106–174. This Notice addresses the establishment of the grant program for poison centers authorized under Section 6(a) of Public Law 106–174 . The law prohibits use of these grant funds for the supplantation of other Federal, State, and local funds and requires maintenance of effort by the poison control centers.

The MCHB has sought input from interested parties as it develops its plan for a realistic and effective response to the crisis in the Nation's PCCs. It has worked in consultation with the Centers for Disease Control and Prevention and

has met with key stakeholders over the last year.

Authorization: Poison Control Center Enhancement and Awareness Act (Pub. L. 106–174).

Purpose

The purpose of this grant program is to stabilize certified poison control centers and to encourage the certification of non-certified centers in order to improve access to poison education, prevention and treatment services. Grants awarded will be used by PCCs for the purposes of achieving financial stabilization, assisting non-certified centers to achieve certification, promoting systems development and collaboration, and assuring the orderly transition or development of poison services by a certified center for rural or geographically isolated areas.

Eligibility

Eligibility for funding under this grant program is limited to certified Poison Control Centers (PCCs). Centers must be certified by the American Association of Poison Control Centers or a State with equivalent standards, as determined by the Secretary. A waiver of certification may be granted by the Secretary to non-certified or newly-established PCCs that apply for a grant if the PCC can reasonably demonstrate that it will obtain certification within a three-year period.

Funding Categories

(1) *Financial Stabilization Grants:* It is anticipated that 45–50 grants, ranging from $60,000 to $1,600,000, will be awarded in this category to enable certified PCCs or Poison Control Systems to achieve financial stability, strengthen and maintain poison prevention programs and services, and strengthen the centers as sources of treatment information and recommendations for poisonings.

(2) *Certification Grants:* It is anticipated that 10–15 grants, ranging from $50,000—$200,000, will be awarded, in order to improve access to poison prevention services, to non-certified centers or systems which demonstrate through progress after two years that they can attain certification within a three-year period.

(3) *Incentive Grants:* It is anticipated that 8–10 competitive grants, at $125,000, will be awarded to encourage collaboration and systems development between centers to strengthen poison prevention and treatment alternatives. Applicants may be certified or uncertified PCCs applying to the Secretary for a waiver. Centers may apply in this category in addition to applying for a Financial Stabilization or Certification grant. This category carries a matching requirement of one non-Federal dollar for every two Federal dollars contributed. Specific guidance regarding collaboration between PCCs and the matching requirement is supplied in the application materials for this program.

(4) *Service Access Grants:* It is anticipated that 2–4 grants will be awarded, at $50,000 each, for one year only, to certified centers acting as co-applicants with uncertified PCC's or organizations responsible for the provision of poison control services in rural or geographically isolated States, for the purpose of obtaining access to certified poison control services.

Funding Level/Project Period

Projects will be approved for up to a three-year period, varying by category. The total funding level for these grants is approximately $15 million for the one-year budget period from August 1, 2001 through July 31. The project period consists of one or more budget periods, each generally of one year duration.

Funding for this grant program beyond FY 2001 is contingent upon the availability of funds. The initial budget period is expected to be 12 months, with subsequent budget periods being 12 months. Continuation of any project from one budget period to the next is subject to satisfactory performance, availability of funds, and program priorities.

Review Criteria

In general, applications for this grant program will be reviewed on the basis of the extent to which they address the following criteria:

—Completeness and clarity of the project narrative;
—Practicability and achievability of the plan to use requested funds;
—Clarity and appropriateness of the budget and coordinated budget narrative;
—Strength and adequacy of current and/or proposed staff;
—Evidence from the responsible State agency that the applicant is designated to operate in the State; and
—Clarity and strength of letters of support or collaboration.

Review criteria vary slightly from one grant category to another. Further specific guidance regarding review criteria is supplied in the application materials for this program.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, community-based nongovernmental applicants must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprized of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions. Community-based non-governmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

(a) A copy of the face page of the application (SF 424).

(b) A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

The project abstract may be used in lieu of the one-page PHSIS, if the applicant is required to submit a PHSIS.

Executive Order 12372

This program has been determined to be a program which is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs by appropriate health planning agencies, as implemented by 45 CFR Part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available under this notice will contain a listing of States which have chosen to set up such a review system and will provide a single point of contact (SPOC) in the States for review. Applicants (other than federally-recognized Indian tribal governments) should contact their State SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the application deadline for new and competing awards. The granting agency does not guarantee to ''accommodate or explain'' for State process recommendations it receives after that date. (See Part 148, Intergovernmental Review of PHS

Programs under Executive Order 12372 and 45 CFR Part 100 for a description of the review process and requirements).

Dated: February 28, 2001.

Claude Earl Fox,

Administrator.

[FR Doc. 01–5500 Filed 3–5–01; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel.

Date: March 30, 2001.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: 31 Center Drive, Conference Rm. B2B32, NHGRI, MD 20892, (Telephone Conference Call).

Contact Person: Rudy O. Pozzatti, PhD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301–402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–5444 Filed 3–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: March 9, 2001.

Time: 3 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 303–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientists Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–5445 Filed 3–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: March 19, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Avenue, Washington, DC 20015.

Contact Person: Alan L. Willard, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–9223.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

February 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–5447 Filed 3–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Small Grants in Sociology and Psychology.

Date: March 9, 2001.

Time: 8:30 am to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave., N.W., Washington, DC 20007.

Contact Person: Mary Ann Guadagno, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: March 21, 2001.

Time: 3 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin, Suite 502C, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD, Health Scientific Administrator, Office of Scientific Review, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS).

Dated: February 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–5449 Filed 3–5–01; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 9, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jerry L. Klein, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7804, Bethesda, MD 20892, (301) 435–1213.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 9, 2001.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lee S. Mann, PhD, JD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, (301) 435–0677.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 12, 2001.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conferencce Call).

Contact Person: Martin L. Padarathsingh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 13, 2001.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Angela Y. Ng, PhD, MBA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7804, Bethesda, MD 20892, (301) 435–1715, nga@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 13, 2001.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Victor A. Fung, PhD, MBA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7804, Bethesda, MD 20892, (301) 435–3504, fungv@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Genetic Sciences Integrated Review Group Biological Sciences Subcommittee 1.

Date: March 15, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 Twenty-Fifth Street, NW, Columbia Suite, Washington, DC 20037.

Contact Person: Bruce Maurer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7852, Bethesda, MD 20892, (301) 435–1168.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 15, 2001.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mariana Dimitrov, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–0902, dimitrom@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 15, 2001.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's Inn, 1615 Rhode Island Ave., NW., Washington, DC 20036.

Contact Person: Julian L. Azorlosa, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 3190, MSC 7848, Bethesda, MD 20892, (301) 435–1507.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 15, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sharon K. Pulfer, BA, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892, (301) 435–1767.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 15, 2001.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692, tathamt@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 16, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Fortune Room, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Karen Sirocca, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–0676, siroccok@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 16, 2001.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Syed Amir, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6168, MSC 7892, Bethesda, MD 20892, (301) 435–1043, amirs@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–HEM–1 (02S).

Date: March 16, 2001.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Robert T. Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7840, Bethesda, MD 20892, (301) 435–1195.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 19–20, 2001.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Contact Person: Prabha L Afreya, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, (301) 435–8367.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 19–20, 2001.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda,MD 20814.

Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 SSS–1 (01).

Date: March 19, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sharon K. Pulfer, BA, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892, (301) 435–1767.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 19, 2001.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sharon K. Pulfer, BA, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892, (301) 435–1767.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 19, 2001.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Debora L. Hamernik, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, Bethesda, MD 20892, 301–435–4511, hamernid@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 21, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 21, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Sofitel, 1914 Connecticut Ave., NW, Washington, DC 20009.

Contact Person: Donald Schneider, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7806, Bethesda, MD 20892, (301) 435–1727.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 21, 2001.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Martin L. Padarathsingh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21, 2001.
Time: 1:30 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Michael H. Sayre, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 VISB (02) Study Section.
Date: March 21, 2001.
Time: 2 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Leonard Jakubczak, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5172, MSC 7844, Bethesda, MD 20892, (301) 435–1247.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21, 2001.
Time: 2 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Gamil C. Debbas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1018.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21, 2001.
Time: 2 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Janet Nelson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes, of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1723, nelsonj@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21–22, 2001.
Time: 6 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Jean D. Sipe, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892–7814, 301/435–1743, sipej@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21–23, 2001.
Time: 7 p.m. to 10 a.m.
Agenda: To review and evaluate grant applications.
Place: The Virginian Suites, 1500 Arlington Blvd., Arlington, VA 22209.
Contact Person: Richard D. Rodewald, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5142, MSC 7840, Bethesda, MD 20892, (301) 435–1024, rodewalr@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–5446 Filed 3–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 2, 2001.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Monarch Hotel, 2400 M Street, NW., Washington, DC 20037.
Contact Person: David L. Simpson, PHD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892, (301) 435–1278.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–5448 Filed 3–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4652–N–05]

Notice of Proposed Information Collection for Public Comment; Outline Specification

AGENCY: Office of the Assistant Secretary for Public and Indian 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:* May 7, 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: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4238, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit 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 of information is necessary for the proper performance of the functions of the

agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated 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: Outline Specification.

OMB Control Number: 2577–0012.

Proposed Use: Public Housing Agencies (PHAs) in the development of public housing employ architects or turnkey developers to establish quality and kind of materials and equipment to be incorporated into the housing developments. The Outline Specifications are used by the PHAs and HUD to determine that specified items comply with code and standards and are appropriate in the development.

Agency form number: HUD–5087.

Members of affected public: State, Local government; businesses or other for profit groups.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 816 total by development, (720 turnkey; 96 conventional), annual, three hours per response, .25 hours per specification for recordkeeping, for a total burden of 2,652 hours.

Status of the proposed information collection: Extension.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 27, 2001.

Gloria Cousar,

Acting General Deputy, Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Outline Specification

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0012 (Exp. 4/30/2001)

Public reporting burden for this collection of information is estimated to average 3 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. HUD may not conduct or sponsor, and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. This information is collected under the authority of Section 6(c) of the U.S. Housing Act of I937. Housing Agencies (HAs) contract with architects to prepare outline specifications to establish quality and kind of materials and equipment for projects being developed, or proposed to be developed under the Low-Income Housing Program. HUD and the HA will use the information to determine that specified items comply with code and HUD standards and are appropriate in the project. The information will also serve as a basis for reaching all major decisions as to materials and methods of construction, finish, equipment, for making the estimated project construction cost Responses to the collection of information are required to obtain a benefit The information requested does not lend itself to confidentiality.

Local Authority or Developer:	Project Number:
Project Name:	Architect:
Location:	Date:

Instructions: Describe all materials and equipment to be used. Include no alternates or equivalents. Show extent of work and typical details on drawings. Attach additional sheets if necessary to completely describe the work. The Cost Estimate will recognize quality products and materials in excess of acceptable minimums, when specified. Certain parts of the work cannot be put in their proper classification until more information about their materials and construction is known; therefore describe, under suitable categories below, the following: main service and other stairs, treads, risers, handrails, balusters, etc.; sound insulation of partitions and floors separating apartments and between apartments and public spaces, utility conduits and tunnels, waterproofing and draining, utilities, and related insulation; retaining walls; garages and accessory buildings; and off-site improvements required to serve the project such as roads, curbs, walks, utilities, storm sewers, planting, etc.

1. General Requirements

2. Site Work

Type of Soil	Bearing Capacity

Material and thickness of fill and base course.

Demolition: Construction of structures to be demolished and materials to be reused.

Storm Drainage: Culverts, pipes, manholes, catch basins, downspout connection (dry well, splash blocks, storm sewer).

Site Preparation: Tree protection, surgery, wells, walls, topsoil stripping, clearing, grubbing, and rough grading.

Curbs and Gutters: Type and material.

Pavement: Material and thickness of base and wearing surface for drives, parking areas, streets, alleys, courts, walks, drying yards and play areas. Steps, handrails, checkwalls.

Equipment for Special Areas and Enclosures: Play equipment, benches, fences.

Finish Grading: Approximate existing depth and method of improving topsoil. Extent of finish grading.

Lawns and Planting: Type, size, quantity and location of lawn seeded or sodded; ground cover and hedge material, trees, shrubs, etc.

Note: This Outline is based on the "Uniform System" for Construction Specifications, Data Filing, and Cost Accounting developed by AIA, CSI, and AGC.

3. Concrete

Concrete strength for exterior walls below and above grade, interior walls and partitions, piers, footings, columns and girders. Size, thickness and location on drawings. Note portions having reinforcing steel on drawings. Location, size and material of footing drains and outlets.

Structural system of concrete floors at basement, other floors and roof. Thickness of slabs and strength of concrete. Attached exterior concrete steps and porches. If more than one type of construction is used, list separately and state locations.

Slab Perimeter Insulation:

4. Masonry

Material and thickness of exterior walls above and below grade, interior walls and partitions, fire walls, stair, hall and elevator enclosures, chimneys, incinerators, veneer, sills, copings, etc.

5. Metals

Miscellaneous Iron	Material	Size
Access Doors		
Area Gratings		
Lintels		
Fire Escapes		

Foundation Vents

Structural Steel: (Framing or structural system used.)

6. Carpentry

Size, spacing, and grade of lumber to be used for floor, roof, exterior walls above grade and interior partition framing, subfloor, sheathing, underlayment and exterior finish materials (wood siding, shingles, asbestos siding, etc.).

Grade and species for interior and exterior finish woodwork.

7. Moisture Protection

Materials and method of waterproofing walls and slabs below grade, location, thickness or number of plies. Type of permanent protection of waterproofing (parging) if used. Method of dampproofing above grade. Flashing materials if other than sheet metal. Spandrel waterproofing.

Thermal Insulation	Thickness	R-value & Type of Material	Method of Installation
Exterior Walls			
Ceiling Below Roof			
Roof			
Other			

Roofing: Roof covering materials and method of application, weight of shingles, numbers of felt plies, bitumen, etc.

Sheet Metal: Material and weight or gauge for flashings, copings, gutters and downspouts, roof ventilators, scuppers, etc.

Caulking: (Materials and Locations)

8. Doors, Windows and Glass

Windows and Frames: Type and Material. Special construction features or protective treatment.

Glazing: Thickness, strength and grade of glass and method of glazing.

Metal Curtain Walls:

Doors and Frames:
Exterior: Thickness, material and type at all locations.

Interior: Thickness, material and type for public halls and stairs, apartments (entrance and interior), boiler rooms, fire doors and doors at other locations.

Finish Hardware: Material and finish of exterior and interior locksets, sliding and folding door hardware, window and cabinet hardware, door closers, door knockers, numbers, etc.

8. Doors, Windows and Glass (Cont.)

Weatherstripping	Material	Type
Windows		
Exterior Doors		
Thresholds		
Screens: Mesh Frames		

9. Finishes

Grade, material, and thickness of all finishes.

Painting:

Exterior	Type	Number of Coats	Interior	Type	Number of Coats
Wood			Wood		
Metal			Metal		
Masonry			Walls & Ceilings		
			Kitchen & Bath		

Tile & Ceramic Bathroom Accessories:

Floor and Wall Covering:	Material (Thickness, grade, finish and wainscot height)	
Location	Floors	Walls
a.		
b.		
c.		
d.		
e.		
Bathroom Accessories	Material	Quantity
Attached		
Recessed		

Resilient Flooring: Location, type and gauge, for all materials.

10. Specialties: (List Significant Items)

Interior partitions other than concrete, masonry or wood.

Medicine Cabinets: Material, size and type.

Mail Boxes, Package Receivers	Packaged Incinerators

11. Equipment

Refrigerators: Capacity and type for each size of living unit.

11. Equipment (Cont.)

Kitchen Ranges: Size and type for each size of living unit

Kitchen Cabinets: (Detail on drawings)	**Material**	**Finish**
Wall Units		
Base Units		

Counter Top and Backsplash Material

Other cabinerts and built-in storage units

Equipment: Garbage disposal units, dishwashers, clothes washers and dryers

12. Furnishings Shades: Types of shades , draperies or other devices for privacy and control of natural light.

13. Special Construction:
(incinerator-Job Construction)

14. Conveying Systems
Elevators: Attach letter from manufacturer whose elevator installation is proposed, containing a brief comprehensive specification for the complete elevator installation, and the manufacturer's statement that the number of elevators proposed and the installation described will provide adequate service, and that manufacturer maintains an effective service organization in the project locality.

15. Mechanical:
Plumbing and Hot Water Supply:

Fixtures: (Material, size, fittings, trim and color)

Sink

Lavoratory

Water Closet

Bathtub

Shower Over Tub

Stall Shower

Laundry Trays

Other

15. Mechanical (Cont.)

Piping: (Material)

Soil Lines	Gas Lines
Waste Lines	Standpipes
Vents	Interior Downspouts
Water	

Valve Shutoff for Servicing

Domestic Water Heating
Direct fired (Type, capacity and recovery rate.)

Indirect fired (Separate boiler or combined with space heating boiler. Storage and recovery capacity.)

Solar Energy:

Application	System

Subsystem

System Capacity

Insulation: Type and thickness of insulation on water lines and water heating equipment.

Heating
Kind of System: Hot water, steam, forced warm air, gravity warm air, etc.

Fuel Used:	Calculated Load:	
Heating Load	Domestic Hot Water Load	Total

Equipment: (Make & Model)

Input (per hr.): Coal (lbs.)	Oil (gals.)	Gas (BTUH)

Output (BTUH)

Distribution System:

Insulation: Type and thickness of insulation on heating equipment and distribution system.

Room Heating Units: Baseboard units, radiators, convectors, registers, etc.

Solar Energy: Application	System

Subsystem

System Capacity

15. Mechanical (Cont.)

Space Heaters: Type, make, model, location and output of heating systems such as wall heaters, floor furnaces and unit heaters.

Temperature Controls: Individual unit, zone, central, etc.

Ventilation: Location, capacity and purpose of ventilating fans.

Air Conditioning

Unitary Equipment (Self Contained or packaged units.)

Calculated Load:

Equipment: Make, model, operating voltage and capacity in BTUH for each size serving individual rooms, apartment units, or zone.

Central System:

Calculated Load:

Equipment (Make, model capacity, etc., of compressor, cooling tower, water chillers, air handling equipment, and other components which make up the complete system.)

Utilities On-Site: Material for distribution system for all piped utilities.

Water Supply: Fire hydrants, yard hydrants, lawn sprinkler systems, exterior drinking fountains.

Gas:

Sanitary Sewerage: Treatment plants, pumping stations, manholes.

16. Electrical

Electrical Wiring: Type of wiring and load centers, number of circuits per unit, individual unit metering or project metering, spare conduit for future load requirements, radio or TV antenna systems. Show receptacles, light outlets, switches, power outlets, telephone outlets, door bells, fire alarm systems, etc., on drawings.

Electric Fixtures: Type for various locations.

16. Electrical (Cont.)

Electric light standards for lighting grounds, streets, courts, etc. Underground or overhead service.

All items of construction, equipment and finish, together with all incidentals, which are essential to the completion of the project will be provided whether or not specifically included in the exhibits and will be of a type, quality and capacity acceptable to HUD and appropriate to the character of the project.

Signed (Local Authority or Developer)

By (Architect)

[FR Doc. 01–5308 Filed 3–5–01; 8:45 am]

BILLING CODE 4210–33–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–17]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request, Electronic Services Assessment Internet Survey; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of 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 emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 13, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number) and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, 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 available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package with respect to a survey of HUD's customers about their access to the Internet. The Department has developed an Electronic Government Strategic Plan that outlines how the Department will use the Internet and eCommerce to better provide services to citizens. Also, the Department has developed its schedule to implement the Government Paperwork Elimination Act (GPEA) by 2003. To best develop electronic solutions for customers and effectively automate collection information items from the public HUD will use this survey to ask citizens about their usage and access to the Internet. It will be used to support the implementation of the Electronic Government Strategic Plan and GPEA in three ways.

1. Create a numeric baseline for the use of the Internet and Electronic Government services by HUD's customers.

2. Assist in establishing performance measures and provides targets for improvements of HUD's Electronic Government services and web-based applications.

3. Support Electronic Government priorities and assist in allocation of funds for GPEA compliance and Electronic Government solutions.

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated 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: Electronic Services Assessment Internet Survey.

OMB Control Number: Pending.

Agency Form Numbers: None.

Members of Affected Public: Individuals or households.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response: 1000 respondents; one-twelfth of an hour per response; one response per respondent; and 166.7 total hours of burden.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 27, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–5309 Filed 3–5–01; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4653–N–01]

Notice of Proposed Information Collection for Public Comment: Tribal College and Universities Program Application Kit

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments are due: March 13, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, Office of Policy Development and Research, 451 7th Street, SW., Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships—telephone (202) 708–1537, extension 5918. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Karadbil.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package with respect to a proposed Notice of Funding Availability and Application Kit for the Tribal Colleges and Universities Program (TCUP). HUD seeks to implement this initiative as soon as possible.

The Tribal Colleges and Universities Program provides grants to tribal colleges and universities to help them build, expand, renovate, and equip their own facilities. Approximately 9 grants will be awarded with Fiscal Year 2000 funds.

Submission of the information required under this information collection is mandatory in order to compete for and receive the benefits of the program. All materials submitted are subject to the Freedom of Information

Act and can be disclosed upon request. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The OMB control number, when assigned, will be announced by a separate notice in the **Federal Register**.

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):

(1) *Title of the information collection proposal:* Application Kit—Tribal Colleges and Universities Program.

(2) *Summary of the collection of information:* Each applicant for this program would be required to submit current information, as listed below as:

(A) *SF–424,* Application for Federal Assistance.

(B) *HUD–424M,* Federal Assistance Funding Matrix.

(C) *Application Checklist.*

(D) *Transmittal Letter,* signed by the Chief Executive Officer of the institution or his or her designee.

(E) *Abstract/Executive Summary* (one page limit) describing the goals and activities of the project.

(F) *Narrative Statement Addressing the Factors for Award.* (50 page limit, including the statement of work, tables, and maps, but not including any letters of commitment and budget forms)

(G) SF–424B, Assurances for Non-Construction Programs.

(H) HUD–50071, Certification of Payments to Influence Certain Federal Transactions;

(I) SF–LLL, Disclosure of Lobbying Activities (if applicable);

(J) HUD–2880, Applicant/Recipient Disclosure/Update Form;

(K) HUD–50070, Certification of Drug-Free Workplace;

(L) HUD–2992, Certification Regarding Debarment and Suspension.

(3) *Description of the need for the information and its proposed use:* To appropriately determine which applicants should be awarded Tribal Colleges and Universities Program grants, certain information is necessary about the applicant's project and qualifications.

(4) *Description of the likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information:* Respondents will be tribal colleges and universities. Grants will also be expected to prepare and submit semi-annual progress reports and a final report.

The estimated number of respondents submitting applications is 32. The proposed frequency of the response to the collection of information is one-time. The application need only be submitted once. The estimated number of respondents to the monitoring requirements is 9. Each grantee will submit two progress reports annually.

(5) *Estimate of the total reporting burden that will result from the collection of information:*

Reporting Burden

Number of respondents: 32 for applicants; 9 for monitoring requirements.

Total burden hours: 80 hours per respondent for applications); 56 hours a year per respondent for monitoring requirements.

Total Estimated Burden Hours: 3,208.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 26, 2001.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 01–5310 Filed 3–5–01; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to request information collection authority.

SUMMARY: We, the U.S. Fish and Wildlife Service, will be submitting to the OMB the collection of information described below for approval and renewal under the provisions of the Paperwork Reduction Act of 1995. Copies of specific information collection requirements, related forms, and explanatory material may be obtained by contacting our Information Collection Officer at the address or phone number listed below.

DATES: You must submit comments on or before May 7, 2001.

ADDRESSES: Your comments and suggestions on specific requirements should be sent to our Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222, ARLSQ, 1849 C Street, NW., Washington, DC 20240; Telephone 703/358–1943.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Horwath, Division of Fish and Wildlife Management Assistance and Habitat Restoration, Arlington, Virginia, at 703–358–1718, or Wells Stephensen, Office of Marine Mammals Management, Anchorage, Alaska, at 907/786–3815.

SUPPLEMENTARY INFORMATION: We propose to submit the following information collection clearance requirements to the OMB for review and approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Your comments are invited on: (1) Whether this collection of information is necessary for us to properly perform our functions, including whether this information will have practical utility; (2) the accuracy of our estimate of burden, including the validity of the methodology and assumptions we use; (3) ways to enhance the quality, utility, and clarity of the information we are proposing to collect; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless we display a current valid OMB control number.

In October 1988, pursuant to provisions of Section 109(i) of the Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1361–1407), we implemented formal Marking, Tagging, and Reporting Regulations in 50 CFR 18.23 for Alaska natives harvesting polar bear, sea otter, and Pacific walrus in Alaska. Under Section 101(b) of the MMPA, Alaska Natives residing in Alaska and dwelling on the coast of the North Pacific or Arctic Oceans may harvest these species for subsistence or handicraft purposes. Section 109(i) of the MMPA authorized us, acting on behalf of the Secretary of the Interior, to prescribe marking, tagging, and reporting regulations applicable to this Native subsistence and handicraft take.

On June 28, 1988, under authority of Section 109(i) of the MMPA, we published a final rule in the **Federal Register** that added paragraph (f) to our marine mammal regulations at 50 CFR 18.23. These regulations have enabled us to gather data on the Native subsistence and handicraft harvest, and on the biology of polar bear, sea otter, and Pacific walrus in Alaska in order to determine what effect such take is having on these populations. The regulations have also provided us with a means of monitoring the disposition of

the harvest to ensure that any commercial use of products created from these species meets the criteria set forth in Section 101(b) of the MMPA.

The information that we propose to continue to collect from Alaska Natives beyond the currently authorized period that expires on October 31, 2001 (under OMB Clearance Number 1018–0066), will be used to improve our decision-making ability by substantially expanding the quality and quantity of harvest and biological data upon which we can base future management decisions. It will provide us with the ability to make inferences about the condition and general health of these populations, and to consider the importance and impacts to these population from such processes as development activities and habitat degradation. Without authority to collect this harvest information, our ability to measure the take of polar bear, sea otter and walrus is inadequate. We believe that mandatory marking, tagging and reporting is essential for us, in concert with Alaska Natives, to be able to improve the quality and quantity of harvest and biological data necessary to base future management decisions. It allows us to make rational, knowledgeable decisions regarding the Native harvest; habitat degradation; and the effects of oil and gas exploration, development, and production planned or underway for areas within the range of these species.

We estimate that the annual burden associated with this request will be 674 hours for each year of the 3-year period of OMB authorization. We calculated this estimated burden based on previous experience suggesting that Alaska Natives annually will take about 2,695 polar bears, sea otter, and Pacific walrus for subsistence and handicraft purposes, and that 15 minutes will be needed to provide the required information for each animal taken.

Title: Marine Mammal Marking, Tagging, and Reporting Program.

Bureau form numbers: R7–50, R7–51, and R7–52.

Frequency of collection: Occasional.

Description of respondents: Individuals and households.

Number of respondents: Approximately 2,695 per year.

Estimated completion time: 15 minutes per response.

Annual burden hours: 674 hours.

Current OMB Clearance Number: 1018–0066.

Approval expires: October 31, 2001.

Dated: February 28, 2001.

Rebecca A. Mullin,

Information Collection Officer, Fish and Wildlife Service.

[FR Doc. 01–5324 Filed 3–5–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Applicant: Paul Gardner, Bloomsburg, PA, PRT–039151

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Housni Habibi, West Hempstead, NY, PRT–039149

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Michael Ciavardone, Lakeland, FL, PRT–039124

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: James Benham, Boise, ID, PRT–039268

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Armand Bertocchi, Denville, NJ, PRT–039380

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: John Shivers, Fort Worth, TX, PRT–039379

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Eli Robert Huffman, Houston, TX, PRT–039425

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Northern Animal Exchange dba Action Animals, British Columbia, Canada, PRT–770742

The applicant is requesting to have their permit amended to include for import and re-export a captive born Siberian tiger (*Panthera tigris altaica*) and progeny of the animal currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: Lawrence Masserant, Newport, MI, PRT–037808

The applicant requests a permit to import a wood bison (*Bison bison athabascae*) sport hunted in Yukon, Canada, for the purpose of enhancement of the survival of the species.

Applicant: Russell Kohler, Detroit, MI, PRT–038081

The applicant requests a permit to import a wood bison (*Bison bison athabascae*) sport hunted in Yukon, Canada, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Written data, comments or requests for copies of these complete applications or requests for a public hearing on these applications should be sent to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281. These requests must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Circo Hermanos Suarez S.A., San Juan, PR, PRT–036843.

Permit Type: Import for public display.

Name and Number of Animals: Polar bear, (*Ursus maritimus*) 7

Summary of Activity to be Authorized: The applicant requests to import for Public Display purposes.

Source of Marine Mammals: Captive and wild born.

Period of Activity: 5 years.

Applicant: United States Fish and Wildlife Service/Marine Mammal Management, Anchorage, AK PRT–039386.

Permit Type: Take for scientific research.

Name and Number of Animals: Walrus, (*Odobenus rosmarus divergens*), Variable

Summary of Activity to be Authorized: The applicant requests a permit to conduct aerial fly overs of walrus hauled-out on sea ice, that may result in Level B harassment, for the purpose of developing new survey techniques using ventricle digital video imagery.

Source of Marine Mammals: Free ranging.

Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

The U.S. Fish and Wildlife has information collection approval from OMB through February 28, 2001. OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: February 23, 2001.

Anna Barry,

Branch of Permits, Division of Management Authority.

[FR Doc. 01–5413 Filed 3–5–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

Application Notice Describing the Areas of Interest and Establishing the Closing Date for Receipt of Applications Under the National Earthquake Hazards Reduction Program (NEHRP) for Fiscal Year (FY) 2002

AGENCY: Department of the Interior, U.S. Geological Survey.

ACTION: Notice.

SUMMARY: Applications are invited for research projects under the NEHRP.

The purpose of this Program is to support the USGS Earthquake Hazards Program by providing products for earthquake loss reduction to the public and private sectors and by carrying out research on earthquake occurrence and effects.

Applications may be submitted by educational institutions, private firms, private foundations, individuals, and agencies of state and local governments.

ADDRESSES: The program announcement is expected to be available on or about March 1, 2001. You may obtain a copy of Announcement No. 02HQPA0001 from the USGS Contracts and Grants Information Site at *http://www.usgs.gov/contracts/nehrp/* or by writing to Sherri Newman, U.S. Geological Survey, Office of Acquisition and Grants—Mail Stop 205G, 12201 Sunrise Valley Drive, Reston, Virginia 20192, or by fax (703) 648–7901.

DATES: The closing date for receipt of applications will be on or about May 1, 2001. The actual closing date will be specified in Announcement No. 02HQPA0001.

FOR FURTHER INFORMATION CONTACT: John Unger, Earthquake Hazards Reduction Program—U.S. Geological Survey, Mail Stop 905, 12201 Sunrise Valley Drive, Reston, Virginia 20192. Telephone: (703) 648–6701.

SUPPLEMENTARY INFORMATION: Authority for this program is contained in the Earthquake Hazards Reduction Act of 1977, Public Law 95–124 (42 U.S.C. 7701, *et seq.*). The Office of Management and Budget Catalog of Federal Domestic Assistance Number is 15.807.

Dated: February 15, 2001.

Patricia P. Dunham,

Deputy Chief, Office of Administrative Policy and Services.

[FR Doc. 01–5460 Filed 3–5–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-030–3130 EU; AZA–29652]

Notice of Realty Action Direct Sale of Public Lands in Mohave County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, direct sale.

SUMMARY: The following public lands have been found suitable for a direct sale under Section 214 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at not less than the estimated fair market value of $1,000. The land will not be offered for sale for at least 60 days after the date of this notice.

T. 24 N., R. 13 W., Gila and Salt River Meridian, Arizona

Section 34: E½E½NE¼SE¼NW¼, Consisting of 1.25 acres.

The land described above is hereby segregated from appropriation under the public land laws including the mining laws, pending disposition of this action 270 days from the date of publication of this notice, whichever occurs first.

This land will be offered to a private landowner due to the need to resolve an inadvertent unauthorized use or occupancy of the lands, and must be for

not less than the appraised value specified above.

The private landowner will make an application for conveyance of those mineral interests offered under the authority of Section 209(b) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2757; 43 U.S.C. 1719). A nonrefundable fee of $50 will be required from the private landowner for purchase of the mineral interests. Those mineral interests to be conveyed simultaneously with the sale of the land have been determined to have no known mineral value.

The conveyance document, when issued, will contain certain reservations to the United States and will be subject to any existing rights-of-way and any other valid existing rights. Detailed information concerning this sale is available for review at the Kingman Field Office, U.S. Bureau of Land Management, 2475 Beverly Avenue, Kingman, Arizona 86401, (520) 692–4416.

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, Kingman Field Office, at the above address. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Dated: February 22, 2001.

John Christensen,

Field Manager, Kingman Field Office.

[FR Doc. 01–5361 Filed 3–5–01; 8:45 am]

BILLING CODE 4310–32–U

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–703 and 705 (Review)]

Furfuryl Alcohol from China and Thailand; Notice of Commission Determination to Conduct a Portion of the Hearing in Camera

AGENCY: U.S. International Trade Commission.

ACTION: Closure of a portion of a Commission hearing.

SUMMARY: Upon request of foreign producer Indo-Rama Chemicals (Thailand) Ltd. (''Indo-Rama'') conduct a portion of its hearing in the above-captioned investigation scheduled for March 1, 2001, *in camera.* See Commission rules 207.24(d), 201.13(m) and 201.36(b)(4) (19 CFR 207.24(d), 201.13(m) and 201.36(b)(4)). The remainder of the hearing will be open to the public. The Commission has determined that the seven-day advance notice of the change to a meeting was not possible. See Commission rule 201.35(a), (c)(1) (19 CFR 201.35(a), (c)(1)).

FOR FURTHER INFORMATION CONTACT: Gracemary Rizzo, Office of General Counsel, U.S. International Trade Commission, telephone 202–205–3117, e-mail grizzo@usitc.gov. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202–205–3105.

SUPPLEMENTARY INFORMATION: The Commission believes that Indo-Rama has justified the need for a closed session. In this review, significant data for both the foreign and domestic industries are business proprietary. Indo-Rama seeks a closed session in order to fully address the issues before the Commission without referring to business proprietary information. In making this decision, the Commission nevertheless reaffirms its belief that whenever possible its business should be conducted in public.

The hearing will begin with public presentations by Penn Speciality Chemicals (''PSC''), a domestic producer opposing revocation of the antidumping duty order, followed by foreign respondents in support of revocation. During the public session, the Commission may question the parties following their respective presentations. Next, the hearing will include a 10-minute *in camera* session for a confidential presentation by Indo-Rama and for questions from the Commission relating to the BPI, followed by a 10-minute *in camera* rebuttal presentation by PSC. For any *in camera* session the room will be cleared of all persons except those who have been granted access to BPI under a Commission administrative protective order (APO) and are included on the Commission's APO service list in these investigations. See 19 CFR 201.35(b)(1), (2). The time for the parties' presentations and rebuttals in the *in camera* session will be taken from their respective overall time allotments for the hearing. All persons planning to attend the *in camera* portions of the hearing should be prepared to present proper identification.

Authority: The General Counsel has certified, pursuant to Commission Rule 201.39 (19 CFR 201.39) that a portion of the Commission's hearing in Furfuryl Alcohol from China and Thailand, Inv Nos. 731–TA–703 and 705 (Review), may be closed to the public to prevent the disclosure of BPI.

Issued: February 28, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–5306 Filed 3–5–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–450]

Certain Integrated Circuits, Processes for Making Same, and Products Containing Same; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 26, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of United Microelectronics Corporation of Hsinchu City, Taiwan, UMC Group (USA) of Sunnyvale, California, and United Foundry Service, Inc. of Hopewell Junction, New York. A letter supplementing the complaint was filed on February 7, 2001. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain integrated circuits and products containing same by reason of infringement of claims 1, 2, and 8 of U.S. Letters Patent 5,559,352, and claims 1, 3–16, and 19–21 of U.S. Letters Patent 6,117,345. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the

Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*).

FOR FURTHER INFORMATION CONTACT: Shival P. Virmani, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2568.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2000).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 26, 2001, *Ordered* That

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain integrated circuits or products containing same by reason of infringement of claims 1, 2, or 8 of U.S. Letters Patent 5,559,352 or claims 1, 3–16, or 19–21 of U.S. Letters Patent 6,117,345, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

United Microelectronics Corporation, No. 3, Li-Hsin Road 2, Science-Based Industrial Park, Hsinchu City, Taiwan

UMC Group (USA), 488 De Guigne Drive, Sunnyvale, CA 94086

United Foundry Service, Inc., 1989 Route 52, Hopewell Junction, NY 12533

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Silicon Integrated Systems Corp., No. 16, Creation Road, Science-Based Industrial Park

Hsinchu City, Taiwan, Silicon Integrated Systems Corporation, 240 North Wolfe Road, Sunnyvale, CA 94086

(c) Shival P. Virmani, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401–J, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Sidney Harris is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a) of the Commission's Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.
Issued: February 27, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–5305 Filed 3–5–01; 8:45 am]

BILLING CODE 7020–02–U

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–919–920 (Preliminary)]

Certain Welded Large Diameter Line Pipe from Japan and Mexico

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan and Mexico of certain welded large diameter line pipe,[2] that are alleged to be sold in the United States at less than fair value (LTFV).

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On January 10, 2001, a petition was filed with the Commission and the Department of Commerce by Berg Steel Pipe Corp., Panama City, FL; American Steel Pipe Division of American Cast Iron Pipe Co., Birmingham, AL; and Stupp Corp., Baton Rouge, LA; alleging that an industry in the United States is materially injured by reason of LTFV imports of certain welded large diameter line pipe from Japan and Mexico. Accordingly, effective January 10, 2001, the Commission instituted antidumping duty investigations Nos. 731–TA–919–920 (Preliminary).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] For purposes of these investigations, certain welded large diameter line pipe is welded carbon and alloy steel line pipe, of circular cross section and with an outside diameter greater than 406.4 mm (16 inches), whether or not stenciled. This product is normally produced according to American Petroleum Institute specifications, including Grades A25, A, B, and X grades ranging from X42 to X80, but can also be produced to other specifications. The product is provided for in subheadings 7305.11.10, 7305.11.50, 7305.12.10, 7305.12.50, 7305.19.10, and 7305.19.50 of the Harmonized Tariff Schedule of the United States.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 18, 2001 (66 FR 4860). The conference was held in Washington, DC, on January 31, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on February 26, 2001. The views of the Commission are contained in USITC Publication 3400 (March 2001), entitled Certain Welded Large Diameter Line Pipe from Japan and Mexico: Investigations Nos. 731-TA–919–920 (Preliminary).

By order of the Commission.
Issued: February 26, 2001

Donna R. Koehnke,

Secretary.

[FR Doc. 01–5304 Filed 3–5–01; 8:45 am]

BILLING CODE 7020–02–U

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection under Review: Application for Asylum and for Withholding of Removal.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

The INS published a **Federal Register** notice on August 7, 2000 at 65 FR 48252 to solicit public comments for a 60-day period regarding the proposed revision of Form I–589 (Application for Asylum and for Withholding of Removal). The proposed revisions included both the Instructions to completing the Form I–589 and the application form itself. At the close of the public comment period on October 6, 2000, the INS had received three responses regarding the proposed revisions. The public comments received have been addressed in the accompanying Supporting Statement.

The purpose of this notice is to allow an additional 30 days for public comments. The proposed draft of the revised information collection published with this notice is for public review and comment only and may not be used to obtain immigration benefits. Comments are encouraged and will be accepted until April 5, 2001. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Room 10235, Washington, DC 20530; Attention: Lauren Wittenberg, Department of Justice Desk Officer; 202–395–4318.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of currently approved collection.

(2) *Title of the Form/Collection:* Application for Asylum and for Withholding of Removal.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–589, Office of International Affairs, Asylum Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected on this form will be used to determine whether an alien applying for asylum and/or withholding of removal in the United States is classifiable as a refugee, or eligible for protection under the Convention Against Torture, and is eligible to remain in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 53,000 responses at 12 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 636,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20530.

Dated: February 27, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

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U.S. Department of Justice
Immigration and Naturalization Service OMB No. 1115-0086

Instructions for Form I-589
Application for Asylum and for Withholding of Removal

Purpose of This Form.

This form is used to apply for asylum in the United States (U.S.) and for withholding of removal (formerly called "withholding of deportation"). This application may also be used to apply for protection under the Convention Against Torture. You may file this application if you are physically present in the United States and you are not a United States citizen.

NOTE: You **must** submit an application for asylum within one (1) year of arriving in the United States, unless there are changed circumstances that materially affect your eligibility for asylum or extraordinary circumstances relating to a delay in filing for asylum. (See Instructions, Part 1: Filing Instructions, Section V, "Completing the Form," Part C, for further explanation.)

You may include in your application your spouse and your unmarried children who are under 21 years of age and physically present in the United States. Married children and children 21 years of age or older must file a separate Form I-589 application. If your spouse and/or unmarried children under the age of 21 are outside the United States, you may file a petition Form I-730, Refugee and Asylee Relative Petition, OMB No. 1115-0121, for them to gain similar benefits, if you are granted asylum.

This instruction pamphlet is divided into two (2) sections. The first section has filing instructions. It discusses basic eligibility criteria and will guide you through filling out and filing the application. The second section describes how your application will be processed. This section also describes potential interim benefits while your application is pending.

Please read these instructions carefully. The instructions will help you complete your application and understand how it will be processed. If you have questions about your eligibility, completing the form, or the asylum process, you may wish to consult an attorney or other qualified person to assist you. (See Instructions, Part I, Filing Instructions, Section IV, "Right to Counsel.")

Additional information concerning asylum and withholding of removal is available on the following websites: Immigration and Naturalization Service: http://www.ins.usdoj.gov and Executive Office for Immigration Review: http://www.usdoj.gov/eoir/.

***WARNING:* Applicants who are in the United States illegally are subject to removal if their asylum or withholding claims are not granted by an Asylum Officer or an Immigration Judge. Any information provided in completing this application may be used as a basis for the institution of, or as evidence in, removal proceedings, even if the application is later withdrawn. Applicants determined to have knowingly made a frivolous application for asylum will be permanently ineligible for any benefits under the Immigration and Nationality Act (Act). See Section 208(d)(6) of the Act and 8 CFR 208.20.**

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PART 1: FILING INSTRUCTIONS

I. Who May Apply and Filing Deadlines

You may apply for asylum irrespective of your immigration status, and even if you are in the United States unlawfully.

You MUST file this application within one (1) year after you arrived in the United States, unless you can show that there are changed circumstances that affect your eligibility for asylum or extraordinary circumstances that prevented you from filing within one (1) year. (See Instructions, Part 1: Filing Instructions, Section V, "Completing the Form," Part C, for further explanations of this requirement.)

If you have previously been denied asylum by an Immigration Judge or the Board of Immigration Appeals, you must show that there are changed circumstances that affect your eligibility for asylum.

The determination of whether you are permitted to apply for asylum will be made once you have had an asylum interview with an Asylum Officer or a hearing before an Immigration Judge. Even if you are not eligible to apply for asylum for the reasons stated above, you may still be eligible to apply for withholding of removal under section 241 (b) (3) of the Immigration and Nationality Act (Act) or the Convention Against Torture before the Immigration Court.

II. Basis of Eligibility

A. Asylum

In order to qualify for asylum, you must establish that you are a refugee. A refugee is a person who is unable or unwilling to return to his or her country of nationality, or last habitual residence in the case of a person having no nationality, because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

If you are granted asylum, you and any eligible dependents included in your application will be permitted to remain and work in the United States and may eventually adjust to lawful permanent resident status. **If you are not granted asylum, the Immigration and Naturalization Service (INS) may use the information you provide in this application to establish that you are removable from the United States.**

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B. Withholding of Removal

Your asylum application is also considered to be an application for withholding of removal under section 241(b)(3) of the Act, as amended. It may also be considered an application for withholding of removal under the Convention Against Torture if you checked the box on page 1 of this application . If asylum is not granted, you may still be eligible for withholding of removal. Regardless of the basis for the withholding application, you will not be eligible for withholding if you 1) assisted in Nazi persecution or engaged in genocide, 2) have persecuted another person, 3) have been convicted by a final judgment of a particularly serious crime and therefore represent a danger to the community of the United States, 4) are considered for serious reasons to have committed a serious non-political crime outside the United States, or 5) represent a danger to the security of the United States. (See section 241 (b)(3) of the Act; 8 CFR 208.16.)

i. Withholding of Removal under Section 241 (b)(3) of the Act

In order to qualify for withholding of removal under section 241(b)(3) of the Act, you must establish that it is more likely than not that your life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, in the proposed country of removal.

If you obtain an order withholding your removal, you cannot be returned to the country in which your life or freedom would be threatened. This means that you may be removed to a third country in which your life or freedom would not be threatened. Withholding of removal does not apply to any spouse or child included in the application. They would have to apply for such protection on their own. If you are granted withholding of removal, this would not give you the right to bring dependents to the United States. It also would not give you the right to become a lawful permanent resident of the United States.

ii. Withholding of Removal under the Convention Against Torture

The Convention Against Torture refers to the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

To be granted withholding of removal to a country under the Convention Against Torture, you must show that it is more likely than not that you would be tortured in that country.

"Torture" is defined in Article 1 of the Convention Against Torture and at 8 CFR 208.18(a). For an act to be considered torture, it must be an extreme form of cruel and inhuman treatment; it must cause severe physical or mental pain and suffering; and it must be intended to cause severe pain and suffering. Torture is an act inflicted for such purposes as obtaining from the victim or a third person information or a confession, punishing the victim for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing the victim or a third person, or for any reason based on discrimination of any kind. Torture must be inflicted by or at the instigation of a public official or someone acting in an official capacity, or it must be inflicted with the consent or acquiescence of a public official or person acting in an official capacity. The victim must be in the custody or physical control of the torturer. Torture does not include pain or suffering that arises from or is incidental to lawful sanctions.

Form I-589, Application for Asylum and for Withholding of Removal, will be considered an application for withholding of removal under the Convention Against Torture if you tell the Immigration Judge that you would like to be considered for withholding of removal under the Convention Against Torture or if it is determined that the evidence you present indicates you may be tortured in the country of removal. To apply for withholding of removal under the Convention Against Torture, you must check the box at the top of page one (1) of the application and fully complete the Form I-589. You should include a detailed explanation of why you fear torture in response to Question 4, Part B of the application. In your response you should write about any mistreatment you experienced or any threats made against you by a government or somebody connected to a government.

Only Immigration Judges and the Board of Immigration Appeals may grant withholding of removal or deferral of removal under the Convention Against Torture. If you have applied for asylum, the Immigration Judge will first determine whether you are eligible for asylum

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under section 208 of the Act and for withholding of removal under section 241(b)(3) of the Act. If you are not eligible for either asylum or withholding of removal under section 241(b)(3) of the Act, the Immigration Judge will determine whether the Convention Against Torture prohibits your removal to a country in which you fear torture.

Article 3 of the Convention Against Torture prohibits the United States from removing you to a country in which it is more likely than not that you would be subject to torture. The Convention Against Torture does not prohibit the United States from returning you to any other country where you would not be tortured. This means that you may be removed to a third country, in which you would not be tortured. Withholding of removal does not allow you to adjust to lawful permanent resident status or to petition to bring family members to come to, or remain in, the United States.

C. Deferral of Removal under the Convention Against Torture.

If it is more likely than not that you will be tortured in a country but you are ineligible for withholding of removal, your removal will be deferred under 8 CFR 208.17(a). Deferral of removal does not confer any lawful or permanent immigration status in the United States and does not necessarily result in release from detention. Deferral of removal is effective only until it is terminated. Deferral of removal is subject to review and termination if it is determined that it is no longer more likely than not that you would be tortured in the country to which your removal is deferred or if you request that your deferral be terminated.

D. Legal Sources Relating to Eligibility

The documents listed below are some of the legal sources relating to asylum, withholding of removal under section 241(b)(3) of the Act, and withholding of removal or deferral of removal under the Convention Against Torture. These sources are provided for reference only. You do not need to refer to them in order to complete your application.

- Section 101(a)(42) of the Act, 8 U.S.C. 1101(a)(42) (defining "refugee");
- Section 208 of the Act, 8 U.S.C. 1158 (regarding eligibility for asylum);
- Section 241(b)(3) of the Act, 8 U.S.C. 1251 (b)(3) (regarding eligibility for withholding of removal);
- Title 8 of the Code of Federal Regulations, section 208, et. seq.;
- Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as ratified by Sec. 2242(b) of the Foreign Affairs Reform and Restructuring Act of 1998 and 8 CFR as amended by the Regulations Concerning the Convention Against Torture: Interim Rule, 64 FR 8478-8492 (February 19, 1999) (effective March 22, 1999); 64 FR 13881 (March 23, 1999);
- The 1967 United Nations Protocol Relating to the Status of Refugees;
- The 1951 Convention Relating to the Status of Refugees; and
- Office of the United Nations High Commissioner for Refugees, Handbook on Procedures and Criteria for Determining Refugee Status (Geneva, 1992).

III. Confidentiality

The information collected will be used to make a determination on your application. It may also be provided to other government agencies (federal, state, local and/or foreign) for purposes of investigation or legal action on criminal and/or civil matters and for issues arising from the adjudication of benefits. However, no information indicating that you have applied for asylum will be provided to any government or country from which you claim a fear of persecution. Regulations at 8 CFR 208.6 protect the confidentiality of asylum claims.

IV. Right to Counsel

Immigration law concerning asylum and withholding of removal or deferral of removal is complex. You have a right to provide your own legal representation at an asylum interview and

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during immigration proceedings before the Immigration Court, at no cost to the United States Government. If you need, or would like, help in completing this form and preparing your written statements, assistance from pro bono (free) attorneys and/or voluntary agencies may be available. Voluntary agencies may help you for no fee or for a reduced fee and attorneys on the list may take your case for no fee. If you have not already received from INS or the Immigration Court a list of attorneys and accredited representatives, you may obtain a list by calling 1-800-870-FORM (3676) or visiting the United States Department of Justice, Executive Office for Immigration Review (EOIR) website at: http://www.usdoj.gov/eoir/probono/states.htm.

Representatives of the United Nations High Commissioner for Refugees (UNHCR) may be able to assist you in identifying persons to help you complete the application. The UNHCR website provides useful country conditions information and also has links to other reliable sources. You may also, if you wish, forward a copy of your application and other supporting documents to the UNHCR. (For instructions on where to file the original, please see Instructions, Part 1: Filing Instructions, Section XII. "Where to File." The current address of the UNHCR is:

United Nations High Commissioner for Refugees
1775 K Street, NW, Suite 300
Washington, DC 20006
Telephone: (202) 296-5191
Website: http://www.unhcr.ch

Calls from Detention Centers and Jails: Between the hours of 2:00 and 5:00 p.m. (Eastern Standard Time), Monday through Friday, asylum-seekers in detention centers and jails may call UNHCR collect at (202) 296-5191 or may call UNHCR's toll-free number at (888) 272-1913.

V. Completing the Form

Type or print all of your answers in black ink on the Form I-589. Your answers must be completed in English. Forms completed in a language other than English will be returned to you.

Provide the specific information requested about you and your family. **Answer ALL of the questions asked.** If any question does not apply to you or you do not know the information requested by the question, answer "none," "not applicable," or "unknown." Provide detailed information and answer the questions as completely as possible. If you need more space, attach the Supplement A or B Forms (included in the application package) and/or an additional sheet(s) indicating the question number(s) you are answering. You are strongly urged to attach additional written statements and documents that support your claim. Your written statements should include events, dates, and details of your experiences that relate to your claim for asylum.

NOTE: Please put your Alien Registration Number (A#), (if any), name (exactly as it appears in Part A.I. of the form), signature, and date on each supplemental sheet and on the cover page of any supporting documents.

You will be permitted to amend or supplement your application at the time of your asylum interview before an Asylum Officer and at your hearing in Immigration Court by providing additional information and explanations about your asylum claim.

Part A. I. Information about You

This part asks for basic information about you. Alien Registration Number (A#) refers to your INS file number. If you do not already have an A#, the INS will assign one to you. You must provide your residential street address in the United States in Part A. I., Question 7, of the asylum application. You may also provide a mailing address, if different from the address where you reside, in Question 8. In Question 12, use the current name of the country. Do not use historical, ethnic, provincial, or other local names.

If you entered the country with inspection, the I-94#, referred to in Question 18b, is the number on Form I-94, Arrival-Departure Record, OMB No. 1115-0077, given to you when you entered the United States. In Question 18c, enter the date and status as it appears on the Form I-94. If you did not receive a Form I-94, write "None". If you entered without being inspected by an immigration officer, write "No Inspection" in Question 18c in the status section.

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Part A. II. Spouse and Children

You should list your spouse and all your children in this application regardless of their age, marital status, or whether they are in the United States when you file your asylum application.

You may ask to have included in your asylum application your spouse and/or any children who are under the age of 21 and unmarried, if they are in the United States. Children who are married and/or children who are 21 years of age or older must file separately for asylum by submitting their own asylum application, (Form I-589).

If you apply for asylum while in proceedings before the Immigration Court, the Immigration Judge may not have authority to grant asylum to any spouse or child included in your application who is not also in proceedings.

When including family members in your asylum application, you MUST submit one additional copy of your completed asylum application and primary documentary evidence establishing your family relationship, for each family member, as described below.

If you are including your spouse in your application, submit three (3) copies of your marriage certificate, and three (3) copies of proof of termination of any prior marriages.

If you are including any unmarried children under 21 years of age in your application, submit three (3) copies of each child's birth certificate.

If you do not have and are unable to obtain these documents, you may submit secondary evidence. Secondary evidence includes, but is not limited to, medical records, religious records, and school records. You may also submit an affidavit from at least one (1) person for each event you are trying to prove. Affidavits may be provided by relatives or others. Persons providing affidavits need not be United States citizens or lawful permanent residents. **Affidavits must:**

- fully describe the circumstances or event(s) in question and fully explain how the person acquired knowledge of the event(s);
- be sworn to, or affirmed by, persons who were alive at the time of the event(s) and have personal knowledge of the event(s) (date and place of birth, marriage, etc.) that you are trying to prove; and
- show the full name, address, date, and place of birth of each person giving the affidavit, and indicate any relationship between you and the person giving the affidavit.

If you submit secondary evidence or affidavits, you must explain why primary evidence (e.g., birth or marriage certificate) is unavailable. You may explain the reasons primary evidence is unavailable using the Supplement B Form or additional sheets of paper. Attach this explanation to your secondary evidence or affidavits.

If you have more than four (4) children, complete the Supplement A Form for each additional child, or attach additional pages and documentation providing the same information asked in Part A. II. of the Form I-589.

Part A. III. Information about Your Background

Please answer questions 1 through 5, providing details as requested for each question. Your responses to the questions concerning the places you have lived, your education, and employment histories should be in reverse chronological order starting with your current residence, education, and employment, working back in time.

Part B. Information about Your Application

This part asks specific questions relevant to eligibility for asylum, for withholding of removal under section 241(b)(3) of the Act, or for withholding of removal under the Convention Against Torture. At question 1, please check the box(es) next to the reason(s) that you are completing this application. For all other questions, please check "Yes"or "No" in the box provided. If you answer "Yes" to any question, explain in detail using the Supplement B Form or additional sheets of paper as needed. You should clearly describe any of your experiences, or those of family members or others who have had similar experiences, that may show that you are a refugee.

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If you have experienced harm that is difficult for you to write down and express, you should be aware that these experiences may be very important to the decision-making process regarding your request to remain in the United States. At your interview with an Asylum Officer or hearing with an Immigration Judge, you will need to be prepared to discuss the harm you have suffered. If you are having trouble remembering or talking about past events, it is suggested that you talk to a lawyer, an accredited representative, or a health professional who may be able to help you explain your experiences and current situation.

Part C. Additional Information about Your Application

Check "Yes" or "No" in the box provided for each question. If you answer "Yes" to any question, explain in detail using the Supplement B Form or additional sheets of paper as needed.

If you answer "Yes" to question 5, you must explain why you did not apply for asylum within the first year after you arrived in the United States. The government will accept as an explanation certain changes in the conditions in your country, certain changes in your own circumstances, and certain other events that may have prevented you from applying earlier. For example, some of the events the government might consider as valid explanations include, but are not limited to, the following:

- You have learned that human rights conditions in your country have worsened since you left;
- Because of your health, you were not able to submit this application within a year after you arrived;
- You previously submitted an application, but it was returned to you because it was not complete, and you submitted a complete application within a reasonable amount of time.

Federal regulations specify some of the other types of events that may also qualify as valid explanations for why you filed late. These regulations are found at 8 CFR 208.4. The list in the regulations is not all-inclusive, and the government recognizes that there are many other circumstances that might be acceptable reasons for filing more than one year after arrival.

If you are unable to explain why you did not apply for asylum within the first year after you arrived in the United States, or your explanation is not accepted by the government, you may not be eligible to apply for asylum, but you could still be eligible for withholding of removal.

Part D. Your Signature

You must sign your application in Part D and respond to the questions concerning any assistance you received to complete your application, providing the information requested. Sign after you have completed and reviewed the application.

If it is determined that you have knowingly made a frivolous application for asylum you can be permanently ineligible for any benefits under the Immigration and Nationality Act. According to regulations at 8 CFR 208.20, an application is frivolous if any of its material elements is deliberately fabricated. (See Instructions, Part 1: Filing Instructions, Section IV, "Right to Counsel," in the event that you have any questions.)

Part E. Signature of Person Preparing Form If Other than You

Any person, other than an immediate family member (your spouse, parent(s), or children) who helped prepare your application must sign the application and provide the information requested.

Penalty for Perjury. All statements in response to questions contained in this application are declared to be true and correct under penalty of perjury. You and anyone, other than an immediate family member, who assists you in preparing the application must sign the application under penalty of perjury. Your signature is evidence that you are aware of the contents of this application. Any person assisting you in preparing this form, other than an immediate family member, must include his or her name, address, telephone number, and sign the application where indicated in Part E. Failure of the preparer to sign will result in the application being returned to you as an incomplete application. If the INS later learns that you received assistance from someone other than an immediate family member and the person who assisted you **willfully** failed to sign the application, this may result in an adverse ruling against you.

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Title 18, United States Code, Section 1546, provides in part:

Whoever knowingly makes under oath, or as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement shall be fined in accordance with this title or imprisoned not more than five years, or both.

If you knowingly provide false information on this application, you or the preparer of this application may be subject to criminal penalties under Title 18 of the United States Code and to civil penalties under Section 274C of the Immigration and Nationality Act, 8 U.S.C. 1324c.

Part F. To Be Completed at Interview

Do not sign your application in Part F before filing this form. You will be asked to sign your application in this space at the conclusion of the interview regarding your claim.

NOTE: You must, however, sign Part D of the application.

VI. Required Documents and Required Number of Copies that You Must Submit with Your Application

You must submit the following documents to apply for asylum and withholding of removal:

- **The completed, signed original and two (2) copies of your completed application,** Form I-589, and the original and two (2) copies of any supplementary sheets and supplementary statements. If you choose to submit additional supporting material (See Instructions, Part 1: Filing Instructions, Section VII, "Additional Documents that You Should Submit," page 9), you MUST include three (3) copies of each document. You should make and keep one (1) additional copy of the completed application for your own records.
- **An additional copy of your completed application,** Form I-589, with supplementary sheets and supplementary statements, for each family member listed in Part A. II. who you want to have included in your application.
- **Three (3) copies of primary or secondary evidence** of relationship, such as birth or school records of your children, marriage certificate, or proof of termination of marriage, for each family member listed in Part A. II. who you want to have included in your application.

  NOTE: If you submit an affidavit, you must submit the original and two (2) copies. (For affidavit requirements, see Instructions, Part 1: Filing Instructions, Section V, "Completing the Form," Part A. II., page 6.)
- **One (1) passport-style photograph** of you and of each family member listed in Part A. II. who is included in your application. The photos must have been taken no more than 30 days before you file your application. Print the person's complete name and A# (if any) on the back of his or her photo with a pencil.
- **Three (3) copies of all passports or other travel documents** (cover to cover) in your possession, and three (3) copies of any U.S. Immigration documents, such as an I-94 Arrival-Departure Record, for you and each family member who you want included in your application, if you have such documents.
- If you have **other identification documents** (for example, birth certificate, military or national identification card, driver's license, etc.), it is recommended that you submit three (3) copies with your application and bring the original(s) with you to the interview.

It is recommended that any documents filed with this application be photocopies but, please be advised, if you choose to send an original document, the INS or Immigration Court may keep that original document for its records.

Translation of documents not in English is required. Any document in a language other than English must be accompanied by an adequate English translation that the translator

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has certified as complete and correct, and by the translator's certification that he or she is competent to translate into English the language used in the document.

VII. Additional Documents that You Should Submit

If they are available to you, you should submit documents evidencing (1) the general conditions in the country from which you are seeking asylum, and (2) the specific facts on which you are relying to support your claim. If documents supporting your claim are not available or you are not providing them at this time, you must explain why using the Supplement B Form or additional sheets of paper. Supporting documents may include, but are not limited to newspapers articles, affidavits of witnesses or experts, medical and/or psychological records, doctors' statements, periodicals, journals, books, photographs, official documents, or personal statements.

If you have difficulty discussing harm you have suffered in the past, you may wish to submit a health professional's report explaining this difficulty.

VIII. Fee

There is no fee for filing this application.

IX. Fingerprints

Applicants for asylum are subject to a check of all appropriate records and other information databases maintained by the Attorney General and by the Secretary of State. You and all of your dependents over the age of fourteen (14) listed on your asylum application must be fingerprinted and photographed. You and your dependents will be given instructions on how to complete this requirement. You will be notified in writing of the time and location of the Application Support Center or the designated Law Enforcement Agency where you must go to be fingerprinted and photographed. Failure to appear for a scheduled fingerprinting may delay eligibility for work authorization and/or result in an Asylum Officer dismissing your asylum application or referring it to an Immigration Judge. For applicants before an Immigration Judge, such failure will make the applicant ineligible for asylum and may delay eligibility for work authorization.

You are required to submit photographs as specified in Instructions, Part 1: Filing Instructions, Section VI, "Required Documents and Required Number of Copies" of the Form I-589 instructions at the time you file your Form I-589 Application for Asylum and for Withholding of Removal.

X. Organizing Your Application

Put your application together in the following order, forming one (1) complete package (if possible, secure with binder clips and rubber bands so that material may be easily separated):

- Your original Form I-589, with all questions completed, and the application signed by you in Part D, and signed by any preparer, in Part E; and
- One (1) passport-style photo of you stapled to the form at Part D.

Behind your original Form I-589, attach in the following order:

- One (1) Form G-28 Notice of Entry of Appearance as Attorney or Representative, signed by you and the attorney/representative if you are represented by an attorney or other representative;
- The original of all supplemental sheets and supplementary statements submitted with your application;
- One (1) copy of the evidence of your relationship to your spouse and unmarried children under 21 years of age who you want included in your application, if any;
- Two (2) copies of the items listed above in your original package, except for your photograph.

If you are including family members in your application, attach one (1) additional package for each family member. Arrange each family member's package as follows:

- One (1) copy of your completed, signed Form I-589 and supplemental sheets submitted with the original application. In Part A. II, staple in the upper right corner
  one (1) passport-style photo of the family member to be included; and

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- One (1) copy of Form G-28, if any.

For example, if you include your spouse and two (2) children, you should submit your original package, plus two (2) duplicates for you, plus one (1) package for your spouse, plus one (1) package for each child, for a total of six (6) packages. Be sure each has the appropriate documentation.

NOTE: Any additional pages submitted should include the applicant's printed name (exactly as it appears in Part A.I. of the form), A# (if any), signature and date.

XI. Incomplete Asylum Applications

An asylum application that is incomplete will be returned to you by mail within thirty (30) days of receipt of the application by the INS. An application that has not been returned to you within thirty (30) days of having been received by the INS will be considered complete and you will receive written acknowledgement of receipt from the Service.

The filing of a complete application starts the 150-day period you must wait before you may apply for employment authorization. If your application is not complete and is returned to you, the 150-day period will not begin until you resubmit a complete application. (See Instructions, Part 2: Information Regarding Post-Filing Requirements, Section V, "Employment Authorization," for further information regarding eligibility for employment authorization.)

An application will be considered incomplete in each of the following cases:

- The application does not include a response to each of the questions contained in the Form I-589;
- The application is unsigned;
- The application is submitted without the required photograph;
- The application is sent without the appropriate number of copies for any supporting materials submitted; or
- You indicated in Part D that someone prepared the application other than yourself or an immediate family member and the preparer failed to complete Part E of the asylum application.

XII. Where to File

Although the INS will confirm in writing its receipt of your application, you may wish to send the completed forms by registered mail (return receipt requested) for your own records.

If you are in proceedings in Immigration Court:

If you are currently in proceedings in Immigration Court (that is, if you have been served with Form I-221, Order to Show Cause and Notice of Hearing; Form I-122, Notice to Applicant for Admission Detained for Hearing Before an Immigration Judge; Form I-862, Notice to Appear; or Form I-863, Notice of Referral to Immigration Judge), you are required to file your Form I-589, Application for Asylum and for Withholding of Removal with the Immigration Court having jurisdiction over your case.

If you are NOT in proceedings in Immigration Court:

You are to mail your completed application for Asylum and for Withholding of Removal, Form I-589, and any other additional information, to the INS Service Center as indicated below.

If you live in Alabama, Arkansas, Colorado, Commonwealth of Puerto Rico, District of Columbia, Florida, Georgia, Louisiana, Maryland, Mississippi, New Mexico, North Carolina, Oklahoma, western Pennsylvania in the jurisdiction of the Pittsburgh Suboffice, South Carolina, Tennessee, Texas, United States Virgin Islands, Utah, Virginia, West Virginia, or Wyoming, mail your application to:

USINS Texas Service Center
Attn: Asylum
P.O. Box 851892
Mesquite, TX 75185-1892

If you live in Alaska, northern California, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, northern Nevada in the jurisdiction of the Reno Suboffice, North Dakota, Ohio, Oregon, South Dakota, Washington, or Wisconsin, mail your application to:

USINS Nebraska Service Center
P.O. Box 87589
Lincoln, NE 68501-7589

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If you live in Arizona, southern California, Hawaii, southern Nevada in the jurisdiction of the Las Vegas Suboffice, or the Territory of Guam, mail your application to:

USINS California Service Center
P.O. Box 10589
Laguna Niguel, CA 92607-0589

If you live in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, eastern Pennsylvania excluding the jurisdiction of the Pittsburgh Suboffice, Rhode Island, or Vermont, mail your application to:

USINS Vermont Service Center
Attn: Asylum
75 Lower Welden Street
St. Albans, VT 05479-0589

For applicants in the states of California, Nevada and Pennsylvania who may be unsure of which Service Center to use for mailing applications, you may call the National Customer Service Center or your local asylum office for more specific information. The National Customer Service Center and the asylum offices serving those states are listed below with their public information numbers:

The National Customer Service Center:

Toll Free Number	800-375-5283
TDD Hearing Impaired	800-767-1833

For California or Nevada:

Los Angeles Asylum Office	714-808-8199
San Francisco Asylum Office	415-744-8419

For Pennsylvania:

Newark Asylum Office	201-531-0555
Arlington Asylum Office	703-525-8141

Information concerning asylum offices and where to file asylum applications is also available on the INS website at: http://www.ins.usdoj.gov.

PART 2: INFORMATION REGARDING POST-FILING REQUIREMENTS

I. Notification Requirements when Your Address Changes

If you change your address you must inform the INS in writing within ten (10) days of moving.

While your asylum application is pending before the asylum office, you MUST notify the asylum office on Form AR-11 (Change of Address Form) or by a signed and dated letter of any changes of address within ten (10) days after you change your address. The address that you provide on the application, or the last change of address notification you submitted, will be used by the INS for mailing. Any notices mailed to that address will constitute adequate service, except that personal service may be required for the following: Notice to Alien Detained for Hearing by an Immigration Judge (Form I-122), Notice to Appear (Form I-862), Notice of Referral to Immigration Judge (Form I-863), and a Notice and Order of Expedited Removal (Form I-860).

If you are already in proceedings in Immigration Court, you MUST notify the Immigration Court on Form EOIR 33 (Change of Address Form) or by a signed and dated letter of any changes of address within five (5) days of the change in address. You must send the notification to the Immigration Court having jurisdiction over your case.

II. Asylum Interview Process

If you are not in proceedings in Immigration Court, you will be notified by the INS asylum office of the date, time and place (address) of a scheduled interview. The INS suggests that you bring a copy of your Form I-589, asylum application, with you when you have your asylum interview. An Asylum Officer will interview you under oath and make a determination concerning your claim. In most cases, you will not be notified of the decision in your case until a date after your interview. You have the right to legal representation at your interview, at no cost to the United States Government. (See Instructions, Part 1: Filing Instructions, Section IV, "Right to Counsel.") You also may bring witnesses with you to the interview to testify on your behalf.

If you are unable to proceed with the asylum interview in fluent English, you must provide at no expense to the INS, a competent interpreter fluent in both English and a language that you speak fluently. Your interpreter must be at least 18 years of age. The following persons cannot serve as your interpreter: your attorney or representative of record; a witness testifying on

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your behalf at the interview; or a representative or employee of your country. Quality interpretation may be crucial to your claim. Such assistance must be obtained, at your expense, prior to the interview.

Failure without good cause to bring a competent interpreter to your interview may be considered an unexcused failure to appear for the interview. Any unexcused failure to appear for an interview may prevent you from receiving work authorization, and your asylum application may be dismissed or referred directly to the Immigration Court.

If available, you must bring some form of identification to your interview, including any passport(s), other travel or identification documents, or Form I-94 Arrival-Departure Record. You may bring to the interview any additional available items documenting your claim that you have not already submitted with your application.

If members of your family are included in your application for asylum, they must also appear for the interview and bring any identity or travel documents they have in their possession.

III. Status while Your Claim Is Pending

While your case is pending, you will be permitted to remain in the United States. After your asylum interview, if you have not been granted asylum and appear to be deportable under Section 237 of the Act, 8 U.S.C. 1227, or inadmissible under Section 212 of the Act, 8 U.S.C. 1182, your application will be filed with the Immigration Court upon referral by the asylum office.

IV. Travel Outside the United States

If you leave the United States without first obtaining advance parole from the INS using Form I-131, Application for a Travel Document, OMB No. 1115-0005, it will be presumed that you have abandoned your application. If you obtain advance parole and return to the country of claimed persecution, it will be presumed that you abandoned your application, unless you can show that there were compelling reasons for your return.

NOTE: The application process for advance parole varies depending on your personal circumstances. Check with your local INS District Office for application instructions.

V. Employment Authorization while Your Application is Pending

You will be granted permission to work if your asylum application is granted.

Simply filing an application for asylum does not entitle you to work authorization. You may request permission to work if your asylum application is pending and 150 days have lapsed since your application was accepted by the INS or the Immigration Court. See 8 CFR 208.7(a)(1). Any delay in the processing of your asylum application that you request or cause shall not be counted as part of the 150-day period. If your asylum application has not been denied within 180 days from the date of filing a complete asylum application, you may be granted permission to work by filing an Application for Employment Authorization, Form I-765, (OMB No. 1115-0163) with the Service. Follow the instructions on that application and submit it with a copy of evidence as specified in the instructions that you have a pending asylum application. Each family member you have asked to have included in your application who also wants permission to work must submit a separate Form I-765. You may obtain a Form I-765 by calling 1- 800-870-FORM (3676), or from the INS website at http://www.ins.usdoj.gov.

VI. Privacy Act Notice

The authority to collect this information is contained in Title 8 of the United States Code. Furnishing the information on this form is voluntary; however, failure to provide all of the requested information may result in the delay of a final decision or denial of your request.

VII. Paperwork Reduction Act Notice

Under the Paperwork Reduction Act an agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is as follows: (1) 2 hours to learn about the form;

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(2) 5 hours to complete the form; and (3) 5 hours to assemble and file the application; for the total estimated average burden hours of 12 hours per application. The estimated time to complete the form will vary depending on the complexity of your individual circumstances. If you have comments regarding the accuracy of this estimate or suggestions for making this form simpler, you can write to the Immigration and Naturalization Service, Policy Directives and Instructions Branch, 425 I Street, N.W., Room 4034, Washington, DC 20536, OMB No. 1115-0086. **DO NOT MAIL YOUR COMPLETED APPLICATION TO THIS ADDRESS.**

SUPPLEMENTS TO THE FORM I-589

Form I-589, Supplement A - for use in completing Part A. II.

Form I-589, Supplement B - for use in completing Parts B, C, and to provide additional information for any other part of the application.

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OMB No. 1115-0086

U.S. Department of Justice
Immigration and Naturalization Service

Application for Asylum and for Withholding of Removal

Start Here - Please Type or Print. **USE BLACK INK. SEE THE SEPARATE INSTRUCTION PAMPHLET FOR INFORMATION ABOUT ELIGIBILITY AND HOW TO COMPLETE AND FILE THIS APPLICATION.** (Note: There is NO filing fee for this application.)

Please check the box if you also want to apply for withholding of removal under the Convention Against Torture. ☐

PART A. I. INFORMATION ABOUT YOU

1. Alien Registration Number(s)(A#'s)*(If any)*		2. Social Security No. *(If any)*
3. Complete Last Name	4. First Name	5. Middle Name
6. What other names have you used? *(Include maiden name and aliases.)*		
7. Residence in the U.S. C/O		Telephone Number
Street Number and Name		Apt. No.
City	State	ZIP Code
8. Mailing Address in the U.S., if other than above		Telephone Number
Street Number and Name		Apt. No.
City	State	ZIP Code

9. Sex ☐ Male ☐ Female	10. Marital Status: ☐ Single ☐ Married ☐ Divorced ☐ Widowed		
11. Date of Birth *(Mo/Day/Yr)*	12. City and Country of Birth		
13. Present Nationality *(Citizenship)*	14. Nationality at Birth	15. Race, Ethnic or Tribal Group	16. Religion

17. *Check the box, a through c that applies:* a. ☐ I have never been in immigration court proceedings.

b. ☐ I am now in immigration court proceedings. c. ☐ I am **not** now in immigration court proceedings, but I have been in the past.

18. *Complete 18 a through c.*

a. When did you last leave your country? *(Mo/Day/Yr)* b. What is your current I-94 Number, if any?

c. Please list each entry to the U.S. beginning with your most recent entry.
List date (Mo/Day/Yr), place, and your status for each entry. (Attach additional sheets as needed.)

Date _____ Place _____ Status _____ Current Status _____
Date _____ Place _____ Status _____ Date Status Expires _____
Date _____ Place _____ Status _____
Date Place _____ Status _____
Date Place Status

19. What country issued your last passport or travel document?	20. Passport # Travel Document #	21. Expiration Date *(Mo/Day/Yr)*
22. What is your native language?	23. Are you fluent in English? ☐ Yes ☐ No	24. What other languages do you speak fluently?

FOR EOIR USE ONLY	FOR INS USE ONLY
	Action: Interview Date: _____ **Decision:** __ Approval Date: _____ __ Denial Date: _____ __ Referral Date: _____ Asylum Officer ID# _____

Form I-589 (Rev. 02/21/01)N

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OMB No. 1115-0086

PART A. II. INFORMATION ABOUT YOUR SPOUSE AND CHILDREN

Your Spouse. ☐ I am not married. (Skip to ***Your Children***, *below.)*

1. Alien Registration Number (A#) *(If any)*	2. Passport/ID Card No. *(If any)*	3. Date of Birth *(Mo/Day/Yr)*	4. Social Security No. *(If any)*
5. Complete Last Name	6. First Name	7. Middle Name	8. Maiden Name
9. Date of Marriage *(Mo/Day/Yr)*	10. Place of Marriage	11. City and Country of Birth	
12. Nationality *(Citizenship)*	13. Race, Ethnic or Tribal Group	14. Sex ☐ Male ☐ Female	
15. Is this person in the U.S.? ☐ Yes *(Complete blocks 16 to 24.)* ☐ No *(Specify location)*			
16. Place of last entry in the U.S. ?	17. Date of last entry in the U.S. *(Mo/Day/Yr)*	18. I-94 No. *(If any)*	19. Status when last admitted *(Visa type, if any)*
20. What is your spouse's current status?	21. What is the expiration date of his/her authorized stay, if any? *(Mo/Day/Yr)*	22. Is your spouse in immigration court proceedings? ☐ Yes ☐ No	23. If previously in the U.S., date of previous arrival *(Mo/Day/Yr)*
24. If in the U.S. , is your spouse to be included in this application? *(Check the appropriate box.)* ☐ Yes *(Attach one (1) photograph of your spouse in the upper right hand corner of page 9 on the extra copy of the application submitted for this person.)* ☐ No			

Your Children. Please list **ALL** of your children, regardless of age, location, or martial status.

☐ I do not have any children. *(Skip to Part A. III.,* ***Information about You.)***

☐ I do have children. Total number of children _____

(Use "Supplement A Form I-589" or attach additional pages and documentation if you have more than four (4) children.)

1. Alien Registration Number (A#) *(If any)*	2. Passport/ID Card No. *(If any)*	3. Marital Status (*Married, Single, Divorced, Widowed)*	4. Social Security No. *(If any)*
5. Complete Last Name	6. First Name	7. Middle Name	8. Date of Birth *(Mo/Day/Yr)*
9. City and Country of Birth	10. Nationality *(Citizenship)*	11. Race, Ethnic or Tribal Group	12. Sex ☐ Male ☐ Female
13. Is this child in the U.S.? ☐ Yes *(Complete blocks 14 to 21.)* ☐ No *(Specify Location)*			
14. Place of last entry in the U.S.?	15. Date of last entry in the U.S.? *(Mo/Day/Yr)*	16. I-94 No. *(If any)*	17. Status when last admitted *(Visa type, if any)*
18. What is your child's current status?	19. What is the expiration date his/her authorized stay, if any?*(Mo/Day/Yr)*	20. Is your child in immigration court proceedings? ☐ Yes ☐ No	
21. If in the U.S., is this child to be included in this application? *(Check the appropriate box.)* ☐ Yes *(Attach one (1) photograph of your child in the upper right hand corner of page 9 on the extra copy of the application submitted for this person.)* ☐ No			

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OMB No. 1115-0086

PART A. II. INFORMATION ABOUT YOUR SPOUSE AND CHILDREN Continued

1. Alien Registration Number (A#) *(If any)*	2. Passport/IDCard No. *(If any)*	3. Marital Status *(Married, Single, Divorced, Widowed)*	4. Social Security No. *(If any)*
5. Complete Last Name	6. First Name	7. Middle Name	8. Date of Birth *(Mo/Day/Yr)*
9. City and Country of Birth	10. Nationality *(Citizenship)*	11. Race, Ethnic or Tribal Group	12. Sex ☐ Male ☐ Female
13. Is this child in the U.S.? ☐ Yes *(Complete blocks 14 to 21.)* ☐ No *(Specify Location)*			
14. Place of last entry in the U.S.?	15. Date of last entry in the U.S. ? *(Mo/Day/Yr)*	16. I-94 No. *(If any)*	17. Status when last admitted *(Visa type, if any)*
18. What is your child's current status?	19. What is the expiration date of his/her authorized stay, *(if any)?* *(Mo/Day/Yr)*	20. Is your child in immigration court proceedings? ☐ Yes ☐ No	
21. If in the U.S., is this person to be included in this application? *(Check the appropriate box.)* ☐ Yes *(Attach one (1) photograph of your child in the upper right hand corner of page 9 on the extra copy of the application submitted for this person.* ☐ No			

1. Alien Registration Number *(A#) (If any)*	2. Passport/ID Card No. *(If any)*	3. Marital Status *(Married, Single, Divorced, Widowed)*	4. Social Security No. *(If any)*
5. Complete Last Name	6. First Name	7. Middle Name	8. Date of Birth *(Mo/Day/Yr)*
9. City and Country of Birth	10. Nationality *(Citizenship)*	11. Race, Ethnic or Tribal Group	12. Sex ☐ Male ☐ Female
13. Is this child in the U.S. ? ☐ Yes *(Complete blocks 14 to 21.)* ☐ No *(Specify Location)*			
14. Place of last entry in the U.S.?	15. Date of last entry in the U.S.? *(Mo/Day/Yr)*	16. I-94 No. *(If any)*	17. Status when last admitted *(Visa type, if any)*
18. What is your child's current status?	19. What is the expiration date of his/her authorized stay, if any? *(Mo/Day/Yr)*	20. Is your child in immigration court proceedings? ☐ Yes ☐ No	
21. If in the U.S., is this person to be included in this application? *(Check the appropriate box.)* ☐ Yes *(Attach one (1) photograph of your child in the upper right hand corner of page 9 on the extra copy of the application submitted for this person.* ☐ No			

1. Alien Registration Number (A#) *(If any)*	2. Passport/ID Card No. *(If any)*	3. Marital Status *(Married, Single, Divorced, Widowed)*	4. Social Security No. *(If any)*
5. Complete Last Name	6. First Name	7. Middle Name	8. Date of Birth *(Mo/Day/Yr)*
9. City and Country of Birth	10. Nationality *(Citizenship)*	11. Race, Ethnic or Tribal Group	12. Sex ☐ Male ☐ Female
13. Is this child in the U.S.? ☐ Yes *(Complete blocks 14 to 21.)* ☐ No *(Specify Location)*			
14. Place of last entry in the U.S.?	15. Date of last entry in the U.S.? *(Mo/Day/Yr)*	16. I-94 No. (If *any)*	17. Status when last admitted *(Visa type, if any)*
18. What is your child's current status?	19. What is the expiration date of his/her authorized stay, if any? *(Mo/Day/Yr)*	20. Is your child in immigration court proceedings? ☐ Yes ☐ No	
21. If in the U.S., is this person to be included in this application? *(Check the appropriate box.)* ☐ Yes *(Attach one (1) photograph of your child in the upper right hand corner of page 9 on the extra copy of the application submitted for this person.* ☐ No			

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OMB No. 1115-0086

PART A. III. INFORMATION ABOUT YOUR BACKGROUND

1. Please list your last address where you lived before coming to the U.S. If this is not the country where you fear persecution, also list the last address in the country where you fear persecution. *(List Address, City/Town, Department, Province, or State, and Country.) (Use Supplement Form B or additional sheets of paper if necessary.)*

Number and Street *(Provide if available)*	City/Town	Department, Province or State	Country	Dates From *(Mo/Yr)*	To *(Mo/Yr)*

2. Provide the following information about your residences during the last five years. List your present address first. *(Use Supplement Form B or additional sheets of paper if necessary.)*

Number and Street	City/Town	Department, Province or State	Country	Dates From *(Mo/Yr)*	To *(Mo/Yr)*

3. Provide the following information about your education, beginning with the most recent. *(Use Supplement Form B or additional sheets of paper if necessary.)*

Number of School	Type of School	Location (Address)	Attended From *(Mo/Yr)*	To *(Mo/Yr)*

4. Provide the following information about your employment during the last five years. List your present employment first. *(Use Supplement Form B or additional sheets of paper if necessary.)*

Name and Address of Employer	Your Occupation	Dates From *(Mo/Yr)*	To *(Mo/Yr)*

5. Provide the following information about your parents and siblings (brother and sisters). Check box if the person is deceased. *(Use Supplement Form B or additional sheets of paper if necessary.)*

Name	City/Town and Country of Birth	Current Location
Mother		☐ Deceased
Father		☐ Deceased
Siblings		☐ Deceased
		☐ Deceased

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OMB No. 1115-0086

PART B. INFORMATION ABOUT YOUR APPLICATION

(Use "Supplement B Form" or attach additional sheets of paper as needed to complete your responses to the questions contained in PART B.)

When answering the following questions about your asylum or other protection claim (withholding of removal under 241(b)(3) of the Act or withholding of removal under the Convention Against Torture) you should provide a detailed and specific account of the basis of your claim to asylum or other protection. To the best of your ability, provide specific dates, places, and descriptions about each event or action described. You should attach documents evidencing the general conditions in the country from which you are seeking asylum or other protection, and the specific facts on which you are relying to support your claim. If this documentation is unavailable or you are not providing this documentation with your application, please explain why in your responses to the following questions. Refer to Instructions, Part 1: Filing Instructions, Section II, "Basis of Eligibility," Parts A - D and Section V, "Completing the Form," Part B, for more information on completing this section of the form.

1. Why are you applying for asylum or withholding of removal under section 241(b)(3) of the Act, or for withholding of removal under the Convention Against Torture? Check the appropriate line(s) in the space(s) below and then provide detailed answers to questions A and B below:

I am seeking asylum or withholding of removal based on

- ☐ Race
- ☐ Religion
- ☐ Nationality
- ☐ Political opinion
- ☐ Membership in a particular social group
- ☐ Torture Convention

A. Have you, your family, or close friends or colleagues ever experienced harm or mistreatment or threats in the past by anyone?

☐ No ☐ Yes If your answer is "Yes," explain in detail:

1) What happened;
2) When the harm or mistreatment or threats occurred;
3) Who caused the harm or mistreatment or threats; and
4) Why you believe the harm or mistreatment or threats occurred.

B. Do you fear harm or mistreatment if you return to your home country?

☐ No ☐ Yes If your answer is "Yes," explain in detail:

1) What harm or mistreatment you fear;
2) Who you believe would harm or mistreat you; and
3) Why you believe you would or could be harmed or mistreated.

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OMB No. 1115-0086

PART B. INFORMATION ABOUT YOUR APPLICATION Continued

2. Have you or your family members ever been accused, charged, arrested, detained, interrogated, convicted and sentenced, or imprisoned in any country other than the United States?

☐ No ☐ Yes If "Yes," explain the circumstances and reasons for the action.

3. Have you or your family members ever belonged to or been associated with any organizations or groups in your home country, such as, but not limited to, a political party, student group, labor union, religious organization, military or paramilitary group, civil patrol, guerrilla organization, ethnic group, human rights group, or the press or media?

☐ No ☐ Yes If "Yes," describe the level of participation, any leadership or other positions held, and the length of time you or your family members were involved in each organization or activity.

Do you or your family members continue to participate in any way in these organizations or groups?

☐ No ☐ Yes If "Yes," describe the level of participation, any leadership or other positions held, and the length of time you or your family members were involved in each organization or group.

4. Are you afraid of being subjected to torture in your home country or any other country to which you may be returned?

☐ No ☐ Yes If "Yes," explain why you are afraid and describe the nature of the torture you fear, by whom, and why it would be inflicted.

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OMB No. 1115-0086

PART C. ADDITIONAL INFORMATION ABOUT YOUR APPLICATION

(Use "Supplement B Form" or attach additional sheets of paper as needed to complete your responses to the questions contained in Part C.)

1. Have you, your spouse, your child(ren), your parents, or your siblings ever applied to the United States Government for refugee status, asylum, or withholding of removal?

☐ No ☐ Yes If "Yes," explain the decision and what happened to any status you received as a result of that decision. Please indicate whether or not you were included in a parent or spouse's application. If so, please include your parent or spouse's A-number in your response. If you have been denied asylum by an Immigration Judge or the Board of Immigration Appeals, please describe any change(s) in conditions in your country or your own personal circumstances since the date of the denial that may affect your eligibility for asylum.

2. A. After leaving the country from which you are claiming asylum, did you or your spouse or child(ren), who are now in the United States, travel through or reside in any other country before entering the United States? ☐ No ☐ Yes

B. Also, have you, your spouse, your child(ren), or other family members such as your parents or siblings ever applied for or received any lawful status in any country other than the one from which you are now claiming asylum? ☐ No ☐ Yes

If "Yes" to either or both questions, (2A and/or 2B) provide for each person the following: the name of each country and the length of stay; the person's status while there; the reasons for leaving; whether the person is entitled to return for residence purposes; and whether the person applied for refugee status or for asylum while there, and, if not, why he or she did not do so.

3. Have you, your spouse, or child(ren) ever ordered, incited, assisted, or otherwise participated in causing harm or suffering to any person because of his or her race, religion, nationality, membership in a particular social group or belief in a particular political opinion?

☐ No ☐ Yes If "Yes," describe in detail each such incident and your own or your spouse's or child(ren)'s involvement.

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OMB No. 1115-0086

PART C. ADDITIONAL INFORMATION ABOUT YOUR APPLICATION Continued

4. After you left the country where you were harmed or fear harm, did you return to that country?

☐ No ☐ Yes If "Yes," describe in detail the circumstances of your visit (for example, the date(s) of the trip(s), the purpose(s) of the trip(s), and the length of time you remained in that country for the visit(s)).

5. Are you filing the application more than one year after your last arrival in the United States?

☐ No ☐ Yes If "Yes," explain why you did not file within the first year after you arrived. You should be prepared to explain at your interview or hearing why you did not file your asylum application within the first year after you arrived. For guidance in answering this question, see Instructions, Part 1: Filing Instructions, Section V. "Completing the Form," Part C.

6. Have you or any member of your family included in the application ever committed any crime and/or been arrested, charged, and sentenced for any crimes in the United States?

☐ No ☐ Yes If "Yes," for each instance, specify in your response what occurred and the circumstances; dates; length of sentence received; location; the duration of the detention or imprisonment; the reason(s) for the detention or conviction; any formal charges that were lodged against you or your relatives included in your application; the reason(s) for release. Attach documents referring to these incidents, if they are available, or an explanation of why documents are not available.

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OMB No. 1115-0086

PART D. YOUR SIGNATURE

After reading the information regarding penalties in the instructions, complete and sign below. If someone helped you prepare this application, he or she must complete Part E.

I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it are all true and correct. Title 18, United States Code, Section 1546, provides in part: "Whoever knowingly makes under oath, or as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or knowingly presents any such application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement or which fails to contain any reasonable basis in law or fact - shall be fined in accordance with this title or imprisoned not more than five years, or both." I authorize the release of any information from my record which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking.

Staple your photograph here.

WARNING: **Applicants who are in the United States illegally are subject to removal if their asylum or withholding claims are not granted by an Asylum Officer or an Immigration Judge. Any information provided in completing this application may be used as a basis for the institution of, or as evidence in, removal proceedings even if the application is later withdrawn. Applicants determined to have knowingly made a frivolous application for asylum will be permanently ineligible for any benefits under the Immigration and Nationality Act. See 208(d)(6) of the Act and 8 CFR 208.20.**

Print Complete Name	Write your name in your native alphabet

Did your spouse, parent, or child(ren) assist you in completing this application? ☐ No ☐ Yes *(If "Yes," list the name and relationship.)*

_____ *(Name)* _____ *(Relationship)* _____ *(Name)* _____ *(Relationship)*

Did someone other than your spouse, parent, or child(ren) prepare this application? ☐ No ☐ Yes *(If "Yes," complete Part E)*

Asylum applicants may be represented by counsel. Have you been provided with a list of persons who may be available to assist you, at little or no cost, with your asylum claim? ☐ No ☐ Yes

Signature of Applicant *(The person in Part A. 1.)*

[_____] _____

Sign your name so it all appears within the brackets — Date *(Mo/Day/Yr)*

PART E. DECLARATION OF PERSON PREPARING FORM IF OTHER THAN APPLICANT, SPOUSE, OR CHILD

I declare that I have prepared this application at the request of the person named in Part D, that the responses provided are based on all information of which I have knowledge, or which was provided to me by the applicant and that the completed application was read to the applicant in his or her native language or a language he or she understands for verification before he or she signed the application in my presence. I am aware that the knowing placement of false information on the Form I-589 may also subject me to civil penalties under 8 U.S.C. 1324(c).

Signature of Preparer		Print Complete Name	
Daytime Telephone Number ( )		Address of Preparer: Street Number and Name	
Apt. No.	City	State	ZIP Code

PART F. TO BE COMPLETED AT INTERVIEW OR HEARING

You will be asked to complete this Part when you appear before an Asylum Officer of the Immigration and Naturalization Service (INS), or an Immigration Judge of the Executive Office for Immigration Review (EOIR) for examination.

I swear (affirm) that I know the contents of this application that I am signing, including the attached documents and supplements, that they are ☐ all true or ☐ not all true to the best of my knowledge and that correction(s) numbered _____ to _____ were made by me or at my request.

Signed and sworn to before me by the above named applicant on:

_____ Signature of Applicant

_____ Date *(Mo/Day/Yr)*

_____ Write Your Name in Your Native Alphabet

_____ Signature of Asylum Officer or Immigration Judge

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SUPPLEMENT A FORM I-589

A # *(If available)*	Date
Applicant's Name	Applicant's Signature

LIST ALL OF YOUR CHILDREN, REGARDLESS OF AGE OR MARITAL STATUS.
(Use this form and attach additional pages and documentation as needed to your application if you have more than four (4) children.)

1. Alien Registration Number (A#)*(If any)*	2. Passport/ID Card No. *(If any)*	3. Marital Status *(Married, Single, Divorced, Widowed)*	4. Social Security No. *(If any)*
5. Complete Last Name	6. First Name	7. Middle Name	8. Date of Birth *(Mo/Day/Yr)*
9. City and Country of Birth	10. Nationality *(Citizenship)*	11. Race, Ethnic or Tribal Group	12. Sex ☐ Male ☐ Female
13. Is this child in the U.S.? ☐ Yes *(Complete blocks 14 to 21.)* ☐ No *(Specify Location)*			
14. Place of last entry in the U.S.?	15. Date of last entry in the U.S.? *(Mo/Day/Yr)*	16. I-94 No. *(If any)*	17. Status when last admitted *(Visa*
18. What is your child's current status?	19. What is the expiration date of his/her authorized stay, if any? *(Mo/Day/Yr)*	20. Is your child in immigration court proceedings? ☐ Yes ☐ No	
21. If in the U.S., is this child to be included in this application? *(Check the appropriate box.)* ☐ Yes *(Attach one (1) photograph of your child in the upper right hand corner of page 9 on the extra copy of the application submitted for this person.* ☐ No			

1. Alien Registration Number (A#)*(If any)*	2. Passport/ID Card No. *(If any)*	3. Marital Status *(Married, Single, Divorced, Widowed)*	4. Social Security No. *(If any)*
5. Complete Last Name	6. First Name	7. Middle Name	8. Date of Birth *(Mo/Day/Yr)*
9. City and Country of Birth	10. Nationality *(Citizenship)*	11. Race, Ethnic or Tribal Group	12. Sex ☐ Male ☐ Female
13. Is this child in the U.S.? ☐ Yes *(Complete blocks 14 to 21.)* ☐ No *(Specify Location)*			
14. Place of last entry in the U.S.?	15. Date of last entry in the U.S.? *(Mo/Day/Yr)*	16. I-94 No. *(If any)*	17. Status when last admitted *(Visa type, if any)*
18. What is your child's current status?	19. What is the expiration date of his/her authorized stay, if any? *(Mo/Day/Yr)*	20. Is your child in inunigration court proceedings? ☐ Yes ☐ No	
21. If in the U.S., is this child to be included in this application? *(Check the appropriate box.)* ☐ Yes *(Attach one (1) photograph of your child in the upper right hand corner of page 9 on the extra copy of the application submitted for this person.* ☐ No			

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SUPPLEMENT B FORM I-589

ADDITIONAL INFORMATION ABOUT YOUR CLAIM TO ASYLUM.

A # *(If available)*	Date
Applicant's Name	Applicant's Signature

Use this as a continuation page for any information requested. Please copy and complete as needed.

PART _____

QUESTION _____

Form I-589 (Rev. 02/21/01)N Page 11

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[FR Doc. 01–5296 Filed 3–5–01; 8:45 am]
BILLING CODE 4410–10–C

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–033)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council.

DATES: Thursday, March 15, 2001, 8:15 a.m. to 1:00 p.m.; and Friday, March 16, 2001, 8:30 a.m. to 2:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 9H40, 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Dakon, Code Z, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0732.

SUPPLEMENTARY INFORMATION: The meeting will be closed to the public on Thursday, March 15, 2001, from 1:00 p.m. to 5:00 p.m. in accordance with 5 U.S.C. 552b(c)9(B), to hear briefings on the FY 2002 Performance Plan. Friday, March 16, 2001, will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Near Earth Asteroid Rendezvous (NEAR) Update
—Earth Science Update
—International Space Station (ISS) Research Management options
—Committee/TaskForce/Working Group Reports
—Discussion of Findings and Recommendations

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: February 28, 2001.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–5316 Filed 3–5–01; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10:00 am, Thursday, March 8, 2001.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Request from a Federal Credit Union to Convert to a Community Charter.
2. Part 702—Prompt Corrective Action Risk Mitigation Credit Guidelines.
3. Notice of Proposed Rulemaking: Part 742 and Amendment to Part 722, NCUA'S Rules and Regulations, Regulatory Flexibility Program.
4. Amendments to the Field of Membership and Chartering Manual Regarding Requirements for Community Charters.
5. National Credit Union Share Insurance Fund (NCUSIF) Dividend and Insurance Premium.

RECESS: 11:15 am

TIME AND DATE: 11:30 am, Thursday, March 8, 2001.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Three (3) Personnel Matters. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone 703–518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 01–5471 Filed 3–1–01; 4:11 pm]

BILLING CODE 7535–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities; Meeting

March 1, 2001.

Pursuant to the provisions of the Federal Advisory Committee Act (Public L. 92–463, as amended) notice is hereby given the National Council on the Humanities will meet in Washington, DC on March 26–27, 2001.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support from and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on March 26–27, 2001, will not be open to the public pursuant to subsections (c)(4), (c)(6) and (c)(9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the session on March 26, 2001 will be as follows:

Committee Meetings

(Open to the Public)

Policy Discussion

9:00–10:30 a.m.
Education Programs—Room M–07
Federal/State Partnership—Room 507
Preservation and Access/Challenge Grants—Room 415
Public Programs—Room 420
Research Programs—Room 315

(Closed to the Public)

Discussion of Specific Grant Applications and Programs Before the Council

10:30 a.m. until Adjourned
Education Programs—Room M–07
Federal/State Partnership—Room 507
Preservation and Access/Challenge Grants—Room 415
Public Programs—Room 420
Research Programs—Room 315
1:30–2:30 p.m.
Jefferson Lecture Committee Meeting—Room 527

The morning session on March 27, 2001 will convene at 9:00 a.m., in the 1st Floor Council Room, M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

Minutes of the Previous Meeting
Reports

A. Introductory Remarks and Presentation
B. Staff Report
C. Congressional Report
D. Reports on Policy and General Matters
1. Overview
2. Research Programs
3. Education Programs
3. Preservation and Access/Challenge

Grants
4. Public Programs
5. Federal/State Partnership
6. Jefferson Lecture

The remainder of the proposed meeting will be given to the consideration of specific applications and closed to the public for the reasons stated above.

Further information about this meeting can be obtained from Ms. Laura S. Nelson, Advisory Committee Management Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or by calling (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

Laura S. Nelson,

Advisory Committee, Management Officer.

[FR Doc. 01–5371 Filed 3–5–01; 8:45 am]

BILLING CODE 7536–01–M

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Cancellation of panel meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Comittee Act (Public Law 92–463, as amended), notice is hereby given that the following meeting of the Humanities Panel at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, has been cancelled.

FOR FURTHER INFORMATION CONTACT: Laura S. Nelson at (202) 606–8322.

Cancellation

Date: March 15, 2001.
Time: 9 a.m. to 5:30 p.m.
Room: 730.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the February 1, 2001 deadline.

Dated: March 28, 2001.

Laura S. Nelson,

Advisory Committee, Management Officer.

[FR Doc. 01–5370 Filed 3–5–01; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities; Comment Request.

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. The first notice for this collection was published at 65 FR 58297 and no comments were received. Comments regarding (a) whether the 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 burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725–17th Street, NW., Room 10235, Washington, DC 20503, and to Teresa R. Pierce, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send email to tpierce@nsf.gov. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7555.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number

Summary of Collection

Title: 2001 National Survey of Recent College Graduates
OMB Control Number: 3145–0077.

1. Abstract

The National Survey of Recent College Graduates (NSRCG) has been conducted biennially since 1974. For the 2001 cycle, a sample of individuals who have recently earned bachelor's and master's degrees in science and engineering from U.S. institutions will be surveyed. The purpose of the study is to provide national estimates describing the relationship between education and employment for bachelor's and master's recipients in science and engineering. The study is one of three components of the Scientists and Engineers Statistical Data System (SESTAT), which produces national estimates of the size and characteristics of the nation's science and engineering population.

The National Science Foundation Act of 1950, as subsequently amended, includes a statutory charge to ''. . . provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources, and to provide a source of information for policy formulation by other agencies of the Federal Government.'' The National Survey of Recent College Graduates is designed to comply with these mandates by providing information on the supply and utilization of scientists and engineers at the bachelor's and master's degree level. Collected data will be used to produce estimates of the characteristics of these individuals. They will also provide necessary input into the SESTAT labor force data system, which produces national estimates of the size and characteristics of the country's science and engineering population. The Foundation uses this information to prepare congressionally mandated reports such as Women and Minorities in Science and Engineering and Science and Engineering Indicators. A public release file of collected data, designed to protect respondent confidentiality, is expected to be made available to researchers on CD–ROM and on the World Wide Web.

The Survey will be primarily conducted using Computer Assisted Telephone Interviews (CATI). Questionnaires will be mailed only to those individuals who are unwilling to provide information over the telephone but willing to complete a mail questionnaire. CATI interviewing will begin in May 2001 and is estimated to end in December 2001. The survey will be collected in conformance with the Privacy Act of 1974 and the individual's response to the survey is voluntary. NSF will insure that all information collected will be kept strictly confidential and will be used only for research or statistical purposes, analyzing data, and preparing scientific reports and articles.

2. Expected Respondents

We will sample approximately 14,000 graduates with bachelor's and master's

degrees in science and engineering from U.S. academic institutions.

3. Burden on the Public

The amount of time to complete the questionnaire may vary depending on an individual's circumstances; however, on average it will take approximately 30 minutes to complete the survey. We estimate that the total annual burden will be 5,737 hours during the year.

Dated: March 1, 2001.

Teresa R. Pierce,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 01–5417 Filed 3–5–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by April 5, 2001. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Joyce Jatko at the above address or (703) 292–8032.

SUPPLEMENTARY INFORMATION: The National Science Foundation, under the authority of the Antarctic Conservation Act of 1978, as amended, issued regulations providing for the conservation of Antarctic animals and plants. The regulations provide for a permit system for various activities in Antarctica otherwise prohibited, including entry into Antarctic Specially Protected Areas, taking of native mammals, birds, or plants, exporting or importing any native mammal, bird or plant, or introducing into Antarctica any non-native species.

The Application Received Is as Follows

Applicant: H. William Detrich, Department of Biology, Northeastern University, Boston, MA 02215.

Permit Application No.: 2001–027.

Activity for Which Permit is Requested: Introduce into Antarctica. The applicant proposes to use a mixture of species of frozen fish tissues from species native to Patagonian Chile, specifically *Macruronis magellanicus* and *Dissostichus eleginoides,* as bait in experimental fishing of fish traps/pots in the Antarctic peninsula area. The bait will be used to attempt to capture Antarctic fish for ongoing studies of their biochemistry and molecular biology. In all previous research seasons, capture of fish specimens has been carried out exclusively by benthic trawling. If use of the fish traps proves to be successful, this method could reduce the necessity and frequency of trawling for specimens and resultant disruption to benthic communities and could yield a much more diverse sample of fish species for research work. It is anticipated that a maximum of twenty traps using ten to fifteen kilogram blocks of frozen bait each would be required.

Location: Antarctic peninsula area in the vicinities of Low, Brabant, Anvers, Livingston Islands and Dallmann Bay.

Dates: June 10, 2001 to July 15, 2001.

Joyce A. Jatko,

Acting Permit Officer, Office of Polar Programs.

[FR Doc. 01–5315 Filed 3–5–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–389]

Florida Power and Light Company, et al., St. Lucie Plant, Unit No. 2; Exemption

1.0 Background

The Florida Power and Light Company, et al. (FPL, the licensee) is the holder of Facility Operating License No. NPF–16, which authorizes operation of St. Lucie Unit No. 2. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized water reactor located in St. Lucie County, Florida.

2.0 Purpose

Title 10 of the Code of Federal Regulations (10 CFR), part 54 addresses the various requirements for renewal of operating licenses for nuclear power plants. Section 54.17(c) of part 54 specifies:

> An application for a renewed license may not be submitted to the Commission earlier than 20 years before the expiration of the operating license currently in effect.

By letter dated October 30, 2000, the licensee requested an exemption from 10 CFR 54.17(c) for St. Lucie Unit 2. At the time of the request, there were more than 22 years remaining until the expiration of the current operating license for St. Lucie Unit 2. The exemption would allow FPL to process and submit the St. Lucie Unit 2 license renewal application concurrent with the St. Lucie Unit 1 license renewal application. Because of the similarities in design, operation, maintenance, operating experience and environments of the two St. Lucie units, many of the analyses to be performed for Unit 1 would be directly applicable to Unit 2.

Based on an anticipated submittal of a renewal application in June 2002, this exemption would permit the licensee to submit a license renewal request for St. Lucie Unit 2 approximately 1 year earlier than the date specified by 10 CFR 54.17(c), in order to allow it to be prepared and submitted concurrently with the license renewal application for St. Lucie Unit 1.

3.0 Discussion

Pursuant to 10 CFR 54.15, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 54, in accordance with the provisions of 10 CFR 50.12, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

The requirements for exemption are discussed below:

3.1 Authorized by Law

The Commission's basis for establishing the 20-year limit contained in Section 54.17(c) is discussed in the 1991 Statements of Consideration for Part 54 (56 FR 64963). The limit was established to ensure that substantial operating experience was accumulated by a licensee before a renewal application is submitted such that any

plant-specific concerns regarding aging would be disclosed. In amending the rule in 1995, the Commission indicated that it was willing to consider plant-specific exemption requests by applicants who believe that sufficient information is available to justify applying for license renewal earlier than 20 years from expiration of the current license. FPL's exemption request is consistent with the Commission's intent to consider plant-specific requests and is permitted by Section 54.15 of its regulations.

3.2 No Undue Risk to Public Health and Safety

FPL's exemption request seeks only schedular relief regarding the date of submittal, and not substantive relief from the requirements of parts 51 or 54. FPL must still conduct all environmental reviews required by part 51 and all safety reviews and evaluations required by part 54 when preparing the applications for St. Lucie Units 1 and 2. Following submittal, the staff's review will verify that all applicable Commission regulations have been met before issuing the renewed licenses. Therefore, the staff finds that granting this schedular exemption will not represent an undue risk to public health and safety.

3.3 Consistent With the Common Defense and Security

As discussed previously, the exemption requested is only a schedular exemption. The NRC staff will subsequently review the renewal application to be submitted by FPL, pursuant to the requested exemption, to determine whether all applicable requirements are fully met. Accordingly, granting the requested exemption is consistent with the common defense and security.

3.4 Special Circumstances Supporting Issuance of the Exemption

An exemption will not be granted unless special circumstances are present as defined in 10 CFR 50.12(a)(2). Specifically, § 50.12(a)(2)(ii) states that a special circumstance exists when ''application of the regulation in the particular circumstances * * * is not necessary to achieve the underlying purpose of the rule.'' In initially promulgating § 54.17(c) in 1991, the Commission stated that the purpose of the time limit was ''to ensure that substantial operating experience is accumulated by a licensee before it submits a renewal application'' (56 FR 64963). At that time, the Commission found that 20 years of operating experience provided a sufficient basis for renewal applications. However, in issuing the amended part 54 in 1995, the Commission indicated it would consider an exemption to this requirement if sufficient information was available on a plant-specific basis to justify submission of an application to renew a license before completion of 20 years of operation (60 FR 22488). The 20-year limit was imposed by the Commission to ensure that sufficient operating experience was accumulated to identify any plant-specific aging concerns. As set forth below, St. Lucie Unit 2 is sufficiently similar to Unit 1, such that the operating experience for Unit 1 is applicable to Unit 2. In addition, Unit 2 has accumulated significant operating experience. Accordingly, under the requested exemption, sufficient operating experience will have been accumulated to identify any plant-specific aging concerns for both units.

The licensee states that the two St. Lucie units are similar in design, operation, maintenance, use of operating experience, and environments, and, as such, Unit 1 operating experience is directly applicable to Unit 2. Both St. Lucie units are 2700 megawatt (thermal) pressurized water reactors designed by Combustion Engineering, Inc., with the same architect/engineer. The licensee states that the materials of construction for systems, structures, and components on both units are typically identical or similar. These statements are supported by a review of the St. Lucie Unit 2 Updated Final Safety Analysis Report (UFSAR). In particular, Section 1.3 of the UFSAR describes the similarities in design between the units. Table 1.3–1 of the UFSAR lists significant similarities between systems, structures, and components installed at both Units 1 and 2, including elements of the reactor system, the reactor coolant system, and engineered safety features.

St. Lucie Unit 2 is physically located adjacent to Unit 1. As such, the external environments would be similar for both units. Internal environments for both units are also similar due to the similarity in plant design and operation.

FPL also stated that many of the procedures that govern site activities are not unit specific and require the consideration of operating experience at the St. Lucie Plant. An administrative procedure governs the review and dissemination of operating experience obtained from both internal and external sources. If an item is potentially applicable to the St. Lucie Plant, the item is addressed in the plant's corrective action process. Nonconforming or degraded equipment on one unit must consider the condition on the other unit.

Because of the similarities between units, FPL does not divide the plant organizations by unit and typically assigns personnel to work on either unit. Licensed operators at St. Lucie receive training on both units and are licensed by the NRC to operate either unit. Having personnel assigned to work on both units facilitates the identification and transfer of operating experience between the units.

Given the similarities between units, the operating experience at Unit 1 is applicable to Unit 2 for purposes of the license renewal review. At the time of the exemption request, Unit 1 had achieved over 24 years of operating experience, which are applicable to Unit 2. Unit 2 has operated for over 17 years, which provides a substantial period of additional plant-specific operating experience to supplement the Unit 1 operating experience. The combined years of operating experience of Unit 1 and Unit 2 should be sufficient to identify any aging concerns applicable to the two units.

Therefore, sufficient combined operating experience exists to satisfy the intent of § 54.17(c), and the application of the regulation in this case is not necessary to achieve the underlying purpose of the rule. The staff finds that FPL's request meets the requirement in Section 50.12(a)(2)(ii) that special circumstances exist to grant the exemption.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants FPL the exemption sought from the requirements of 10 CFR 54.17(c) for St. Lucie Unit 2 based on the circumstances described herein.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 10759).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 27th day of February 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–5396 Filed 3–5–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–331]

Nuclear Management Company, LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–49, held by Nuclear Management Company, LLC (the licensee), for operation of the Duane Arnold Energy Center (the facility) located in Linn County, Iowa.

By letter dated October 19, 2000, the licensee proposed an amendment to change the operating license. Specifically, the proposed amendment would authorize the licensee to change the licensing basis to utilize the full scope of an alternative radiological source term for accidents as described in NUREG–1465, ''Accident Source Terms for Light-Water Nuclear Power Plants.'' The proposed amendment would change the Technical Specifications (TSs) implementing various assumptions in the Alternative Source Term analyses. These changes include:

In TS 1.1, the definition of Dose Equivalent Iodine–131 would be revised to reference Federal Guidance Report (FGR) 11, ''Limiting Values of Radionuclide Intake and Air Concentration and Dose Conversion Factors for Inhalation, Submersion, and Ingestion,'' dated 1989, and FGR 12, ''External Exposure to Radionuclides in Air, Water, and Soil,'' dated 1993. The word ''thyroid'' would be removed.

In Surveillance Requirement 3.3.7.1.3 regarding the channel calibration of the Control Building Air Intake Radiation Monitor, the setpoint for the allowable value would be reduced from ≤50mR/hr to ≤5 mR/hr.

In the Action Statements for Limiting Condition for Operations 3.4.6, ''Reactor Coolant System Specific Activity,'' the dose equivalent Iodine–131 specific activity limits would be lowered from 1.2 microCuries /ml to 0.2 microCuries/gm and from 12.0 microCuries/ml to 2.0 microCuries/gm.

References to 10 CFR part 100 in various TSs and TS Bases would be changed to 10 CFR Part 50.67 to reflect adoption of the Alternative Source Term.

The proposed amendment would also remove requirements that the Secondary Containment, Secondary Containment Isolation Valves and Dampers, Secondary Containment Instrumentation, and the Standby Gas Treatment System are to be operable during movement of irradiated fuel assemblies and during core alterations.

The proposed changes are related to a proposed increase in power level that is identified in the licensee's letter to the NRC dated September 19, 2000. The proposed increase in power will be addressed in a separate **Federal Register** notice.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By April 5, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20855–2738, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (*http://www.nrc.gov*). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S.

Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20855–2738, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Al Gutterman, Morgan, Lewis, & Bockius LLP, 1800 M Street, N.W., Washington, DC 20036–5869, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated October 19, 2000, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20855–2738, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (*http://www.nrc.gov*).

Dated at Rockville, Maryland, this 28th day of February, 2001.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Senior Project Manager, Section 1 Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–5397 Filed 3–5–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Form S–3, OMB Control No. 3235–0073, SEC File No. 270–61

Form S–8, OMB Control No. 3235–0066, SEC File No. 270–66

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Form S–3 is used by issuers to register securities pursuant to the Securities Act of 1933. Form S–3 gives investors the necessary information to make investment decisions regarding securities offered to the public. Approximately 3,483 issuers file Form S–3 at an estimated 398 hours per response for a total annual burden of 1,385,934 hours.

Form S–8 is a primary registration statement used by qualified registrants to register securities issued in connection with employees benefit plans. It is estimated that 1,660 issuers file Form S–8 annually at estimated 24 hours per response for a total annual burden of 39,840 hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: February 26, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–5401 Filed 3–5–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44008; File No. SR–CBOE–01–03]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Maximum Size of Options Orders Eligible for Automatic Execution

February 27, 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 Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its rules governing the operation of its Retail Automatic Execution System (''RAES'') to increase the maximum order size eligibility for RAES from seventy-five contracts to one hundred contracts. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to increase from seventy-five contracts to one hundred contracts the maximum size of orders for equity and index options that are eligible to be executed through RAES.[3]

Currently, the maximum size of RAES-eligible orders is seventy-five contracts for all classes of options traded on the CBOE for which a greater maximum is not expressly provided in the rules.[4] Options subject to the seventy-five contract maximum include all classes of equity options, all classes of sector index options and all other classes of index options except options on the S&P 500 index, options on the Nasdaq 100 index, options on the Dow Jones Industrial Average (''DJIA''), options on the High Yield Select Ten, and interest rate options.[5]

Increasing the RAES eligibility maximum to one hundred contracts for these classes of options will not automatically permit orders up to this size to be entered into RAES. Instead, the actual maximum RAES eligibility size is established by the appropriate Floor Procedure Committee (''FPC'') of the Exchange, which may maintain the maximum for particular classes at levels below the one hundred contract maximum that would be allowable under the proposed rule change.

The CBOE represents that increasing automatic execution levels will provide the benefits of automatic execution to a larger number of customer orders. The CBOE also represents that RAES affords prompt and efficient executions at the CBOE displayed price or, in many cases, at the current best bid or offer in another market if the current best bid or offer in that market is better than the CBOE'S displayed bid or offer.[6]

The Exchange notes that there are a number of safeguards incorporated into Exchange rules to ensure the appropriate handling of RAES orders, even as the maximum order size is being increased. The Exchange rules require CBOE Designated Primary Market-Makers to participate in any automated execution system which may be open in appointed option classes (CBOE Rule 8.85(a)(ix)), and state that market makers are expected to participate in and support Exchange-sponsored automated programs, including, but not limited to, RAES (*Interpretation* .07 to CBOE Rule 8.7). CBOE Rule 8.16(b) requires a market maker who has logged onto RAES at any time during an expiration month to log onto RAES in that option class whenever he is present in the trading crowd until the next expiration. CBOE Rule 8.16(c) states that, if there is inadequate participation on RAES, then Floor Officials of the appropriate Market Performance Committee may require market makers who are members of the trading crowd to log on RAES absent reasonable justification or excuse for non-participation, or the Floor Officials may allow market makers in other classes of options to log on RAES in such classes.

In addition, the Exchange does not believe that raising the maximum order size will create materially greater risks for CBOE market maker participants. The Exchange believes that the implementation of the Variable RAES and the 100 Spoke RAES Wheel order assignment methodologies on the CBOE provide safeguards to market makers from excessive risk from any one RAES order.[7]

The Exchange believes that the proposed increase should provide customers with quicker executions for a larger number of orders, by providing automatic rather than manual executions, thereby reducing the amount of orders subject to manual processing. In support of its proposal to increase the RAES eligibility maximum, the CBOE represents that its systems capacity is sufficient to accommodate the increased number of automatic executions anticipated to result from the implementation of this proposal.

2. Statutory Basis

The Exchange believes that the proposed rule change will enhance the ability of the Exchange to provide instantaneous automatic execution of public customers' orders at the best available prices, which is consistent with section 6(b)[8] of the Act in general, and furthers the objectives of section 6(b)(5) of the Act[9] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE 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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

The CBOE requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2)[10] of the Act. The Exchange believes that expanding the number of contracts in selected option classes eligible to be entered into RAES will make the benefits of assured, instantaneous, automatic execution available to a larger number of customer orders, and will allow the Exchange to compete with other options exchanges which have received approval to increase their maximum order size for automatic executions to one hundred contracts.[11]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions

[3] RAES is the Exchange's automatic execution system for public customer market or marketable limit orders of less than a certain size.

[4] *See* Securities Exchange Act Release No. 43517 (November 3, 2000), 65 FR 69082 (November 15, 2000).

[5] The RAES eligibility maximum is currently one hundred contracts for options on the S&P 500 Index, the Nasdaq 100 Index, the DJIA, the High Yield Select Ten, and interest rate options. *See supra* note 4.

[6] *Interpretation* .02 to CBOE Rule 6.8 provides, in pertinent part, that: orders to buy or sell options that are multiply traded in one or more markets in addition to the Exchange will not be automatically executed on RAES at prices inferior to the current best bid or offer in any other market, as such best bids or offers are identified in RAES. In respect of those classes of options that have been specifically designated by the appropriate FPC as coming within the scope of this sentence (''automatic step-up classes''), under circumstances where the Exchange's best bid or offer is inferior to the current best bid or offer in another market by no more than the ''step-up amount'' as defined below, such orders will be automatically executed on RAES at the current best bid or offer in the other market.

[7] *See* Securities Exchange Act Release Nos. 41821 (September 1, 1999), 64 FR 50313 (September 16, 1999) (implementing Variable RAES); and 42824 (May 25, 2000), 65 FR 37442 (June 14, 2000) (implementing the 100 Spoke RAES Wheel).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78(b)(2).

[11] The Commission notes that it has approved similar proposals filed by the American Stock Exchange LLC (''Amex'') and the Pacific Exchange, Inc. (''PCX''). *See* Securities Exchange Act Release No. 43887 (January 25, 2001), 66 FR 8831 (February 2, 2001) (order approving SR–Amex–00–57 and PCX–00–18).

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–01–03 and should be submitted by March 27, 2001.

V. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 of the Act. Among other provisions, section 6(b)(5) of the Act requires that the rules of an exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating securities transactions; remove impediments to and perfect the mechanism of a free and open market and a national securities system; and protect investors and the public interest.[12]

Pursuant to section 19(b)(2)[13] of the Act, the Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice thereof in the **Federal Register**.[14] The Commission believes that granting accelerated approval will provide the CBOE will flexibility to compete for order flow with other exchanges immediately.[15]

While increasing the maximum order size limit from seventy-five to one hundred contracts for automatic execution eligibility by itself does not raise concerns under the Act, the Commission believes that this increase raises collateral issues that the CBOE will need to monitor and address. Increasing the maximum order size for particular option classes will make a larger number of option orders eligible for RAES. These orders may benefit from greater speed of execution, but at the same time create greater risks for market maker participants. Market makers signed onto RAES will be exposed to the financial risks associated with larger-sized orders being routed through the system for automatic execution at the displayed price. When the market for the underlying security changes rapidly, it may take a few moments for the related option's price to reflect that change. In the interim, customers may submit orders that try to capture the price differential between the underlying security and the option. The larger the orders accepted through RAES, the greater the risk market makers must be willing to accept. The Commission does not believe that, because the CBOE's appropriate FPC determines to approve orders as large as one hundred as eligible for RAES, the FPC or any other CBOE committee or officials should disengage RAES more frequently by, for example, declaring a ''fast'' market. Disengaging RAES can negatively affect investors by making it slower and less efficient to execute their option orders. It is the Commission's view that the CBOE, when increasing the maximum size of orders that can be sent through their respective automatic execution systems, should not disadvantage all customers—the vast majority of whom enter orders for less than one hundred contracts—by making their automatic execution systems less reliable.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[16] that the proposed change (SR–CBOE–01–03) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–5330 Filed 3–5–01; 8:45 am]

BILLING CODE 8010–01–M

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(2).

[14] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] *See supra* note 11.

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44004; File No. SR–NASD–01–06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Amending the NASD By-Laws

February 26, 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 December 17, 1999, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NASD. The NASD submitted Amendment No. 1 on February 5, 2001,[3] and Amendment No. 2 on February 26, 2001.[4] The Commission is publishing this notice, as amended, to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend its By-Laws to address several corporate governance issues, including the treatment of staff Governors for purposes of Industry/Non-Industry balancing on the NASD's Board of Governors (the ''Board''); the role of the National Nominating Committee (''NNC'') in contested elections; the petition process by which individuals and slates can be included in the election process; the industry classifications that must be represented on the Board; and other clarifying amendments, including the addition of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from T. Grant Callery, Senior Vice President and General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated February 2, 2001 (''Amendment No. 1''). In Amendment No. 1 the NASD provided the final ballot summary of the membership vote regarding the proposed amendments to the NASD By-Laws, indicating that the NASD membership approved the proposed amendments.

[4] Letter from T. Grant Callery, Senior Vice President and General Counsel, NASD, to Katherine A. England, Assistant Director, Division, Commission, dated February 23, 2001 (''Amendment No. 2''). In Amendment No. 2 the NASD amended proposed Article VII, Section 10(a)(ii) of the By-Laws to state ''(ii) in the case of petitions in support of more than one person, petitions in support of the nominations of such persons duly executed by ten percent of the members.''

certain definitions. Additionally, the amendments reflect the new NASD corporate structure, including the impending separation of The Nasdaq Stock Market, Inc. (''Nasdaq'') and NASD and the creation of NASD Dispute Resolution, Inc., a wholly owned subsidiary of the NASD.

Below is the text of the proposed rule change, as amended. Proposed new language is in italics; proposed deletions are in brackets.

By-Laws of the National Association of Securities Dealers, Inc.

Article I—Definitions

(n) ''Industry Director'' means a Director of the NASD Regulation Board or [Nasdaq] *NASD Dispute Resolution* Board (excluding the Presidents) who: (1) is or has served in the prior three years as an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer; (2) is an officer, director (excluding an outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer, and the broker or dealer accounts for more than five percent of the gross revenues received by the consolidated entity; (3) owns more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed ten percent of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in the day-to-day management of a broker or dealer; (4) provides professional services to brokers or dealers, and such services constitute 20 percent or more of the professional revenues received by the Director or 20 percent or more of the gross revenues received by the Director's firm or partnership; (5) provides professional services to a director, officer, or employee of a broker, dealer, or corporation that owns 50 percent or more of the voting stock of a broker or dealer, and such services relate to the director's, officer's, or employee's professional capacity and constitute 20 percent or more of the professional revenues received by the Director or 20 percent or more of the gross revenues received by the Director's firm or partnership; or (6) has a consulting or employment relationship with or provides professional services to the NASD, NASD Regulation, *NASD Dispute Resolution,* Nasdaq, or Amex (and any predecessor), or has had any such relationship or provided any such services at any time within the prior three years;

(o) ''Industry Governor'' or ''Industry committee member'' means a Governor (excluding the Chief Executive Officer [and Chief Operating Officer of the NASD, the Presidents of NASD Regulation and Nasdaq, and the Chief Executive Officer of Amex)] *of the NASD and the President of NASD Regulation)* or committee member who: (1) is or has served in the prior three years as an officer, director[,] or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer; (2) is an officer, director (excluding an outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer, and the broker or dealer accounts for more than five percent of the gross revenues received by the consolidated entity; (3) owns more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed ten percent of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in the day-to-day management of a broker or dealer; (4) provides professional services to brokers or dealers, and such services constitute 20 percent or more of the professional revenues received by the Governor or committee member or 20 percent or more of the gross revenues received by the Governor's or committee member's firm or partnership; (5) provides professional services to a director, officer, or employee of a broker, dealer, or corporation that owns 50 percent or more of the voting stock of a broker or dealer, and such services relate to the director's, officer's, or employee's professional capacity and constitute 20 percent or more of the professional revenues received by the Governor or committee member or 20 percent or more of the gross revenues received by the Governor's or committee member's firm or partnership; (6) is a Floor Governor; or (7) has a consulting or employment relationship with or provides professional services to the NASD, NASD Regulation, *NASD Dispute Resolution,* Nasdaq or Amex (and any predecessor), or has had any such relationship or provided any such services at any time within the prior three years;

(v) *''NASD Dispute Resolution'' means NASD Dispute Resolution, Inc.;*

(*w*) ''Nasdaq'' means The Nasdaq Stock Market, Inc.;

[(w) ''Nasdaq Board'' means the Board of Directors of Nasdaq;

(x) ''Nasdaq Listing and Hearing Review Council'' means a body appointed pursuant to Article V of the Nasdaq By-Laws;

[(y)] (*x*) ''NASD Regulation'' means NASD Regulation, Inc.;

[(z)] (*y*) ''NASD Regulation Board'' means the Board of Directors of NASD Regulation;

[(aa)] (*z*) ''National Adjudicatory Council'' means a body appointed pursuant to Article V of the NASD Regulation By-Laws;

[(bb)] *(aa)* ''National Nominating Committee'' means the National Nominating Committee appointed pursuant to Article VII, Section 9 of these By-Laws;

[(cc)] *(bb)* ''Non-Industry Director'' means a Director of the NASD Regulation Board or [Nasdaq] *NASD Dispute Resolution* Board (excluding the Presidents of NASD Regulation and [Nasdaq)] *NASD Dispute Resolution)* who is: (1) a Public Director; (2) an officer or employee of an issuer of securities listed on Nasdaq or Amex, or traded in the over-the-counter market; or (3) any other individual who would not be an Industry Director;

[(dd)] *(cc)* ''Non-Industry Governor'' or ''Non-Industry committee member'' means a Governor (excluding the Chief Executive Officer and [Chief Operating Officer] *any other officer* of the NASD [and], the [Presidents] *President* of NASD Regulation [and Nasdaq], any Floor Governor, and the Chief Executive Officer of Amex) or committee member who is: (1) a Public Governor or committee member; (2) an officer or employee of an issuer of securities listed on Nasdaq or Amex, or traded in the over-the-counter market; or (3) any other individual who would not be an Industry Governor or committee member;

[(ee)] *(dd)* ''person associated with a member'' or ''associated person of a member'' means: (1) a natural person who is registered or has applied for registration under the Rules of the Association; (2) a sole proprietor, partner, officer, director, or branch manager of a member, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a member, whether or not any such person is registered or exempt from registration with the NASD under these By-Laws or the Rules of the Association; and (3) for purposes of Rule 8210, any other person listed in Schedule A of Form BD of a member;

[(ff)] *(ee)* ''Public Director'' means a Director of the NASD Regulation Board or [Nasdaq Board] *NASD Dispute*

Resolution who has no material business relationship with a broker or dealer or the NASD, NASD Regulation, *NASD Dispute Resolution,* or Nasdaq;

[(gg)] *(ff)* ''Public Governor'' or ''Public committee member'' means a Governor or committee member who has no material business relationship with a broker or dealer or the NASD, NASD Regulation, *NASD Dispute Resolution,* or Nasdaq;

[(hh)] *(gg)* ''registered broker, dealer, municipal securities broker or dealer, or government securities broker or dealer'' means any broker, dealer, municipal securities broker or dealer, or government securities broker or dealer which is registered with the Commission under the Act; [and

[(ii)] *(hh)* ''Rules of the Association'' or ''Rules'' means the numbered rules set forth in the NASD Manual beginning with the Rule 0100 Series, as adopted by the Board pursuant to these By-Laws, as hereafter amended or supplemented[.]*;*

[(jj)] *(ii)* ''Floor Governor'' or ''Amex Floor Governor'' means a Floor Governor of Amex elected pursuant to Article II, Section .01(a) of the Amex By-Laws;

[(kk)] ''Nasdaq-Amex'' means Nasdaq-Amex Market Group, Inc.;

[(ll)] *(ii)* ''Amex'' means American Stock Exchange LLC; *and*

[(mm)] *(kk)* ''Amex Board'' means the Board of Governors of Amex[;].

Article IV—Membership

Application for Membership

Sec. 1. (a) Application for membership in the NASD, properly signed by the applicant, shall be made to the NASD via electronic process or such other process as the NASD may prescribe, on the form to be prescribed by the NASD, and shall contain:

(1) an agreement to comply with the federal securities laws, the rules and regulations thereunder, the rules of the Municipal Securities Rulemaking Board and the Treasury Department, the By-Laws of the NASD, NASD Regulations, and [Nasdaq] *NASD Dispute Resolution,* the Rules of the Association, and all rulings, orders, directions, and decisions issued and sanctions imposed under the Rules of the Association;

Article V—Registered Representatives and Associated Persons

Application for Registration

Sec. 2. (a) Application by any person for registration with the NASD, properly signed by the applicant, shall be made to the NASD via electronic process or such other process as the NASD may prescribe, on the form to be prescribed by the NASD and shall contain:

(1) an agreement to comply with the federal securities laws, the rules and regulations thereunder, the rules of the Municipal Securities Rulemaking Board and the Treasury Department, By-Laws of the NASD, NASD Regulation, and [Nasdaq] *NASD Dispute Resolution,* the Rules of the Association, and all rulings, orders, directions, and decisions issued and sanctions imposed under the Rules of the Association; and

Article VI—Dues, Assessments, and Other Charges

Power of the NASD to Fix and Levy Assessments

Sec. 1. The NASD shall prepare an estimate of the funds necessary to defray reasonable expenses of administration in carrying on the work of the NASD each fiscal year, and on the basis of such estimate, shall fix and levy the amount of admission fees, dues, assessments, and other charges to be paid by members of the NASD and issuers and any other persons using any facility or system which the NASD, NASD Regulation[, or Nasdaq] *or NASD Dispute Resolution* operates or controls. Fees, dues, assessments, and other charges shall be called and payable as determined by the NASD from time to time; provided, however, that such admission fees, dues, assessments, and other charges shall be equitably allocated among members and issuers and any other persons using any facility or system which the NASD operates or controls. The NASD may from time to time make such changes or adjustments in such fees, dues, assessments, and other charges as it deems necessary or appropriate to assure equitable allocation of due among members. In the event of termination of membership or the extension of any membership to a successor organization during any fiscal year for which an assessment has been levied and become payable, the NASD may make such adjustment in the fees, dues, assessments, or other charges payable by any such member or successor organization or organizations during such fiscal years as it deems fair and appropriate in the circumstances.

Article VII—Board of Governors

Powers and Authority of Board

Sec. 1. (a) The Board shall be the governing body of the NASD and, except as otherwise provided by applicable law, the Restated Certificate of Incorporation, or these By-Laws, shall be vested with all powers necessary for the management and administration of the affairs of the NASD and the promotion of the NASD's welfare, objects, and purposes. In the exercise of such powers, the Board shall have the authority to:

(c) To the fullest extent permitted by applicable law, the Restated Certificate of Incorporation, and these By-Laws, the NASD may delegate any power of the NASD or the Board to a committee appointed pursuant to Article IX, Section 1, the NASD Regulation Board, the [Nasdaq] *NASD Dispute Resolution* Board, or NASD staff in a manner not inconsistent with the Delegation Plan.

Authority to Take Action Under Emergency or Extraordinary Market Conditions

Sec. 3. The Board, or such person or persons as may be designated by the Board, in the event of an emergency or extraordinary market conditions, shall have the authority to take any action regarding:

(a) the trading in or operation of the over-the-counter securities market, the operation of any automated system owned or operated by the NASD[,] *or* NASD Regulation, [or Nasdaq,] and the participation in any such system of any or all persons or the trading therein of any or all securities; and

Composition and Qualifications of the Board

Sec. 4. (a) The Board shall consist of *no fewer than 17 nor more than 27 Governors, comprising (i)* the Chief Executive [Officer and the Chief Operating] Officer of the NASD, [the Presidents of NASD Regulation and Nasdaq,] *(ii) if the Board of Governors determines, from time to time, in its sole discretion, that the appointment of a second officer of the NASD to the Board of Governors is advisable, a second officer of the NASD, (iii) the President of NASD Regulation, (iv)* the Chair of the National Adjudicatory Council, *(v)* the Chief Executive Officer [of Amex] *and* one Floor Governor *of Amex,* and *(vi)* no fewer than [16] *12* and no more than [28] *22* Governors elected by the members of the NASD. The Governors elected by the members of the NASD shall include a representative of an issuer of investment company shares or an affiliate of such an issuer, a representative of an insurance company, [and a Nasdaq issuer] *a representative of a national retail firm, a representative of a regional retail or independent financial planning member firm, a representative of a firm that provides clearing services to other NASD members,* and a representative of an NASD member having not more than 150 registered persons. [A majority of the] *The number of Non-Industry* Governors shall [be Non-] *exceed the number of* Industry Governors. If the

[Board consists of 23 Governors, at least five shall be] *number of Industry and Non-Industry Governors is 15 to 17, the Board shall include at least four* Public Governors. If the [Board consists of 24 to 27 Governors, at least six shall be] *number of Industry and Non-Industry Governors is 18 to 19, the Board shall include at least five* Public Governors. If the [Board consists of 28 to 31 Governors, at least seven shall be Public Governors. If the Board consists of 32 to 35 Governors, at least eight shall be] *number of Industry and Non-Industry Governors is 20–25, the Board shall include at least six* Public Governors.

Term of Office of Governors

Sec.5. (a) The Chief Executive Officer and [the Chief Operating Officer], *if appointed, the second officer* of the NASD*,* the [Presidents] *President* of NASD Regulation [and Nasdaq], and the Chief Executive Officer of Amex shall serve as Governors until a successor is elected, or until death, resignation, or removal (*or, in addition, in the case of a second officer of the NASD, until the Board of Governors, in its sole discretion, determines that such appointment is no longer advisable*).

(d) The Governors elected by the members of the NASD shall be divided into three classes and hold office for a term of no more than three years, such term to be fixed by the Board at the time of the nomination or certification of *each* such Governor, or until a successor is duly elected and qualified, or until death, resignation, disqualification, or removal. A Governor elected by the members of the NASD may not serve more than two consecutive terms. If a Governor is elected by the Board to fill a term of less than one year, the Governor may serve up to two consecutive terms following the expiration of the Governor's initial term. The term of office of Governors of the first class shall expire at the January 1999 Board meeting, of the second-class one year thereafter, and of the third-class two years thereafter. At each annual election, commencing January 1999, Governors shall be elected for a term of three years to replace those whose terms expire.

Filling of Vacancies

Sec. 7. If [a] *an elected* Governor position becomes vacant, whether because of death, disability, disqualification, removal, or resignation, the National Nominating Committee shall nominate, and the Board shall elect by majority vote of the remaining Governors then in office, a person satisfying the classification (Industry, Non-Industry, or Public Governor) for the governorship as provided in Section 4 to fill such vacancy, except that if the remaining term of office for the vacant Governor position is not more than six months, no replacement shall be required. If the remaining term of office for the vacant Governor position is more than one year, the Governor elected by the Board to fill such position shall stand for election in the next annual election pursuant to this Article.

The National Nominating Committee

Sec. 9. (a) The National Nominating Committee shall nominate *and, in the event of a contested election, may, as described in Section 11(b), support:* Industry, Non-Industry, and Public Governors for each vacant or new Governor position on the NASD Board for election by the membership; Industry, Non-Industry, and Public Directors for each vacant or new position on the NASD Regulation Board and the [Nasdaq] *NASD Dispute Resolution* Board for election by the [Board;] *stockholder; and* Industry, Non-Industry, and Public members for each vacant or new position on the National Adjudicatory Council for appointment by the NASD Regulation Board [; and Industry and Non-Industry members for each vacant or new position on the Nasdaq Listing and Hearing Review Council for appointment by the Nasdaq Board].

(d) Members of the National Nominating Committee shall be appointed annually by the Board and may be removed only by majority vote of the whole Board, after appropriate notice, for refusal, failure, neglect, or inability to discharge such member's duties. [The NASD Regulation Board and the Nasdaq Board each shall propose two candidates to the NASD Board for appointment to the National Nominating Committee.]

Procedure for Nomination of Governors

Sec. 10. Prior to a meeting of members pursuant to Article XXI for the election of Governors, the NASD shall notify the members of the names of each nominee selected by the National Nominating Committee for each governorship up for election, the classification of governorship (Industry, Non-Industry, or Public Governor) for which the nominee is nominated, the qualifications of each nominee, and such other information regarding each nominee as the National Nominating Committee deems pertinent. A person who has not been so nominated may be included on the ballot for the election of Governors if: (a) within [30] *45* days after the date of such notice [in 1997, or within 45 days after the date of such notice in 1998 and thereafter], such person presents to the Secretary of the NASD *(i) in the case of petitions solely in support of such person,* petitions in support of his or her nomination duly executed by three percent of the members*, and no member shall endorse more than one such nominee, or (ii) in the case of petitions in support of one or more persons, petitions in support of the nominations of such persons duly executed by ten percent of the members;* and (b) the Secretary certifies that (i) the petitions are duly executed by the Executive Representatives of the requisite number of members[;], and (ii) the person satisfies the classification (Industry, Non-Industry, or Public Governor) of the governorship to be filled, based on such information provided by the person as is reasonably necessary to make the certification. The Secretary shall not unreasonably withhold or delay the certification. Upon certification, the election shall be deemed a contested election. After the certification of a contested election or the expiration of time for contesting an election under this Section, the Secretary shall deliver notice of a meeting of members pursuant to Article XXI, Section 3(a).

Communication of Views

Sec. 11. *(a)* The NASD, the Board, [the National Nominating Committee,] a committee appointed pursuant to Article IX, Section 1, and NASD staff shall not take any position publicly or with a member or person associated with or employed by a member with respect to any candidate in a contested election or nomination held pursuant to these By-Laws or the NASD Regulation By-Laws. A Governor or a member of *any committee (other than* the National Nominating Committee [or any other committee]*)* may communicate his or her views with respect to any candidate if such Governor or committee member acts solely in his or her individual capacity and disclaims any intention to communicate in any official capacity on behalf of the NASD, the NASD Board, *or any committee (other than* the National Nominating Committee [, or any other committee]*).* Except as provided herein, any candidate and his or her representatives may communicate support for the candidate to a member or person associated with or employed by a member.

(b) In a contested election, the National Nominating Committee may support its nominees under this Article by sending to NASD members eligible to vote up to two mailings of materials, in the manner set forth in Article VII, Section 12, in support of its nominees.

In addition to such two mailings, in the event of mailings and or other communications to the NASD members by or on behalf of a candidate by petition in a contested election, the National Nominating Committee may respond in-kind, but shall not take a position unresponsive, to the contesting candidate's communications.

Election of Governors

Sec. 13. Governors *that are to be elected by the members* shall be elected by a plurality of the votes of the members of the NASD present in person or represented by proxy at the annual meeting of the NASD and entitled to vote thereat. The annual meeting of the NASD shall be on such date and at such place as the Board shall designate pursuant to Article XXI. Any Governor so elected must be nominated by the National Nominating Committee or certified by the Secretary pursuant to Section 10.

Maintenance of Compositional Requirements of the Board

Sec. 14. Each *elected* Governor shall update the information submitted under Section 9(e) regarding his or her classification as an Industry, Non-Industry, or Public Governor at least annually and upon request of the Secretary of the NASD, and shall report immediately to the Secretary any change in such classification.

Article VIII—Officers, Agents, and Employees

Resignation and Removal of Officers

Sec. 6. (b) Any officer of the NASD may be removed, with or without cause, by resolution adopted by a majority of the Governors then in office at any regular or special meeting of the Board or by a [written] consent [signed] *adopted* by all of the Governors then in office *in accordance with applicable law.* Such removal shall be without prejudice to the contractual rights of the affected officer, if any, with the NASD.

Article IX—Committees

Appointment

Sec. 1. Subject to Article VII, Section 1(c), the Board may appoint such committees or subcommittees as it deems necessary or desirable, and it shall fix their powers, duties, and terms of office. Any such committee or subcommittee consisting solely of one or more Governors, to the extent provided by these By-Laws or by resolution of the Board, shall have and may exercise all powers and authority of the Board in the management of the business and affairs of the NASD. *Any committee having the authority to exercise the powers and authority of the Board shall have a percentage of Non-Industry committee members at least as great as the percentage of Non-Industry Governors on the Board and a percentage of Public committee members at least as great as the percentage of Public Governors on the Board.*

Executive Committee

Sec. 4. (b) The Executive Committee shall consist of no fewer than six and no more than nine Governors. The Executive Committee shall include the Chief Executive Officer of the NASD, at least one Director of NASD Regulation, [at least one Director of Nasdaq,] at least one Governor of Amex, and at least two Governors who are not members of either the NASD Regulation Board[, the Nasdaq Board, or the Amex Board. The number of Directors of the NASD Regulation Board and the number of Directors of the Nasdaq Board serving on the Executive Committee shall be equal at all times.] *or the Amex Board.* The Executive Committee shall have a percentage of Non-Industry committee members at least as great as the percentage of Non-Industry Governors on the whole Board and a percentage of Public committee members at least as great as the percentage of Public Governors on the whole Board.

Article X—Compensation of Board and Committee Members

Sec. 1. The Board may provide for reasonable compensation of the Chair of the Board, the Governors, and the members of any committee. The Board may also provide for reimbursement of reasonable expenses incurred by such persons in connection with the business of the NASD*, including those expenses incurred in connection with the support of a candidate or candidates by the National Nominating Committee in contested elections in accordance with the By-Laws.*

Article XIII—Powers of Board To Impose Sanctions

Sec. 1. The Board is hereby authorized to impose appropriate sanctions applicable to members, including censure, fine, suspension, or expulsion from membership, suspension or bar from being associated with all members, limitation of activities, functions, and operations of a member, or any other fitting sanction, and to impose appropriate sanctions applicable to persons associated with members, including censure, fine, suspension or barring a person associated with a member from being associated with all members, limitation of activities, functions, and operations of a person associated with a member, or any other fitting sanction, for:

(b) violation by a member or a person associated with a member of any of the terms, conditions, covenants, and provisions of the By-Laws of the NASD, NASD Regulation, or [Nasdaq] *NASD Dispute Resolution,* the Rules of the Association, or the federal securities laws, including the rules and regulations adopted thereunder, the rules of the Municipal Securities Rulemaking Board, and the rules of the Treasury Department;

Article XV—Limitation of Powers

Conflicts of Interest

Sec. 4. (b) No contract or transaction between the NASD and one or more of its Governors or officers, or between the NASD and any other corporation, partnership, association, or other organization in which one or more of its Governors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason if: (i) the material facts pertaining to such Governor's or officer's relationship or interest and the contract or transaction are disclosed or are known to the Board or the committee, and the Board or committee in good faith authorizes the contract or transaction by the affirmative vote of a majority of the disinterested Governors, *even though the disinterested governors be less than a quorum;* or (ii) the material facts are disclosed or become known to the Board or committee after the contract or transaction is entered into, and the Board or committee in good faith ratifies the contract or transaction by the affirmative vote of a majority of the disinterested Governors *even though the disinterested governors be less than a quorum.* Only disinterested Governors may be counted in determining the presence of a quorum at the portion of a meeting of the Board or of a committee that authorizes the contract or transaction. This subsection shall not apply to any contract or transaction between the NASD and [:] NASD Regulation, [Nasdaq-Amex, Nasdaq] *NASD Dispute Resolution,* or Amex.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD 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 statemenets may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

According to the NASD, the proposed rule change has several significant purposes. First, the NASD Board of Governors has both Industry and Non-Industry members and is required by the By-Laws to have a majority of Non-Industry Governors. In 1998, the NASD affected a substantial corporate restructuring which included the acquisition of the American Stock Exchange LLC (''Amex''). As part of this restructuring, the NASD moved to an overlapping Board structure whereby all members of the NASD Regulation, Inc. (''NASDR'') and Nasdaq Boards became members of the NASD Board. As a result of the 1998 restructuring, the number of Governors serving on the Board by virtue of their status as staff increased to five (the NASD Chief Executive Officer, the NASD Chief Operating Officer, the Presidents of NASDR and Nasdaq and the Chairman of Amex). In accordance with current NASD By-Laws, these five Governors have counted as Industry Governors for balancing purposes. With this current composition and classification of staff Governors, the only realistic manner for NASD to satisfy its obligation to ensure fair representation of all relevant constituencies has been to increase the number of Industry seats on the Boards, and, in order to maintain the required absolute majority of Non-Industry/Public seats on the Board, increase in the number of Non-Industry seats as well. These increases have made it extremely difficult for the NASD Board to be small enough to function with optimum efficiency while still satisfying NASD's obligation to ensure fair representation of the relevant constituencies.

To improve the efficiency of the Board while maintaining fair representation of the relevant constituents, the Association has determined to reclassify the NASD CEO and president of NASDR Governor positions as ''neutral'' Governors; that is, neither Industry nor Non-Industry Governors. The reclassification of these Governor positions as ''neutral'' is consistent with the neutrality classification other Self-Regulatory Organizations assign to their Board staff members and allows the two Industry seats the staff occupy to now be available to Industry candidates elected by the NASD membership.

Second, the proposed By-Law amendments allow limited National Nominating Committee participation in contested elections. Under the current By-Laws, the NASD, NASD staff, the NNC and other corporate committees are prohibited from taking a position in contested elections. As a result of this prohibition, in contested elections the NNC has been unable to explain the reasons a NNC nominated candidate is worthy of support, and has been unable to respond to statements made by other candidates or parties about the NNC nominees. The NNC's current inability to support its candidates in contested elections is a deterrent to qualified individuals accepting nominations. To remedy this, the NASD is proposing to allow the NNC to provide limited support to NNC nominated candidates. Specifically, the NASD will allow the NNC to distribute two mailings to NASD voting members in support of its candidates. The NASD will also allow the NNC to respond in-kind to vote solictations and additional mailings by other candidates. By limiting NNC's additional support to ''responsiveness'', the NASD will allow the NNC to support its candidates but not allow the NNC to unilaterally wage an electoral campaign on behalf of those candidates.

Next, the NASD elected to revise the NASD By-Laws with regard to inclusion on the ballot by petition. Under the current ballot by petition process, Industry candidates seeking nomination by petition can ''coattail'' other Industry and/or Non-Industry candidates in the same petition-gathering process. This process essentially allows the creation of a ''slate'' through the use of a single set of petitions signed by three percent of the membership. The NASD determined to continue to allow the nomination by petition of an individual signed by three percent of NASD's voting members and to permit each member to endorse only one such nominee. Under the revised amendments, the NASD specifically recognizes the validity of slate petitions, but requires that the slate be endorsed by ten percent of NASD's voting members. The NASD's adoption of separate thresholds for petition candidates and slate petitions is reasonable given the size and diversity of NASD's membership.

Fourth, to more accurately represent the full range of relevant industry constituents, the NASD proposes representation by three additional industry segments: a national retail firm, a regional retail or independent financial planning member firm and a clearing firm. These segments are in addition to required representation by an investment company, an insurance affiliate and a small firm. The Board will periodically adopt resolutions establishing the criteria for national and regional firm representatives in accordance with changes in the industry structure and demographics.

Finally, to set forth the new NASD corporate structure and the change in the NASD-Nasdaq relationship, the NASD determined to make several technical changes to the By-Laws reflecting the current corporate structure. The changes primarily consist of adding references to the newly formed NASD Dispute Resolutions subsidiary and deleting references to Nasdaq.

Summary of Amendments

By-Laws of the NASD

Article I. Definitions

New definitions have been added, and the terms Industry, Non-Industry and Public ''Director'' ''Governor'' and ''committee member'' have been amended, to reflect the new corporate structure, namely, the inclusion of NASD Dispute Resolution within the family of companies and the changed NASD-Nasdaq relationship.

Article IV. Membership

Application for Membership

Section 1 has been amended to reflect the new corporate structure, namely, the inclusion of NASD Dispute Resolution within the family of companies and the changed NASD-Nasdaq relationship.

Article V. Registered Representatives and Associated Persons

Application for Registration

Section 2 has been amended to reflect the new corporate structure, namely, the inclusion of NASD Dispute Resolution within the family of companies and the changed NASD-Nasdaq relationship.

Article VI. Dues, Assessments, and Other Charges

Power of the NASD to Fix and Levy Assessments

Section 1 has been amended to reflect the new corporate structure, namely, the inclusion of NASD Dispute Resolution within the family of companies and the changed NASD-Nasdaq relationship.

Article VII. Board of Governors

Powers and Authority of Board

Section 1 has been amended to reflect the new corporate structure, namely, the inclusion of NASD Dispute Resolution within the family of companies and the changed NASD-Nasdaq relationship.

Authority to Take Action Under Emergency or Extraordinary Market Conditions

Section 3 has been amended to reflect the new corporate structure, namely, the inclusion of NASD Dispute Resolution within the family of companies and the changed NASD-Nasdaq relationship.

Composition and Qualifications of the Board

Section 4 has been amended to adjust the overall Board composition to no fewer than 17 nor more than 27 Governors, including no more than four staff Governors. This section has also been amended to require representation by three additional industry segments: a national retail firm, a regional retail or independent financial planning member firm and a clearing services firm. Finally, this section has been amended to allow the Board, by resolution, to specify the criteria for representatives of national retail and regional retail or independent financial planning firms.

Term of Office of Governors

Section 5 has been amended to reflect the changed NASD-Nasdaq relationship and to recognize the Board's discretion in limiting the term of a second NASD officer serving as a Governor.

Filing of Vacancies

Section 7 has been amended by clarifying that the provision applies to elected Governor positions.

The National Nominating Committee

Section 9 has been amended to specify that the NNC may support Governors in contested elections. This section has also been amended to reflect the new corporate structure and to eliminate the requirement that NASDR and Nasdaq propose two candidates each to the NASD Board for appointment to the NNC.

Procedure for Nomination of Governors

Section 10 has been amended to allow nomination by petition for individual ballots by three percent of NASD voting membership, to limit voting members from endorsing more than one individual nominee, and to allow nomination by petition for slates by ten percent of the NASD voting membership.

Communication of Views

Section 11 has been amended to detail the NNC's limited support of NNC nominees.

Election of Governors

Section 13 has been amended by clarifying that the provision applies to elected Governor positions.

Maintenance of Compositional Requirements of the Board

Section 14 has been amended by clarifying that the provision applies to elected Governor positions.

Article VIII. Officers, Agents, and Employees

Resignation and Removal of Officers

Section 6 has been amended to allow the Board to remove an officer of the NASD by a resolution adopting by a majority of Governors or a consent adopted by all Governors.

Article IX. Committees

Appointment

Section 1 has been amended to ensure that the Industry/Non-Industry balance of any committee given powers of the Board reflects the same balance of the Board.

Executive Committee

Section 4 has been amended to ensure balanced committee representation and to reflect the changed NASD-Nasdaq relationship.

Article X. Compensation of Board and Committee Members

Section 1 of this Article has been amended to allow member reimbursement of expenditures related to the limited NNC nominee support in contested elections.

Article XIII. Powers of Board to Impose Sanctions

Section 1 has been amended to reflect the new corporate structure, namely, the inclusion of NASD Dispute Resolution within the family of companies and the changed NASD-Nasdaq relationship.

2. Statutory Basis

The NASD believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A(b)(4) of the Act,[5] which requires, among other things, that the Association's rules must be designed to assure a fair representation of its members in the administration of its affairs. The NASD believes that the proposed rule change, as amended, enhances the Association's ability to assure fair representation on the NASD Board of its members.

(i) *Proposed Changes to NASD Board Composition.* NASD believes that the reservation of Board seats for three additional specific industry segments, a national retail firm, a regional retail firm or independent financial planning member and a clearing firm, assures the ongoing participation in the governance of the NASD by these important segments of NASD membership. The reclassification of two staff Governor positions as neutral allows for a smaller, more efficient Board without compromising either the fair representation of NASD members or an appropriate balance of Industry and Non-Industry members.

(ii) *Proposed Changes to NASD Board Elections.* The NASD believes that the proposed changes, as amended, to the election procedures will foster a fair and vigorous NASD Board election process. The proposed changes reflect two enhancements. First, the amendments set clear and fair thresholds for petitions by ballot for individuals and slates. Second, the NNC will be able to respond in-kind in support of NNC nominated candidates and, as a result, NASD members will be better informed about the candidates and issues arising in contested elections.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, as amended, or

B. Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

[5] 15 U.S.C. 78*o*(b)(4).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 NASD. All submissions should refer to File No. SR–NASD–01–06 and should be submitted by March 27, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–5329 Filed 3–5–01; 8:45 am]

BILLING CODE 8010–01–M

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44009; File Nos. SR–NYSE–99–47 and SR–NASD–00–03]

Self-Regulatory Organizations; New York Stock Exchange, Inc., and National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Changes Relating to Margin Requirements for Day Trading; Notice of Filing and Order Granting Accelerated Approval of Amendments No. 1 to Each Proposed Rule Change

February 27, 2001.

I. Introduction

On December 13, 1999, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to amend NYSE Rule 431, *Margin Requirements*. The proposed rule change would establish margin requirements for day trading in customer accounts of the Exchange's member organizations. On January 25, 2000, the NYSE rule proposal was published for public comment in the **Federal Register**.[3]

On January 13, 2000, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Regulation, Inc., also filed a proposed rule change to establish day trading margin requirements by amending NASD Rule 2520, *Margin Requirements.* On February 18, 2000, the NASD proposal was published for comment in the **Federal Register**.[4]

Although the NYSE and NASD rule proposals were substantially similar, they diverged on certain issues.[5] To reconcile the differences between, and provide for uniform application of, the two proposals, the NYSE and NASD each filed amendments to their respective proposals. The NYSE filed its amendment on September 8, 2000.[6] The NASD filed its amendment on October 3, 2000.[7] The Commission received 49 letters regarding the NASD proposal and 214 letters regarding the NYSE proposal.[8] The NYSE provided a response to comments on September 20, 2000.[9] The NASD filed its response to comments on October 3, 2000.[10] This order approves the NYSE and NASD rule change proposals, as amended.

II. Description of the Proposed Rule Changes

A. Margin Trading and Regulation

Trading securities on margin involves the use of credit to finance securities purchases. A margin transaction takes place where a customer purchases a security in reliance on an extension of credit (*i.e.*, a loan) from his or her broker-dealer. Use of a margin loan increases both the customer's potential return on investment and his or her financial risk.[11]

Section 7(a) of the Act grants authority to the Board of Governors of the Federal Reserve System (''Federal Reserve'') to regulate the use of margin credit in order to prevent the excessive use of credit for the purchase or carrying of securities.[12] Pursuant to this authority, the Federal Reserve promulgated Regulation T[13] to govern extensions of credit by brokers and dealers. Regulation T contains ''initial'' margin requirements, which limit the amount of credit that can be extended by a broker-dealer on certain securities transactions. Briefly, Regulation T generally allows broker-dealers to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 42343 (January 14, 2000), 65 FR 4005.

[4] Securities Exchange Act Release No. 42418 (February 11, 2000), 65 FR 8461.

[5] The NYSE and NASD rule proposals were the result of deliberations by the 431 Committee, which convenes regularly on margin issues. The Committee is generally comprised of NYSE and NASD staff, attorneys from the NYSE's outside counsel, the Board of Governors of the Federal Reserve System, and representatives from several clearing firms and broker-dealers. *See* letter from Alden Adkins, Senior Vice President and General Counsel, NASD, to Katherine England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated October 3, 2000 (''NASD Response to Comments'').

[6] *See* letter from James Buck, Senior Vice President, NYSE, to Nancy Sanow, Assistant Director, Division, Commission, dated September 8, 2000 (''Amendment No. 1 to the NYSE Proposal''). The amendment clarified that the proposed ''knows or has a reasonable basis to believe'' standard not only applies in the situation where a customer seeks to open an account, but also in the case where he or she seeks to resume day trading in an existing account. For further discussion of the ''knows or has a reasonable basis to believe'' standard, *see infra*, Section II, ''Description of the Proposed Rule Changes.''

[7] *See* letter from Alden Adkins, Senior Vice President and General Counsel, NASD, to Katherine England, Assistant Director, Division, Commission, dated October 3, 2000 (''Amendment No. 1 to the NASD Proposal''). The amendment: (1) Deleted a provision relating to a 90-day period in which a day trader could be designated as a Pattern Day Trader; (2) clarified that the proposed ''knows or has a reasonable basis to believe'' standard would apply not only where a customer seeks to open an account, but also where a customer seeks to resume day trading in an existing account; (3) clarified that a two-day funds deposit requirement would apply only to customers who have been designated Pattern Day Traders; and (4) extended from 30 days to six months the proposed period for implementing the proposed rule change.

[8] Some commenters sent letters in response to both the NYSE and NASD rule proposals. The public files for the NYSE and NASD rule proposals, including all comment letters received on the proposals and a List of Commenters that was prepared by Commission staff, are located at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549–0609. *See infra*, footnote 28.

[9] *See* letter from James Buck, Senior Vice President and Secretary, NYSE, to Nancy Sanow, Assistant Director, Division, Commission, dated September 20, 2000 (''NYSE Response to Comments'').

[10] NASD Response to Comments.

[11] Since trading securities on margin permits a customer to purchase securities valued at an amount greater than the equity available to his or her account, an increase in the value of those securities yields a higher return on equity than is possible if the size of the customer's purchases is limited to his or her available equity. On the other hand, trading securities on margin also makes it possible for a customer to generate losses that exceed his or her available equity.

[12] 15 U.S.C. 78g(a).

[13] 12 CFR 220 *et seq.* Regulation T ''imposes, among other things, obligations, initial margin requirements, and payment rules on securities transactions.'' 12 CFR 220.1(a).

[14] The definition of ''margin equity security'' includes any equity security (as defined in Section 3(a)(11) of the Act) which is registered or has unlisted trading privileges on a national securities exchange or the Nasdaq Market. 12 CFR 220.2.

[15] 12 CFR 220.12(a).

extend credit to customers on ''margin equity securities'' [14] at 50 percent of the particular security's market value.[15]

Regulation T establishes minimum margin requirements, but expressly does not preclude any registered securities exchange or registered national securities association ''from imposing additional requirements or taking action for its own protection. ''[16] Accordingly, the NYSE and NASD have, consistent with Regulation T, established their own maintenance margin requirements, including special maintenance margin requirements pertaining to ''day-traders.''

B. NYSE Proposal

According to the NTSE, the primary purpose of its rule proposal is to require that certain levels of equity be deposited and maintained in day trading accounts, and that these levels be sufficient to support the risks associated with day trading activities. The proposal would amend NYSE Rule 431, *Margin Requirements,* to establish special maintenance margin requirements for customers who engage in day trading, and to specify minimum equity requirements and buying power limitations for customers who demonstrate a pattern of day trading. The Exchange observed that advances in technology have contributed to a dramatic increase in day trading by customers. In the Exchange's view, these advancements have also contributed to the establishment of broker-dealers whose primary business is to provide customers with direct links to the securities markets, allowing customers to trade their respective portfolios on-line. According to the Exchange, in this environment, day traders attempt to profit from intra-day price movements of securities.

Under current NYSE rules, certain margin requirements must be calculated based on a customer's ''open'' positions [17] at the end of the trading day. If a customer only day trades, he or she has no ''open'' positions at the end of the day upon which a margin calculation would otherwise yield a margin call. Nevertheless, the same customer has generated financial risk throughout the day. The NYSE's rules for day trading address this risk by imposing a margin requirement for day trading that is calculated based on a day trader's largest open position during the day, rather than on his or her open positions at the *end* of the day. A customer who meets the NYSE definition of ''day-trader'' [18] must deposit in his or her account the amount of margin that would have been required had he or she not closed his or her largest open position before the end of the trading day (*i.e.,* generally 50 percent of the largest open position). If a customer day trades, but does not satisfy the definition of ''day-trader,'' he or she is still required in general to deposit 25 percent of the amount of his or her open positions during the day.

The NYSE proposes to amend its margin rules covering day trading because, among other things, the current rule does not adequately address the risks inherent in certain patterns of day trading [19]and has encouraged practices, such as the use of cross-guarantees, which do not require customers to demonstrate actually financial ability to engage in day trading.

1. Proposed Definition of ''Day Trading''

Proposed NYSE Rule 431(f)(8)(B) generally would redefine ''day trading'' as ''purchasing and selling or selling and purchasing the same security in the same day in a margin account.'' An exception to this proposed definition is provided where a customer: (1) carries a long position in a security overnight and sells the security the next day prior to any new purchases of the security; or (2) carries a short security position in a security overnight and purchases the security the next day prior to any new sales of the security (*i.e.,* closing transactions to wrap-up the previous day's activities before any new purchases or sales of the same security).

2. Proposed Definition of ''Pattern Day Trader''

A customer would be considered a ''pattern day trader'' if the customer made four or more day trades within five business days in his or her account, provided that the number of day trades was more than six percent of the total trades in the account during that period (''Pattern Day Trader''). The NYSE represented that the six percent threshold is designed to ensure that customers who engage in a large number of transactions overall are not inappropriately deemed Pattern Day Traders solely because there are four or more day trades in their accounts over the five-day period. Accordingly, a customer that, for example, transacts four day trades within five business days and also has a total of 100 transactions during that period, would not be deemed a Pattern Day Trader, since less than six percent of that customer's total trades would have been day trades.

Proposed Margin Requirement for Pattern Day Traders

The NTSE's rule proposal would require Pattern Day Traders to maintain special maintenance margin commensurate with their levels of day trading activity (''Day Trading Margin''). For day trades in equity securities, the required Day Trading Margin (''Day Trading Margin Requirement'') would be 25 percent of either: (1) The cost of all day trades made during the day; or (2) the largest open position during that day. If a customer's Day Trading Margin Requirement is to be calculated based on his or her largest open position during the day, the customer's firm must maintain ''time and tick'' records documenting the sequence in which each day trade is completed. For non-equity securities, the amount of Day Trading Margin would be computed using applicable special maintenance margin requirements pursuant to other provisions of NYSE Rule 431.

4. Proposed Time To Meet Margin Calls

The NYSE's rule proposal also would reduce the time allowed for Pattern Day Traders to meet special maintenance margin calls from seven business days to five business days. If a Pattern Day Trader did not meet a Day Trading Margin call within five business days from the time his or her Day Trading Margin deficiency occurred, the customer would be restricted to executing transactions on a cash available basis for 90 days, or until he or she had met the Day Trading Margin call. The NYSE member organizations would incur a one-time capital charge for the amount of any unmet deficiency on the sixth business day after a customer receives a Day Trading Margin call.

5. Proposed Day Trading Minimum Equity Requirement

Currently, NYSE rule 431 requires $2,000 minimum equity for a customer to open a margin account. The NYSE rule proposal would require that accounts of Pattern Day Traders maintain minimum equity of $25,000 (''Day Trading Minimum Equity Requirement''). If the account of a Pattern Day Trader fell below its Day Trading Minimum Equity Requirement, the account would be restricted from further day trades until the Day Trading Minimum Equity Requirement was satisfied. In addition, if an NYSE

[16] 12 CFR 220.1(b)(2)

[17] A customer has an ''open'' position in a security if, for example, he or she has purchased, but not resold it.

[18] The rules define ''day-trader'' as ''any customer whose trading shows a pattern of day-trading.'' NYSE Rule 431(f)(8)(B).

[19] NYSE Response to Comments.

member organization knew, or had reasonable basis to believe, that a new account would pattern day trade, or that a customer would resume day trading in an existing account, the member organization would require the customer to deposit the minimum $25,000 equity into his or her account before he or she began trading.[20]

6. Proposed Day Trading Buying Power

Under the proposed Rule 431 revisions, the accounts of Pattern Day Traders would be restricted based upon their ''Day Trading Buying Power.'' For equity securities, Day Trading Buying Power would be equal to the equity in the customer's account at the close of business of the previous day, less any maintenance margin, multiplied by four. For non-equity securities, Day Trading Buying Power would be computed using applicable special maintenance margin requirements pursuant to other provisions of NYSE Rule 431.

7. Proposed Account Restrictions

The NYSE's rule proposal also would restrict the accounts of Pattern Day Traders who trade in excess of their Day Trading Buying Power. If a customer exceeded his or her Day Trading Buying Power, he or she would generate a Day Trading margin call. Until the customer meet the margin call, the NYSE member organization would be required to: (1) Margin the account based on the cost of all day trades made during the day; and (2) limit the customer's day trading buying power to the equity in the customer's account at the close of business on the previous day, less any maintenance margin, multiplied by two. If the Day Trading Margin call were not met within 5 business days, the NYSE member organization would then be required to restrict the account to trading on a cash available basis only.

8. Proposed Non-Withdrawal Requirement

The NYSE represented that, in order to provide greater financial stability to the accounts of Pattern Day Traders, its rule proposal would require that: (1) a day trading customer deposit into the day trading account a sufficient amount of money to meet the Day Trading Minimum Equity Requirement or a Day Trading Margin Requirement; and (2) such deposits not be withdrawn for at least two business days (''Non-Withdrawal Requirement'').

9. Proposed Prohibition on Cross-Guarantees

In addition, the NYSE's rule proposal would require the NYSE member organizations to prohibit Pattern Day Traders from using guarantees between customer accounts at the same broker-dealer (''Cross-Guarantees'') to meet the Day Trading Minimum Equity Requirement or a Day Trading Margin Requirement. According to the NYSE, this change is designed to address those instances where maintenance margin calls for day trading accounts would be avoided by having guarantees from the accounts of other customers at the same broker-dealer. Under the NYSE proposal, each Pattern Day Trader account would be required to meet its applicable requirements independently by using funds on deposit in that account.

10. Proposed Implementation

The NYSE proposal would become operational six months after Commission approval of the proposed rule change.[21]

C. NASD Proposal

Although the NYSE and NASD proposals differ somewhat in their structure, they are fundamentally comparable in their substance. The NASD rule proposal would amend NASD Rule 2520, *Margin Requirements,* to impose stricter margin requirements for customers who are Pattern Day Traders. The NASD observed that the expansion of day trading activity has brought increased scrutiny of margin requirements by self-regulatory organizations (''SROs''). The NASD asserted that its rule proposal would help to protect the safety and soundness of member firms and ensure the overall financial well being of the securities markets.

The NASD's current rules on day trading are similar in substance to those of the NYSE.[22] In its proposal, the NASD describes that initial margin requirements under Regulation T[23] and certain standard maintenance margin requirements under the NYSE and NASD rules currently are calculated only at the end of each day. Therefore, a day trader with no outstanding positions, including losses, in his or her account at the end of the day currently does not incur either an initial margin or maintenance margin requirement.

Although a day trader may end the day without any positions, the day trader and the member firm are nonetheless at risk during the day, if credit is extended. To address the risk, the NASD currently requires day traders to demonstrate that they have the ability to meet margin requirements for at least their open positions during the day. Specifically, a customer who meets the definition of ''day-trader''[24] under the current rules must deposit in his or her account the margin that would have been required had the customer not liquidated his or her open positions during the trading day (*i.e.,* generally 50 percent of the largest open position). Under current rules, if the customer day trades, but does not fit the definition of ''day trader,'' the customer is still required to deposit 25 percent of his or her open position during the day. The NASD proposed to amend its margin rules covering day trading because current rules are not adequate to address added risks in leveraged pattern day trading.[25]

1. Proposed Definition of Pattern Day Trader

The NASD stated that its proposal would define Pattern Day Trader to cover ''true'' day traders only, not merely incidental or occasional day traders. According to the NASD, the current definition of a day trader is overly broad: it includes customers, such as institutions and other large individual accounts, that have a high volume of trading activity and that occasionally day trade not as a strategy, but in response to a specific investment decision or in response to particular events. Accordingly, the NASD's proposal, like the NYSE proposal, would define as Pattern Day Traders those customers who execute four or more day trades within five business days, unless the number of their day trades is six percent or less of their total trades for that period.

[20] As originally filed, the NYSE proposal would require the member organization to obtain from a customer seeking to open a new account a deposit in satisfaction of the Day Trading Minimum Equity Requirement if the firm ''knows or has a reasonable basis to believe'' that the customer will pattern day trade. Amendment No. 1 to the NYSE rule proposal would expand the application of the ''knows or has a reasonable basis to believe'' standard to customers who resume pattern day trading in an existing account.

[21] Telephone conversation among Donald Van Weezel, Managing Director, Credit Regulation, NYSE; Albert Lucks, Director, Credit Regulation, NYSE; Mary Anne Furlong, Director, Rules and Interpretive Standards, NYSE; Olga Davis, Principal Specialist, Credit Regulation, NYSE; and Nancy Sanow, Assistant Director; Thomas McGowan, Assistant Director; Joseph Morra, Special Counsel; and Steven Johnson, Special Counsel, Division, Commission, January 23, 2001 (''January 23, 2001 Call with NYSE Staff'') (confirming operative date of proposed rule change).

[22] *See* explanation of NYSE's current rules in Section II.B., *supra.*

[23] 12 CFR 220 *et seq.*

[24] Current NASD Rule 2520 defines a ''day-trader'' as ''any customer whose trading shows a pattern of day-trading.'' The rule defines ''day-trading'' as ''the purchasing and selling of the same security on the same day.'' NASD Rule 2520(f)(8)(b).

[25] NASD Response to Comments.

The NASD's proposed rule change would also require a firm that knows or has a reasonable basis to believe that a customer is a Pattern Day Trader to designate the customer as a Pattern Day Trader immediately. Under the NASD proposal, a firm would have a reasonable basis for believing that a customer is a Pattern Day Trader if, for example, the firm provided training to the customer on day trading in anticipation of the customer opening an account. Amendment No. 1 to the NASD Proposal deleted the provision that would have required a Pattern Day Trader to cease trading for 90 days before he or she would be free of that designation. According to NASD Regulation, the provision originally proposed is unnecessary because, even without the provision, a Pattern Day Trader could, under the proposed rules, shed the Pattern Day Trader designation by informing his or her broker-dealer that he or she would not day trade. This amendment also clarified that if a Pattern Day Trader claimed he or she was no longer a day trader, but then resumed day trading, he or she could be designated as a Pattern Day Trader based on the firm's knowledge or reasonable belief that the customer fit the proposed definition of a Pattern Day Trader.[26]

2. Proposed Day Trading Minimum Equity Requirement

The NASD's proposed rule change also would establish a Day Trading Minimum Equity Requirement that is identical to that proposed by the NYSE. The NASD represents that the current minimum equity requirement of $2,000 may not be large enough to prevent day traders from continuing to generate losses, without any additional deposit of funds into their accounts. Under the NASD proposal, a Pattern Day Trader, in order to meet the Day Trading Minimum Equity Requirement, would be required to maintain $25,000 in his or her account on any day in which he or she day trades. The NASD represents that the Day Trading Minimum Equity Requirement more appropriately addresses the additional risks inherent in leveraged day trading activities and ensures that customers cover losses incurred in their accounts from the previous day before continuing to day trade.

3. Proposed Day Trading Buying Power

Like the NYSE proposal, the NASD proposal would permit the use of Day trading Buying Power at a level up to four times the difference between the equity in a customer's account at the close of business on the previous day and any maintenance margin required. The NASD represents that this limitation on a customer's Day Trading Buying Power, along with the Day Trading Minimum Equity Requirement, more appropriately addresses the intra-day risks created by customer day trading. At the firm's option, the Day Trading Margin Requirement could be calculated based on either the largest open position at any time during the day (if the customer's firm maintains ''time and tick'' records) or the aggregate total of the customer's day trades during the day.

4. Proposed Account Restrictions

In addition, the NASD proposed rule change would impose a Day Trading Margin call if a customer exceeded his or her Day Trading Buying Power. Customers would have five business days to deposit funds to meet Day Trading Margin calls. Until the customer met the Day Trading Margin call, his or her Day Trading Buying Power would be limited to the equity in his or her account at the close of business on the previous day, less any maintenance margin, multiplied by two for equity securities. The Day Trading Margin Requirement would be calculated based on the aggregate cost of the customer's total day trades in a day. If the customer did not meet the Day Trading Margin call by the fifth business day, the account would be further restricted to trading on a cash available basis for 90 days or until the margin call was met.

5. Proposed Non-Withdrawal Requirement

A deposit made to meet the Day Trading Minimum Equity Requirement or a Day Trading Margin Requirement would have to remain in a customer's account for two business days following the close of business on any day when the deposit is required. Amendment No. 1 to the NASD proposal clarified that the non-Withdrawal Requirement would apply only to the accounts of Pattern Day Traders and not to the accounts of all day traders.[27]

6. Proposed Prohibition on Cross-Guarantees

Under the NASD proposal, Cross-Guarantees could not be used when calculating the Day Trading Minimum Equity Requirement or the Day Trading Margin requirement. Each day trading account would be required to satisfy independently the proposed rule's requirements, based solely on the financial resources available in the account.

7. Proposed Change to Definition of ''Day Trade''

Finally, the NASD rule proposal would amend provisions of NASD Rule 2520, which currently requires that the sale and repurchase on the same day of a position held from the previous day be treated as a day trade. Under the NASD proposal, the sale of an existing position would be treated as liquidation, and a subsequent repurchase would be viewed as the establishment of a new position. Therefore, the sale of an existing position and subsequent repurchase would not be subject to NASD rules affecting day trades. Similarly, if a short position were carried overnight, the purchase to close the short position and the subsequent new sale would not be considered a day trade under the NASD's proposal.

8. Proposed Implementation Date

Amendment No. 1 to the NASD Proposal would change the proposed operational date of the proposal from 30 days after the date the NASD issues a notice to NASD members announcing that the proposal has been approved by the Commission to six months from the date of such notice.

III. Summary of Comments

The Commission received 214 letters commenting on the NYSE proposal and 49 letters commenting on the NASD proposal.[28] Comment letters expressed various degrees of opposition or support to the approach taken by the proposed rule changes, although most commenters opposed the proposals. The commenters generally addressed issues

[26] Amendment No. 1 to the NASD Proposal. Telephone conversation between Stephanie Dumont, Counsel, NASD Regulation, and Steven Johnston, Special Counsel, Division, Commission, January 31, 2001 (clarifying the purpose of Amendment No. 1).

[27] Amendment No. 1 to the NASD Proposal.

[28] The public files for the NYSE and NASD rule proposals are located at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. The public files for both rule proposals contain: (1) All comment letters on the proposals, including a list of all commenters on the proposals, which was prepared by Commission staff; (2) ''Report of Examinations of Day-Trader Broker-Dealers,'' Office of Compliance Inspections and Examinations, Commission (''OCIE Report'') dated February 25, 2000; and (3) ''Securities Operations: Day Trading Requires Continued Oversight,'' the U.S. General Accounting Office, dated February 24, 2000. The public file for the NYSE rule proposal also contains: (1) The original NYSE Proposal; (2) Amendment No. 1 to the NYSE Proposal; and (3) NYSE Response to Comments. The public file for the NASD rule proposal also contains: (1) The original NASD proposal; (2) Amendment No. 1 to the NASD Proposal; and (3) NASD Response to Comments.

falling into one or more of the categories discussed below. In addition, the NYSE and NASD submitted responses [29] to the comments received by the Commission regarding the proposed rule changes. These responses are also incorporated below.

A. Definition of Pattern Day Trader

The proposed rule changes would define as Pattern Day Traders customers who execute four or more day trades [30] within five business days, unless the number of day trades is six percent or less of the total day trades for that five-day period. The NYSE stated that this definition is directed toward active Pattern Day Traders and the risk surrounding their activities.[31] A relatively small number of individuals raised specific objections to this definition. These individuals, along with a broker-dealer [32] and the Industry Day-Trading Advisory Task Force (''Task Force''),[33] expressed concern that the proposed definition could encourage customers to hold positions overnight that they might otherwise have liquidated, thus giving rise to additional risk of financial loss.[34]

In addition, a broker-dealer, the Task Force, and the Discount Brokerage Committee (''Brokerage Committee'') and Ad Hoc Committee on Technology and Regulation (''Technology Committee'') of the Securities Industry Association (''SIA'') [35] (collectively, the ''SIA Brokerage and Technology Committees'') indicated concern over the impact that the proposed definition could have upon professional or institutional investors. These commenters stated that the definition lacks adequate exclusions for those types of investors.[36] Broker-dealers also opposed the definition of Pattern Day Trader because it would encompass so-called ''incidental'' or ''inadvertent'' day traders.[37] In this regard, a few firms proposed exceptions for customers who, as a result of ''inadvertent'' or ''non-willful'' error, temporarily met the proposed definition of Pattern Day Trader.[38] The SIA Brokerage and Technology Committees and SIA Office of General Counsel recommended that the proposed definition be revised to explicity exempt specific types of trading activity, such as the exercise of a profitable options position.[39] A law firm commenting on the proposed rule changes recommended exceptions to the proposed definition of Pattern Day Trader for certain institutional investors, arguing that sophisticated investors with large accounts do not need to be protected by the proposed rule changes.[40] The NASD responded to this comment by reasserting its belief that the proposed six percent exception adequately addresses institutional trading. The NASD argued that this exception was not intended to exempt all institutions that frequently day trade, but only those whose day trading represented a small proportion of their overall trading activity.[41]

Finally, the Task Force opposed the definition because it is based on transactional activity instead of the amount of available leverage. The Task Force asserted, for example, that a customer that completed five day trades within a ''week'' [42] would meet the definition of Pattern Day Trader ''even though the customer ha[d] not taken on any greater level of financial risk or leverage.'' [43]

B. ''Knows or Has a Reasonable Basis to Believe'' Standard

Several securities industry commenters opposed the requirement to treat as Pattern Day Traders current or new customers whom a trading firm ''knows or has a reasonable basis to believe'' will engage in pattern day trading.[44] One securities firm opposed the ''knows or has a reasonable basis to believe'' standard because it calls for a firm to ''subjectively consider the manner of trading a new customer might pursue.'' [45]

The NYSE responded to these criticisms by explaining that a firm could have a reasonable basis to believe that a customer would engage in Pattern Day Trading if this were indicated by information obtained from a customer's representations or by prior trading patterns of the customer at the firm.[46] The NASD responded that the proposed standard is based on a firm's knowledge or reasonable belief only, and would not require a firm to anticipate a new customer's activity unless the firm had knowledge or a reasonable belief that the customer would engage in pattern day trading. The NASD stated that if, for example, a firm provided a customer with training on day trading in anticipation of that customer opening an account with that firm, then the firm would have a reasonable basis to believe that customer would pattern day trade in his or her account.[47]

This standard was supported by comments from the North American Securities Administrators Association (''NASAA''). NASAA contended that brokerage firms have an affirmative duty to assess a prospective client's suitability to trade, and therefore firms should determine whether the client fits the definition of Pattern Day Trader. According to NASAA, this assessment should not be overly burdensome to make. NASAA noted as an example that where a firm trains a customer in day trading techniques, that firm would be presumed to know or have a reasonable basis to believe that such a customer would engage in pattern day trading.[48]

[29] NYSE Response to Comments; NASD Response to Comments.

[30] Under the proposed rules, a day trade is, generally, the purchase and sale or the sale and purchase of the same security on the same day.

[31] NYSE Response to Comments.

[32] Letter from Cornerstone Securities Corporation (''Cornerstone Letter'').

[33] The Task Force is comprised of representatives from 15 firms: Advanced Clearing, Inc.; All-Tech Direct, Inc.; Ameritrade, Inc.; Charles Schwab & Co., Inc.; EDGETRADE.com, Inc.; E-Trade Group, Inc.; iClearing Corporation; Momentum Securities; NextTrend, Inc.; On-Line Investments Services, Inc.; Southwest Securities, Inc.; Spear, Leedst & Kellog; Terra Nova Trading LLC; Tradescape LLC; and US Clearing (Division Fleet Securities). Letter from the Task Force (''Task Force Letter'').

[34] *See, e.g.,* E-mail from Steven Petrizzi, E-mail from M. Spetman; Cornerstone Letter; Task Force Letter.

[35] According to the SIA, the organization ''brings together the shared interests of more than 740 securities firms to accomplish common goals.'' Letter from SIA Brokerage and Technology Committees (''SIA Brokerage and Technology Committees Letter'').

[36] Letter from Momentum Securities, LLC (''Momentum Letter''); Task Force Letter; SIA Brokerage and Technology Committees Letter.

[37] *See, e.g.,* Momentum Letter.

[38] *See, e.g.,* Letter from Empire Programs.

[39] SIA Brokerage and Technology Committees Letter; Letter from the SIA Office of General Counsel (''SIA General Counsel Letter''). The SIA Brokerage and Technology Committees and SIA General Counsel recommended adding the following exceptions to the proposed definition of day trading: (1) Exercising a profitable option position; (2) reopening a long option position that had been closed out earlier the same day; (3) reopening a short option position that had been closed out earlier the same day; and (4) the purchase of a security by a customer and the sale of the same security by the customer in a repurchase or other financing transaction.

[40] Letter from Brunelle and Hadjikow.

[41] NASD Response to Comments.

[42] Status as a Pattern Day Trader is determined on a rolling five-business-day basis. Telephone conversation among Donald Van Weezel, Managing Director, Regulatory Affairs, NYSE; Albert Lucks, Director, Credit Regulation, NYSE; and Nancy Sanow, Assistant Director; Thomas McGowan, Assistant Director; Joseph Morra, Senior Special Counsel; and Melinda Diller, Attorney; Division, Commission, January 7, 2000.

[43] Task Force Letter.

[44] *See, e.g.,* Momentum Letter.

[45] Momentum Letter.

[46] NYSE Response to Comments.

[47] NASD Response to Comments.

[48] NASAA is a voluntary association of state, provincial, and territorial securities administrators in the 50 states, the District of Columbia, Puerto Rico, Canada, and Mexico. Letter from NASAA (''NASAA Letter''). *See also* Section II., Description of the Proposed Rule Changes, *supra,* for further discussion of ''knows or has a reasonable basis to believe'' standard.

C. Day Trading Minimum Equity Requirement

The majority of comments the Commission received on the proposals' Day Trading Minimum Equity Requirement were from individuals, many of whom identified themselves as day traders. Nearly all of these individuals characterized the Day Trading Minimum Equity Requirement as unfair to small investors.[49] Individual commenters asserted that the Day Trading Minimum Equity Requirement would act as a barrier to persons seeking to enter the day trading market.[50] Individual commenters also asserted that the requirement was designed to exclude small investors from a type of trading traditionally dominated by professional traders.[51] A securities firm, as well as a significant number of individual commenters, argued that the proposed Day Trading Minimum Equity Requirement would be ''paternalistic.'' These commenters asserted that the risks of day trading are widely known; therefore, it is unnecessary for the NYSE or NASD to protect investors from those risks.[52] The SIA Brokerage and Technology Committees stated, however, that they had no objection to the proposed dollar amount of the Day Trading Minimum Equity Requirement (*i.e.*, $25,000).[53]

Most securities firms commenting on the proposed rule changes opposed the Day Trading Minimum Equity Requirement wholly or partially.[54] For example, one firm challenged the premise that there is a relationship between the size of a customer's account and his or her investment success. The same firm argued that the imposition of a higher equity requirement could encourage investors to put more of their capital at risk than they would absent the proposed rules.[55] Securities firms also took the position that imposing the Day Trading Minimum Equity Requirement on Pattern Day Traders would fail to protect either member firms or the securities markets.[56] One of the firms argued that the health of the securities markets is not threatened by accounts that have only small equity balances, and there is no data to suggest that a higher equity requirement for day trading would reduce the risk to securities firms.[57] As an alternative, one securities firm recommended applying a $25,000 minimum equity requirement to customers who seek and receive approval to trade at a 4:1 margin ratio, but not to customers who trade at a 2:1 ratio.[58]

In response to this alternative, the NASD stated that it believes an objective standard based on the level of day trading activity, which can be applied uniformly to all customers, is an important component to regulation in this area. In this regard, the frequency of day trading is a relevant indicator of intra-day risk, which in turn is important in determining whether additional requirements, such as the Day Trading Minimum Equity Requirement, are necessary. The NASD further stated that it believed requiring minimum equity of $25,000 would provide a significant ''cushion'' to prevent day traders from continuing to generate losses in their accounts and, at the same time, avoid imposition of excessive restrictions on day traders with limited capital.[59]

In response to comment letters objecting to the proposed imposition of the Day Trading Minimum Equity Requirement,[60] the NYSE stated that the current equity requirement of $2,000 does not sufficiently address the speculative nature and potential volatility of pattern day trading. Further, the NYSE stated that the amount of the proposed minimum Day Trading Minimum Equity Requirement appropriately addresses the financial exposure of firms and the potential for significant monetary losses by customers. In the NYSE's view, the Day Trading Minimum Equity Requirement should provide some ''staying power'' to day traders (*i.e.*, enable them to continue day trading) should they incur trading losses.[61] The NASD added that the current equity requirement of $2,000 does not adequately address day trading risks.[62] The NASD represents that given the speculative nature of day trading the proposed Day Trading Minimum Equity Requirement would provide a better ''cushion'' in case of financial losses by customers.[63]

NASAA and the U.S. Senate Permanent Subcommittee on Investigations (''Senate Subcommittee'') supported substantial increases in the size of the equity requirement for day trading.[64] Following increased public and private sector concern over the risks associated with day trading, the Senate Subcommittee conducted an eight-month investigation of the day trading industry. Based on the investigation, the Senate Subcommittee found that ''[securities] industry leaders agreed that a day trader's chance of success is directly and proportionally related to the amount of capital with which a person starts trading.'' [65] NASAA stated that the Day Trading Minimum Equity Requirement should reduce the frequency of margin calls, increase the chances that day traders will be able to independently meet margin calls, and provide a ''cushion'' when market corrections occur.[66]

Finally, the Senate Subcommittee submitted detailed alternative proposals regarding, among other things, the required level of equity and suggested restrictions on accounts that do not meet the equity requirement. For example, the Senate Subcommittee proposed that day trading rules establish a rebuttable presumption ''such that a firm must initially presume that a day trading customer who does not have $50,000 with which to open an account in inappropriate for day trading.'' The presumption could be overcome if a firm concluded that other factors outweighed the fact that the customer did not have $50,000 with which to open an account. Under the Senate Subcommittee's proposal, a firm would be required, among other things, to state its reasons for concluding that a day trading strategy was appropriate for such a customer.[67]

In response to recommendations by the Senate Subcommittee that the equity requirement for Pattern Day Traders be increased to $50,000,[68] the NYSE stated that it believes $25,000 is a sufficient level of equity, given the fact that firms may further increase equity requirements based on their own policies and procedures, known as ''house requirements.'' [69] The NASD stated that the proposed Day Trading Minimum Equity Requirement should

[49] *See, e.g.*, E-mail from Susie Brown (''Brown Letter'').

[50] *See, e.g.*, Letter from Serg Palanov.

[51] *See, e.g.*, E-mail from Brent Aston.

[52] Datek Online Holdings Corporation Letter (''Datek Letter''); *See also* May letter.

[53] The SIA Brokerage and Technology Committees are opposed, however, to imposing the Day Trading Minimum Equity Requirement when a firm ''knows or has a reasonable basis to believe'' a customer will in engage in pattern day trading. SIA Brokerage and Technology Committees Letter.

[54] *See, e.g.*, Cornerstone Letter.

[55] Datek Letter.

[56] *See, e.g.*, Momentum Letter.

[57] Datek Letter.

[58] Momentum Letter. The Task Force also recommended that the day trading rules differentiate between customers who trade at a 4:1 ratio and those who trade at a 2:1 ratio. Task Force Letter.

[59] NASD Response to Comments.

[60] *See, e.g.*, Brown Letter.

[61] NYSE Response to Comments.

[62] NASD Response to Comments.

[63] NASD Response to Comments.

[64] NASAA Letter; Senate Subcommittee Letter.

[65] Senate Subcommittee Letter.

[66] NASAA Letter.

[67] Senate Subcommittee Letter.

[68] *Id.*

[69] NYSE Response to Comments.

provide protection against continued losses in day trading accounts while refraining from excessive restrictions on day traders with limited capital. The NASD also observed that firms have the option of increasing equity requirements on day traders by imposing house requirements.[70]

In addition, the Senate Subcommittee recommended that customers who fail to maintain sufficient funds in their accounts be restricted to trading on a cash basis only.[71] In response to this suggestion, the NASD stated that if a customer continued to day trade in his or her account without maintaining the proposed Day Trading Minimum Equity Requirement, the NASD would expect that the customer's firm would restrict that account to trading on a cash available basis.[72]

D. Margin Ratio

A small number of individual commenters expressed opposition to increasing to a 4:1 ration the amount of leverage available to customers who satisfy the Day Trading Minimum Equity Requirement.[73] These individual commenters, as well as the Senate Subcommittee, expressed concern that increasing the margin ratio would multiply any losses of, and increase speculation by, those persons who trade at the higher ratio.[74] On the other hand, securities firms generally did not object to allowing customers to trade at a 4:1 ratio.[75]

In response to concerns about increasing the amount of leverage available to Pattern Day Traders,[76] the NYSE and NASD represented that permitting the use of leverage at a 4:1 ratio is appropriate when considered in conjunction with other provisions of the proposed rule changes.[77] The NYSE stated that as a whole, its proposal would encourage customers to avoid margin calls by trading only within their Day Trading Buying Power. The NYSE and NASD also indicated that allowing pattern Day Traders to trade at the 4:1 ratio would bring day trading accounts into parity with ordinary margin accounts, where the standard maintenance margin is also 25 percent.[78]

E. Method of Computing Margin Calls

A substantial number of individuals and securities firms commenting on the rule proposals were opposed to the proposed method of computing the Day Trading Margin call.[79] Some of these commenters objected to calculating the margin call based on all day trades during a day, once a Pattern Day Trader had exceeded his or her Day Trading Buying Power.[80] Individual commenters asserted that using this method would result in customers receiving margin calls many times larger than the amount of equity in the customer's account. A few of these comments apparently believed that a customer with no outstanding Day Trading margin calls who exceeded his or her Day Trading Buying Power would, under the proposed rules, face a Day Trading Margin call equal to 50 percent of the total cost of all day trades executed on the day in which the customer exceeded his or her Day Trading Buying Power.[81] The NYSE has clarified that if a Pattern Day Trader had no outstanding Day Trading Margin calls, his or her Day Trading Margin Requirement would equal 25 percent of either (1) the customer's highest open position during the day,[82] or (2) 25 percent of the total cost of the customer's day trades during the day.[83] Many of the individual and industry commenters lodging concerns regarding the calculation of Day Trading Margin calls stated that such margin calls would be unfairly punitive to day traders.[84]

The NYSE and NASD explained the calculation of Day Trading Margin calls as follow.[85] In accounts not subject to restrictions under the proposed rules, Day Trading Margin calls would be calculated based on a customer's highest open position in a day.[86] For example, assume that a customer who is a Pattern Day Trader had $30,000 cash equity and no security positions in his or her account at the close of business on Day 0. The customer's Day Trading Buying Power for Day 1 would be $120,000 (four times the equity in the customer's account at the close of business on Day 0).[87] Also assume that the customer executed two day trades on Day 1—a $50,000 purchase and sale, followed by a $200,000 purchase and sale.[88] Under these conditions, the customer's highest open position on Day 1 is $200,000.[89] Since the customer's highest open position exceeds her or her Day Trading Buying Power, the customer incurs a Day Trading Margin call of $20,000, calculated as followings:

$200,000	(largest open position on Day 1)
−120,000	(Day Trading Buying Power)
80,000	
x .25	(Day Trading Margin)
$20,000	(Day Trading Margin call)

In addition to incurring a Day Trading Margin call on Day 1, the customer's account is restricted until the margin call is met. On Day 2, for example, the customer's Day Trading Buying Power is restricted to $60,000 (*two* times the assumed equity[90] in the customer's account at the close of business on Day 1). Further, the customer's account is margined based on the total cost of all day trades executed on Day 2. For example, assume that on Day 2 the customer executes two day trades—a $40,000 purchase and sale and $30,000

[70] NASD Response to Comments.

[71] Senate Subcommittee Letter.

[72] NASD Response to Comments.

[73] *See, e.g.*, Letter from Jay Marting (''Marting Letter'').

[74] *See, e.g.*, Marting Letter; Senate Subcommittee Letter.

[75] *See, e.g.*, Momentum Letter.

[76] *See, e.g.*, Letter from Matthew Panza (''Panza Letter''); Letter from EDGETRADE.com (''EDGETRADE Letter'').

[77] NYSE Response to Comments; NASD Response to Comments.

[78] NYSE Response to Comments; NASD Response to Comments.

[79] *See, e.g.,* Panza Letter; EDGETRADE Letter.

[80] *See e.g.,* Panza Letter; Letter from Ed Naylor (''Naylor Letter'').

[81] *See e.g.,* Naylor Letter.

[82] For the Day Trading Margin Requirement to be based on a customer's highest open position, the customer's firm must maintain ''time and tick'' records documenting the sequence in which each day trade was completed.

[83] NYSE Response to Comments. January 23, 2001 Call with NYSE Staff (clarifying that this formula applies solely to Pattern Day Traders who have no outstanding day trading margin calls).

[84] *See e.g.,* Ray Letter; Momentum Letter.

[85] January 23, 2001 Call with NYSE Staff (clarifying operation of NYSE proposed rules). Telephone conversation between Susan Demando, Director, of Finance/Operations, Member Regulation, NASD and Thomas McGowan, Assistant Director, Division, Commission, January 24, 2001 (''January 24, 2001 Call with NASD Staff'') (clarifying operation of NASD proposed rules).

[86] For a customer's Day Trading Margin Requirement to be based on his or her highest open position, the customer's firm must maintain ''time and tick'' records of the customer's transactions; otherwise, the customer's Day Trading Margin Requirement must be calculated based on the total cost of a customer's day trades during the day.

[87] The proposed rules would define Day Trading Buying Power for equity securities as the equity available in a customer's account as of the close of business on the previous day less any maintenance margin requirement, multiplied by four. Because, in this example, the customer has no open positions in his or her margin account, the customer has no maintenance margin requirement.

[88] The example assumes that the customer closes one position before opening the next. This would be the case, for example, if the customer: (1) Purchased ''Security A'' for $50,000 at 10:00 a.m.; (2) sold ''Security A'' for $50,000 at 11:00 a.m.; (3) purchased ''Security B'' for $200,000 at 1:00 p.m.; and (4) sold ''Security B'' for $200,000 at 3:30 p.m.

[89] Had the customer not closed the position in ''Security A'' before purchasing ''Security B,'' the customer's highest open position would have been $250,000, the sum of positions open simultaneously.

[90] The example assumes that there are no profits or losses in the account, no commission or interest charges, and no other items that would affect the account balance. Therefore, the amount of equity in the account at the end of Day 0.

purchase and sale. Since the total cost of the customer's day trades ($70,000) exceeds his or her Day Trading Buying Power ($60,000), the customer incurs a second Day Trading Margin call of $5,000, calculated as follows:

$70,000	(cost of all day trades on Day 2)
−60,000	(Day Trading Buying Power)
10,000	
× 91.50	
$5,000	(Day Trading Margin call)

F. Time Allowed to Meet Margin Call

Some [91] commenters stated that they were opposed to the requirement that, once a customer receives a Day Trading Margin call, he or she must meet the margin call within five business days.[92] One commenter, for example, protested that along with other provisions of the proposed rule changes, this requirement would force customers to liquidate positions based on non-market considerations.[93] In response to objections to reducing the time to meet a margin call from seven to five business days, the NYSE stated that this change was made to conform its proposed rule revisions to the time frame included in Regulation T for standard margin accounts.[94]

G. Actions Required When Day Trading Buying Power Is Exceeded

A significant number of comment letters from individuals, and roughly half of the letters from securities industry commenters, addressed the subject of the actions to be taken if a customer exceeds his or her Day Trading Buying Power.[95] For example, individual commenters objected to the provisions restricting use of leverage to a 2:1 ratio once a Pattern Day Trader has incurred a Day Trading Margin call.[96] A securities firm and the SIA Brokerage and Technology Committees criticized provisions that would reduce the degree of leverage available to customer who has received a Day Trading Margin call because, they argued, it departs from the approach used in Regulation T.[97] This firm and the SIA Brokerage and Technology Committees were opposed to the imposition of immediate restrictions on the accounts of individuals who exceeded their Day Trading Buying Power, and the SIA Brokerage and Technology Committees favored imposing as few restrictions as possible during the five-business-day period for meeting a Day Trading Margin call.[98] Finally, the Task Force proposed that no restrictions be imposed on the account of a Pattern Day Trader during the five business days specified for meeting a Day Trading Margin call.[99]

In response, the NYSE stated that the proposed actions are appropriate and will help to minimize financial risk to securities firms and markets.[100] In response to concerns that the companion actions required may ''penalize'' customers,[101] the NASD represented that immediate consequences are necessary to discourage customers from exceeding their Day Trading Buying Power.[102]

The Senate Subcommittee supported the proposed restrictions on Pattern Day Traders who exceed their Day Trading Buying Power.[103] NASAA also supported the Day Trading Margin call provisions and other restrictions imposed by the proposed rule changes. NASAA described the proposed measures as the placement of regulatory ''speed bumps'' to ensure compliance with reasonable margin risk levels and to enforce penalties for day trading in accounts with little or no equity.[104]

H. Non-Withdrawal Requirement

Most securities firms, and The Rules and Regulations Committee of the SIA's Credit Division (''SIA Rules and Regulations Committee''), opposed the requirement that funds deposited into a customer's account to satisfy the Day Trading Margin Requirement or Day Trading Minimum Equity Requirement of the proposed rule changes must remain in the account for two business days.[105] One trading firm, for example, stated that the Non-Withdrawal Requirement is unnecessary because positions are not held overnight and, therefore, funds are not at risk. The firm also contrasted the proposed Non-Withdrawal Requirement with the treatment of deposits made to satisfy Regulation T [106] margin calls. The firm observed that customers are permitted to withdraw those deposits the day after the deposits have been made.[107]

The SIA Rules and Regulations Committee argued that the Non-Withdrawal Requirement is overly restrictive, and that customers should be able to use funds available in their accounts, absent a pattern of activity demonstrating that they lack sufficient financial resources to engage in Pattern Day trading.[108] The NYSE, however, represented that the effectiveness of other provisions of its proposed rule change could be limited if a customer were permitted to withdraw funds prior to trading on the day after that customer had been required by the proposal to deposit them. The NYSE explained that if a customer is permitted to withdraw such funds prior to the next day's trading, he or she could shield the funds from day trading losses through overnight borrowing. The NYSE observed that overnight borrowing to meet margin calls does not demonstrate a customer's fitness to engage in Pattern Day Trading.[109]

The NYSE and NASD stated that they believe the Non-Withdrawal Requirement would result in greater caution by entities lending funds to customers who must meet Day Trading Margin calls. In their view, this is because funds deposited to meet Day Trading Margin calls would be placed at risk of day trading losses.[110] This, the NYSE argued, may encourage entities lending funds to more carefully evaluate the creditworthiness of Pattern Day Traders. The NYSE believed that this increased caution should provide a better foundation for reducing financial risk to the securities industry and to individual investors.[111] The NASD believed that the Non-Withdrawal Requirement would also force Pattern Day Traders to more frequently rely upon their own funds and assets in meeting margin requirements and thereby decrease financial risk to securities firms.[112]

I. Cross-Guarantees

Many individual commenters, as well as a significant number of firms, expressed opposition to the exclusion of Cross-Guarantees from the calculation of

[91] The Day Trading Margin rises to 50 percent because the customer has an outstanding Day Trading Margin call. January 23, 2001 Call with NYSE Staff; January 24, 2001 Call with NASD Staff (both clarifying use of 50 percent margin under proposed rules).

[92] *See, e.g.,* Letter from Terry Laughlin (''Laughlin Letter'').

[93] Laughlin Letter.

[94] NYSE Response to Comments; 12 CFR 220.2; 12 CFR 220.4(c)(3)(i).

[95] *See, e.g.,* Naylor Letter; Cornerstone Letter (addressing imposition of 2:1 ratio).

[96] *See, e.g.,* E-mail from Jeff Landau.

[97] Cornerstone Letter; SIA Brokerage and Technology Committees Letter. 12 CFR 220 *et seq.*

[98] SIA Brokerage and Technology Committees Letter; Cornerstone Letter.

[99] Task Force Letter.

[100] NYSE Response to Comments

[101] *See, e.g.,* Letter from Brent Johnson.

[102] NASD Response to Comments.

[103] Senate subcommittee Letter.

[104] NASAA Letter

[105] *See, e.g.,* Cornerstone Letter. Letter from SIA Rules and Regulations Committee (''SIA Rules and Regulations Committee Letter'').

[106] 12 CFR 220 *et seq.*

[107] Cornerstone Letter.

[108] SIA Rules and Regulations Committee Letter.

[109] NYSE Response to Comments.

[110] NYSE Response to Comments; NASD Response to Comments.

[111] NYSE Response to Comments.

[112] NASD Response to Comments.

the Day Trading Margin Requirement.[113] In addition, one commenter proposed to exclude accounts trading at the 2:1 ratio from the application of the proposed provisions on Cross-Guarantees.[114] The NYSE believes that the provision in its rule proposal on Cross-Guarantees ''suitably addresses concerns of whether [a] customer has the financial resources to day trade, and allows for separate evaluation of customers' day trading risks.''[115] The NASD also believes that its proposed provision on Cross-Guarantees is necessary to address those concerns.[116]

NASAA also expressed support for the proposed provisions on Cross-Guarantees. NASAA suggested that Cross-Guarantees circumvent the purpose of margin requirements. In addition, NASAA expressed concern regarding the potential harm to investors if securities firms that are strongly recommending an investment or an investment strategy to a customer also take steps to arrange margin guarantees for that same customer.[117] Similarly, the Senate Subcommittee stated that Cross-Guarantees would ''undermine margin requirements'' and could ''evade the purpose'' of equity requirements as well.[118]

J. Burdens on Firms

Most securities industry commenters expressed concern over the implementation, administration, and enforcement burden that they believed would be placed upon securities firms by the proposed rule changes.[119] The SIA Brokerage and Technology Committees argued, for example, that the system enhancements required to monitor such parameters as Day Trading Buying Power and to impose restrictions on accounts would be ''significant, complicated, and costly.'' The SIA Brokerage and Technology Committees asserted that such burdens should not be imposed on firms that do not promote day trading strategies. The committees also expressed particular concern regarding the burden of implementing provisions of the proposed rule changes that would exclude from the definition of Pattern Day Trader those customers whose day trades represent six percent or less of their total trades.[120] In addition, the Task Force argued that the proposed rule changes would require firms to classify and monitor their entire customer base on a daily basis.[121] As an alternative, one firm proposed that customers desiring to trade at a 4:1 ratio should be required to apply for approval to trade at that level, and that broker-dealers should only be required to monitor the accounts trading at a 4:1 ratio. The firm believed this would reduce a firm's burden of implementing day trading margin rules.[122]

Responding to these concerns, the NYSE stated that the programming and monitoring of its proposed rule would not be unduly burdensome, and stated that it would delay the operative date by six months from the date of commission approval, in order to allow firms to implement its proposed rule.[123] In response to specific concerns regarding the burden of implementing the proposed exclusion from the definition of Pattern Day Trader for customers whose day trades represent six percent or less of their total trades, the NYSE stated that the exclusion is not mandatory, *i.e.,* members may choose not to exclude such investors from the operation of the NYSE's proposed rules.[124] With regard to the same concern, the NASD responded that its staff consulted with members of the Rule 431 Committee who advised that programming and monitoring the exception would not be overly burdensome.[125]

IV. Discussion of the NYSE and NASD Proposed Rule Changes

Day trading generally refers to a kind of trading system involving frequent, rapid-fire purchase and sale transactions (or sale and purchase transactions) in securities in a single day. Day trading transactions are often effected by persons who typically have computerized links to market centers and who attempt to capture small differences in stock prices.[126] As day trading activity increased, so did media attention and public concern over the risks inherent in day trading.[127] Given the potential for significant losses to those persons who engage in day trading activities, legislators and regulators have scrutinized the practice and have taken steps to protect investors and limit financial risks to investors, broker-dealers, and securities markets.

For example, from October 1998 through September 1999, the Commission's Office of Compliance Inspections Examinations (''OCIE'') examined 47 registered broker-dealers that were providing day trading facilities to the general public. In February 2000, OCIE issues a report of its findings and recommendations, addressing risk disclosure, net capital compliance, lending arrangements, supervisory infrastructure, and other issues associated with day trading.[128]

In addition, the Senate Subcommittee held hearings on day trading that focused on investor suitability, the use of margin, advertising, and profitability.[129] Moreover, various SROs filed, and the Commission approved, other rule proposals regulating day trading practices.[130] The NYSE and NASD rule proposals relating to margin requirements for day traders represent further regulatory responses to issues raised by day trading.

The rule proposals submitted by the NYSE and NASD were the result of collaborative efforts by these SROs, through the Rule 431 Committee—comprised of NYSE and NASD staff, attorneys from the NYSE's outside counsel, staff of the Board of Governors of the Federal Reserve, and representatives from several broker-dealers and clearing firms—to develop special margin rules that better reflect the risks inherent in day trading. Because initial margin requirements under Regulation T and standard maintenance margin requirements under current NYSE and NASD rules are calculated only at the end of the day incurred, a day trader with no

[113] *See, e.g.,* Momentum Letter.

[114] Momentum Letter. *See also* Task Force Letter.

[115] NYSE Response to comments.

[116] NASD Response to Comments.

[117] NASAA Letter.

[118] Senate Subcommittee Letter.

[119] *See, e.g.,* SIA General Counsel Letter.

[120] SIA Brokerage and Technology Committees Letter.

[121] Task Force Letter.

[122] Datek Letter (referring to Task Force recommendations).

[123] NYSE Response to Comments. January 23, 2001 Call with NYSE Staff (confirming operative date of proposed rule change).

[124] NYSE Response to Comments.

[125] NASD Response to Comments.

[126] A day trading strategy is ''an overall trading strategy characterized by the regular transmission by a customer of intra-day orders to effect both purchase and sale transactions in the same security or securities.'' Senate Subcommittee Letter (Citing definition in proposed NASD Rule 2360(e)).

[127] *See, e.g.,* ''State Securities Regulators Investigate Practices of Securities Firms as Part of a Broad-Based Inquiry Into Day Trading,'' *The Wall Street Journal,* Sec. C., pp. 1, col. 6, August 25, 1999; ''Critical Report by North American Securities Administrators Association,'' *The Wall Street Journal,* Sec. A, pp. 26, col. 1; ''Senators Lambaste Actions by Day Traders,'' *USA Today,* Sec. B, pp. 2, February 25, 2000; ''Day Trading: A Study in Temptation; Senate Panel to Investigate Risk Disclosure,'' *The Washington Post,* February 24, 2000, Sec. E., pp. 1.

[128] OCIE Report.

[129] Day Trading: An Overview: Hearing Before the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, 106th Cong., 1st Sess. 106–285 (1999). The Senate Subcommittee also reviewed and provided recommendations concerning the NYSE and NASD rule proposals on the use of margin. Senate Subcommittee Letter.

[130] *See e.g.,* Securities Exchange Act Release No. 43021 (July 10, 2000), 65 FR 44082 (July 17, 2000) (File No. SR–NASD–99–41) (approving new rules pertaining to the opening of day trading accounts and delivery of a risk disclosure statement).

outstanding positions, including losses, in his or her account at the end of the day currently incurs neither an initial margin nor a maintenance margin requirement. Although current NYSE and NASD special maintenance margin requirements apply to day traders, those requirements do not adequately address the potential financial risks posed by day trading, and may have encouraged practices, such as the use of Cross-Guarantees, that do not require customers to demonstrate actual financial ability to engage in day trading.

The Commission has reviewed the NYSE and NASD proposed rule changes, and has considered carefully the comment letters submitted in response to these proposals, as well as the NYSE and NASD responses to the comment letters, and finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and national securities association, respectively. The Commission finds that the NYSE proposal is consistent with section 6(b)(5) of Act,[131] which requires the rules of a national securities exchange to be designed to prevent fraudulent and manipulative act and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Section 15A(b)(6) of the Act[132] imposes the same requirement on a national securities association. The Commission also finds that the NASD proposal is consistent with section 15A(b)(6) of the Act.

In addition, the Act specifically grants to SROs the authority to establish and enforce standards of financial responsibility among their members. Section 6(c)(3)(A) of the Act[133] provides, among other things, for a national securities exchange to deny or condition membership privileges on compliance with the exchange's own financial responsibility rules. Section 15A(g)(3)(A) of the Act[134] grants the same authority to national securities association. Pursuant to this authority, the SROs are authorized to promulgate rules governing the financial responsibility requirements of their members. The Commission finds that the NYSE proposal is consistent with goals of section 15a(g)(3)(A) of the Act and the NASD proposal is consistent with the goals of section 15A(g)(3)(A) of the Act.

The Commission finds that the NYSE and NASD proposals are designed to protect Pattern Day Traders, the firms where those traders have their accounts, and the markets on which they trade. The intra-day risk of substantial losses to both the customer and the firm increases in day trading accounts that do not have sufficient equity capital. Moreover, customers' and firms' reliance on cross-guarantees among customer accounts to meet margin requirements exacerbate these risks. These potential losses can be magnified if a sudden and substantial adverse movement were to occur in the prices of securities popular among day traders or in the markets as a whole. In the Commission's view, the integrity of U.S. financial markets will be better protected through appropriate margin and similar requirements on customers who engage in day trading practices.

The proposed NYSE and NASD rules are not designed to prevent day trading, but to reduce the risk of financial losses by Pattern Day Traders and their firms. For example, by increasing the minimum equity requirement for Pattern Day Trades, the proposed rule help ensure that day traders have an appropriate amount of equity for the potential losses that may be incurred through day trading. Finally, the Commission finds that overall market integrity is increased by rules, such as those here proposed by the NYSE and NASD, that are designed to reduce excessive and unnecessary risk of financial loss to market participants.

The Commission finds that the proposed definition of Pattern Day Trader takes a reasonable approach to specifying the type of trading activity for which the use of margin should be further regulated. In particular, the definition focuses on day trading behavior, while providing an exception for accounts where the number of day trades executed represents only a small percentage of all trading activity. The Commission finds that it is reasonable for the NYSE and NASD to use objective standards to identify and regulate accounts that may be at greatest risk as a result of day trading.

The Commission also finds that the proposed Day Trading Minimum Equity Requirements strikes a balance between, and responds to, the diverging concerns of the various commenters on this issue. While there was a range of views regarding the dollar amount of equity that should be required in connection with day trading, the Commission finds that the proposed rule changes are designed to accomplish the objective of assuring the financial well-being of broker-dealers, which in turn promotes the integrity of the securities markets.

Regarding the imposition of Day Trading Margin calls on Pattern Day Traders, the Commission notes that the proposed rules would impose relatively larger margin calls for accounts that have already generated but not yet satisfied a Day Trading Margin call. In those accounts, Day Trading Buying Power would be limited to a 2:1 ratio for leverage and Day Trading Margin would be calculated based on the aggregate cost of all day trades that occurred in a single day. The Commission finds that provisions would reduce Day Trading Buying Power, and those that would produce relatively larger Day Trading Margin calls for accounts already under restrictions, are in keeping with the NYSE and NASD's stated objectives of reducing risk by encouraging Pattern Day Traders to assume increased financial responsibility for their trading activities.[135]

The Commission also finds that the proposed rule changes take reasonable steps to require investors who day trade to assume a greater obligation for the intra-day financial risks associated with Pattern Day Trading. The Commission observes, for example, that the use of Cross-Guarantees in the calculation of Day Trading Margin calls could dilute the impact of proposed provisions designed to encourage greater independent financial responsibility. The Commission finds that this approach is consistent with Regulation T, which does not permit initial margin requirements to be met through the use of a guarantee for a customer's account.[136]

Finally, the Commission recognizes the concerns of commenters regarding the burden on securities firms of implementing the proposed rules. The Commission understands that practical implementation of the proposed rules may require systems changes by firms. However, the Commission finds that, by the NYSE and NASD delaying the operative dates of the proposed rule changes for six months, there should be sufficient time for securities firms to institute measures for monitoring and enforcing the new rules and to bring any interpretive issues to the attention of the NYSE or NASD.

The Commission finds good cause for approving Amendment No. 1 to the NYSE proposal and Amendment No. 1 to the NASD proposal prior to the

[131] 15 U.S.C. 78f(b)(5).

[132] 15 U.S.C. 78o–3(b)(6).

[133] 15 U.S.C. 78f(c)(3)(A).

[134] 15 U.S.C. 78o–3(g)(3)(A).

[135] For further discussion of Cross-Guarantees, *see,* Section II, *supra.* Description of the Proposed Rule Charges.

[136] 12 CFR 220.3(d).

thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1 to the NYSE proposal ensures that the NYSE and NASD approaches to the regulation of day trading margin rules are consistent so that they can be applied and interpreted uniformly. Amendment No. 1 to the NASD's rule proposal also ensures that the NASD's and NYSE's approaches to the regulation of day trading are consistent and provides for additional time for firms to implement its proposed rule change. For these reasons, the Commission finds good cause for accelerating approval of both amendments.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the Amendment No. 1 to each proposed rule change, including whether they are 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 changes 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. Copies of Amendment No. 1 to the NYSE proposed rule change will also be available for inspection and copying at the principal office of the NYSE. Copies of Amendment No. 1 to NASD proposed rule change will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File Nos. SR–NYSE–99–47 or SR–NASD–00–03 and should be submitted by March 27, 2001.

VI. Conclusion

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[137] that the proposals SR–NYSE–99–47 and SR–NASD–00–03 as amended, be and hereby are approved.[138]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–5402 Filed 3–5–01; 8:45 am]

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[137] 15 U.S.C. 78s(b)(2).

[138] In approving the proposals, the Commission has considered their impact on efficiency, competition, and capital formation.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44010; File No. SR–PCX–00–37]

Self-Regulatory Organizations; the Pacific Exchange, Inc.; Order Granting Approval to Proposed Rule Change to Increase Fines for Violations of Exchange Rules Under the Exchange's Minor Rule Plan

February 27, 2001.

I. Introduction

On December 11, 2000, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to increase fines for members, floor brokers and market makers for violating Exchange rules under the Minor Rule Plan. The Exchange amended the proposal on January 8, 2001.[3] The proposed rule change was published for comment in the **Federal Register** on January 23, 2001.[4] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Exchange proposes to amend PCX Rule 10.13(k) governing Minor Rule Plan violations to increase most of the fines. The PCX believes the current average Minor Rule Plan fine of $250 is too low to deter violations of PCX rules. The Exchange believes that an increase in fines will more adequately sanction violations of the PCX's order handling and investigating rules, many of which are processed under the Minor Rule Plan.

Most PCX Minor Rule Plan violations currently specify a fine of $250 for a first violation, $500 for a second, and $750 for a third. Multiple violations are calculated on a two-year basis. Under the proposed increases, most fines will be $1,000 for a first violation, $2,500 for a second and $3,500 for a third,[5] calculated on the same two-year basis. Some violations, such as disruptive conduct or abusive language on the options floor, will be $500 for a first violation, $2,000 for a second, and $3,500 for a third.

Other violations, such as a member's failure to cooperate with a PCX examination of its financial responsibility or operational condition, will be fined $2,000 for a first violation, $4,000 for a second, and $5,000 for a third. A member that impedes or fails to cooperate in an Exchange investigation will be fined $3,500 for a first violation, $4,000 for a second, and $5,000 for a third. Less serious violations, such as fines for improper dress under the PCX dress code, remain unchanged at $100 for the first violation, $200 for the second, and $500 for the third.

Under the proposal, the Enforcement Department would continue to exercise its discretion under PCX Rule 10.13(f) and take cases out of the Minor Rule Plan to pursue them as formal disciplinary matters if the facts or circumstances warrant such action.

III. Discussion

The Commission has reviewed carefully the PCX's proposed rule change and finds, for the reasons set forth below, that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,[6] and with the requirements of section 6(b).[7] In particular, the Commission finds the proposal is consistent with section 6(b)(5)[8] of the Act in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* January 5, 2001 letter from Cindy L. Sink, Senior Attorney, Regulatory Policy, PCX to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), SEC and attachments (''Amendment No. 1''). In response to a request from the Division, the PCX converted the proposal from effective upon filing pursuant to section 19(b)(3)(A) of the Act, to being considered pursuant to Section 19(b)(2) in Amendment No. 1. 15 U.S.C. 78s(b)(3)(A). 15 U.S.C. 78s(b)(2).

[4] Securities Exchange Act Release No. 43846 (January 16, 2001), 66 FR 7526.

[5] The Commission notes that when the PCX imposes a sanction in excess of $2,500, it must comply with Rule 19d–1 under the Act. 17 CFR 240.19d–1.

[6] In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

public interest. The Commission finds the proposal is also consistent with section 6(b)(6)[9] of the Act, which requires that the rules of an exchange provide that its members and associated persons be appropriately disciplined for violations of the Act and the rules of the Exchange. The Commission believes that the proposed rule change should assist the Exchange in exercising its responsibilities as self-regulatory organization to properly conduct surveillance and to diligently monitor its members for compliance with the securities laws. The Commission also believes that increasing the fines for Minor Rule Plan violations will serve as a deterrent, and hopefully will result in fewer violations. The Commission notes, however, that the Exchange must continue to exercise its discretion under PCX Rule 10.13(f) and pursue violations of the rules included in the Minor Rule Plan as formal disciplinary matters if the facts and circumstances of the violation warrant such action.

IV. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change (SR–PCX–00–37), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–5331 Filed 3–5–01; 8:45 am]

BILLING CODE 8010–1–M

[9] 15 U.S.C. 78f(b)(6).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9K85]

State of Georgia

Bryan, Glynn, and McIntosh Counties and the contiguous counties of Brantley, Bulloch, Camden, Chatham, Effingham, Evans, Liberty, Long, and Wayne in the State of Georgia constitute an economic injury disaster loan area as a result of extended cold and severe freezes that occurred between December 17, 2000 and January 7, 2001. 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 26, 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.

The number assigned for economic injury for the State of Georgia is 9K8500.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: February 26, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01–5333 Filed 3–5–01; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9K86]

State of Iowa

Hardin County, Iowa and the contiguous counties of Butler, Franklin, Hamilton, Grundy, Marshall, Story, and Wright constitute an economic injury disaster loan area as a result of a natural gas explosion in the City of Hubbard on December 7, 2000. 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 26, 2001 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The number assigned for economic injury for the State of Iowa is 9K8600.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: February 26, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01–5334 Filed 3–5–01; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3318]

State of Mississippi

As a result of the President's major disaster declaration on February 23, 2001, I find that Holmes, Lowndes and Oktibbeha Counties in the State of Mississippi constitute a disaster area due to damages caused by Severe Storms and Tornadoes on February 16, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on April 24, 2001 and for economic injury until the close of business on November 23, 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.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in Mississippi may be filed until the specified date at the above location: Attala, Carroll, Choctaw, Clay, Humphreys, Leflore, Madison, Monroe, Noxubee, Webster, Winston and Yazoo; Lamar and Pickens counties in the State of Alabama.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.000
Homeowners Without Credit Available Elsewhere	3.500
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.000
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 331811. For economic injury the number is 9K8300 for Mississippi, and 9K8400 for Alabama.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 26, 2001.

Herbert L. Mitchell,

Associate Administrator, For Disaster Assistance.

[FR Doc. 01–5332 Filed 3–5–01; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–8672]

Notice of Request for Comments on Renewing Approval for an Information Collection: OMB Control No. 2126—0014 (Transportation of Hazardous Materials, Highway Routing)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; request for comments.

SUMMARY: This notice announces that the FMCSA intends to request the Office of Management and Budget (OMB) to renew approval of the information collection described below. That information collection requires States and Indian tribes to identify designated/restricted highway routes and restrictions or limitations affecting how motor carriers may transport certain hazardous materials on the highway. This notice is required by the Paperwork Reduction Act.

DATES: Please submit your comments by May 7, 2001.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dmses.dot.gov/submit.* Be sure to include the docket number appearing in the heading of this document on your comment. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you would like to be notified when your comment is received, you must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Swedberg, (303) 969–5772 ext. 363, or Mr. William Quade, (202) 366–2172, Hazardous Materials Division (MC–ECH), Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4:00 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Transportation of Hazardous Materials; Highway Routing.

OMB Number: 2126–0014.

Background: The data for the Transportation of Hazardous Materials; Highway Routing designations are collected under authority of 49 U.S.C. §§ 5112 and 5125. That authority places responsibility on the Secretary of Transportation to specify and regulate standards for establishing, maintaining, and enforcing routing designations. Under 49 CFR 397.73, the Administrator has the authority to request that each State and Indian tribe, through its routing agency, provide information identifying hazardous materials routing designations within their respective jurisdictions. That information will be consolidated by the FMCSA and published annually in whole or as updates in the **Federal Register**.

Respondents: The reporting burden is shared by the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, Northern Marianas, and the Virgin Islands.

Estimated Total Annual Burden: The annual reporting burden is estimated to be 13 hours, calculated as follows: (53 respondents × 1 response × 15 minutes/60 minutes = 13.25 hours, rounded to 13 hours).

Frequency: There is one response annually from approximately 53 respondents.

Public Comments Invited: Your comments are particularly invited on whether the collection of information is necessary for the FMCSA to meet its goal of reducing truck crashes, including whether the information is useful to this goal; the accuracy of the estimate of the burden of the information collection; ways to enhance the quality, utility and clarity of the information collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Electronic Access and Filing: You may submit or retrieve comments online through the Docket Management System (DMS) at *http://dmses.dot.gov/submit.* Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site. You may also download an electronic copy of this document from the DOT Docket Management System on the Internet at *http://dms.dot.gov/search.htm.* Please include the docket number appearing in the heading of this document.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.73.

Dated: February 27, 2001.

Stephen E. Barber,

Acting Assistant Administrator and Chief Safety Officer.

[FR Doc. 01–5410 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7827]

Agency Information Collection Activities Under OMB Review: OMB Control Nos. 2126–0004 and 2126–0012

AGENCY: Federal Motor Carrier Safety Administration, DOT.

ACTION: Notice; request for comments.

SUMMARY: The FMCSA has sent the two Information Collection Requests (ICRs) described in this notice to the Office of Management and Budget (OMB) for review and comment. The ICRs describe each information collection and its expected burden. We published a **Federal Register** notice on these information collections on September 5, 2000 (65 FR 53801). The notice had a 60-day comment period. We are required to send ICRs to OMB under the Paperwork Reduction Act.

DATES: Please submit comments by April 5, 2001.

FOR FURTHER INFORMATION CONTACT: Mrs. Valerie Height, (202) 366–0901 (for 2126–0004), or Mr. Kenny Rodgers, (202) 366–4016 (for 2126–0012), Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4:00 p.m., e.t., Monday through Friday, except Federal holidays.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, *Attention:* DOT Desk Officer. We particularly request your comments on whether the collection of information is necessary for the FMCSA to meet its goal of reducing truck crashes, including whether the information is useful to this goal; the accuracy of the estimate of the burden of the information collection; ways to enhance the quality, utility and clarity of the information collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or

other forms of information technology. OMB wants to receive comments within 30 days of publication of this notice in order to act on the ICR quickly.

SUPPLEMENTARY INFORMATION:

1. *Title:* Driver Qualification Files.

OMB Number: 2126–0004.

Background: The FMCSA requires motor carriers to maintain a driver qualification file for each commercial motor vehicle (CMV) driver that they employ. The file contains the minimum amount of information necessary to document that a driver is qualified to drive a CMV in interstate commerce.

Motor carriers and the FMCSA primarily use the driver's qualification file to ensure that a person: (1) Is physically qualified to safely operate a CMV; (2) has the experience and/or training to safely operate the type(s) of CMV he or she will be assigned to drive; (3) has the appropriate driver's license; and (4) has not been disqualified to operate a CMV.

Respondents: Motor carriers and CMV drivers.

Estimated Total Annual Burden: 941,856 hours.

2. *Title:* Controlled Substance and Alcohol Use and Testing.

OMB Number: 2126–0012.

Background: The FMCSA requires motor carriers to conduct alcohol and controlled substances testing on their commercial motor vehicle (CMV) drivers who drive larger CMVs (over 26,000 lbs.) requiring a commercial driver's license. The FMCSA uses the information collected to determine whether the motor carriers are using drivers who are alcohol-free and drug-free while driving trucks, buses, and other commercial motor vehicles. The reporting survey of the management information system (MIS) allows the agency to adjust the random testing rates for the industry when the industry shows performance improvements. The agency bases the adjustment upon the results of a small, statistically significant sample of motor carriers.

Respondents: 650,000 Motor carriers.

Estimated Total Annual Burden: 573,490 hours.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.73.

Dated: February 27, 2001.

Stephen E. Barber,

Acting Assistant Administrator and Chief Safety Officer.

[FR Doc. 01–5411 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provision involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Canadian Pacific Railway

[Docket Number FRA–2000–7927]

Canadian Pacific Railway Company (CPR), on behalf of itself, its Delaware and Hudson (D&H) subsidiary, and its Soo Line (Soo) subsidiary is seeking a waiver of compliance with the Railroad Locomotive Safety Standards, 49 CFR 229.71 (clearance above the rail).

CPR jointly with General Electric Transportation Systems is exploring methods for improving locomotive adhesion under heavy snow conditions. One method that appears to have some potential for consideration is the application of flexible wipers under the front pilot. These ''snow flaps'' are made of a corrugated urethane material similar to the non-metallic sand pipe tips currently allowed. These snow flaps extended below the 2½″ limit allowed by the section 229.71

CPR did limited testing of these snow flaps in Canada last year and is requesting additional exemption from Transport Canada to continue the testing this winter. There will be up to 40 GE locomotives equipped for this test. These units are principally dedicated to coal routes in British Columbia, but they are internationally equipped and may operate into the U.S. on an occasional basis. These units will enter the U.S. through the Minnesota gateway and over Soo Line as far as Chicago, Illinois.

CPR reported no evidence that these snow flaps will present any risk to safe train operations or to employees.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2000–7927) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 30 days of the date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site *http://dms.dot.gov.*

Issued in Washington, D.C. on February 22, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–5406 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioners' arguments in favor of relief.

National Railway Historical Society

Freemont & Elkhorn Valley Railroad

[Docket Number FRA–2000–8367]

The Eastern Nebraska Chapter of the National Railway Historical Society (NRHS), which operates the Freemont & Elkhorn Valley Railroad (FEVR), has petitioned for a permanent waiver of compliance for two former C&NW Pullman sleeper cars, one former Burlington Northern RPO, one former Burlington Northern caboose, one former C&NW SW1200, one Davenport center cab, one Whitcomb/Baldwin S–4300, and one GE center cab from the requirements of Safety Glazing Standards, 49 CFR Part 223, which requires certified glazing. The NRHS,

which is located in Fremont, Nebraska, states that they operate in a rural farming area with a low incidence of vandalism.

Interested parties are invited to participate in these proceedings by submitting written views, data, comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2000–8367) and must be submitted in triplicate to: Docket Clerk, DOT Central Docket Management Facility, Room P1–401, 400 Seventh Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date will be considered as for as practical. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at: DOT Central Docket Management Facility, Room P1–401 (Plaza Level, 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the facility's Web site at *http://dms.dot.gov.*

Issued in Washington, D.C., on February 22, 2001.

Grady Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–5407 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waivers of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR), Section 211.41, notice is hereby given that the Federal Railroad Administration (FRA) received a request for waiver of certain requirements of the Federal railroad safety regulations. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being sought.

The Port Authority Trans-Hudson Corporation

[FRA Waiver Petition No. FRA–2000–7411]

The Port Authority Trans-Hudson Corporation (PATH) seeks a permanent waiver of compliance from certain requirements of 49 CFR, Part 239, Passenger Train Emergency Preparedness. Specifically, PATH requests relief from the emergency equipment requirements in § 239.101(a)(6)(i) that the fire extinguisher and pry-bar be accessible to the riding public for use in the event of an emergency situation. PATH argues that its practice of securing the fire extinguisher and pry-bar away from public access is in the public's interest, and contends that public safety is enhanced by restricting access only to crew members. PATH requests that FRA waive the public access requirement and allow PATH to continue to maintain the emergency equipment in a secure manner without permitting the riding public to use it during an emergency. In support of its request, PATH states that in times of emergency, the public address system can facilitate communication to train crew members, who would then unlock the lockers where the fire extinguisher and pry-bar are stored. PATH also notes that the locking of these items of emergency equipment can protect the public from harm, since the equipment would not be missing due to cases of vandalism or theft, and would therefore be in its proper location at the time of an emergency.

PATH also seeks a permanent waiver of compliance from certain requirements of 49 CFR Part 229, Locomotive Safety Standards. Specifically, PATH requests relief from the requirements of § 229.7, Prohibited acts, which mandates that a locomotive and its appurtenances must be in proper working condition and safe to operate in the service to which assigned, and from § 229.9, Movement of non-complying locomotives, which set forth the conditions under which a railroad may move a non-complying locomotive. PATH seeks to lessen the impact of dead cars (MU type locomotives) in its operation. PATH proposes to operate one dead car (MU type locomotive car) per consist of not less than seven cars, up to 24 hours prior to removing the car from service for the purpose of repair. PATH states that it would not allow a dead car to operate in the lead as the controlling car of the movement, and that operating crews of such trains would be notified in writing about the presence of the defective car prior to the movement of the train.

Interested parties are invited to participate in these proceedings by submitting written reviews, data, or comments. If any interested party desires the opportunity for oral comment, FRA must be notified in writing before the end of the comment period, and the party must specify the basis for the request. FRA will then determine whether to schedule a public hearing in connection with these proceedings. *See* 49 CFR 211.25.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2000–7411) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590. All documents in the public docket, including PATH's waiver request, are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov.* Communications received within 45 days from the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5 p.m.) at the above facility.

Issued in Washington, D.C., on February 22, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–5405 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provision involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Union Pacific Railroad Company

[Docket Number FRA–2001–8697]

Union Pacific Railroad Company (UP) is seeking a waiver of compliance with a provision of the Railroad Power

Brakes and Drawbars regulations, 49 CFR 232.12 (initial terminal road train air brake tests). The UP requests a waiver to permit cars received in interchange from Ferromex (Mexican railroad) at Nogales, Arizona to be moved approximately 8 miles north of Nogales to the siding at Rio before an initial terminal air brake test is performed.

UP states that presently, Ferromex delivers to UP on an average of three trains per day with lengths between 4000 and 6000 feet. UP states that the UP yard at Nogales is small and delivery of these trains all require blockages of key street crossings within the City of Nogales for considerable lengths of time. This problem has been exacerbated in recent years with the increase of traffic over the Nogales interchanges and as the result of changed traffic patterns, which were due to a number of factors. These include the privatization of the Mexican railroads, NAFTA trade agreement and UP–SP merger. Trains received from Ferromex require an initial terminal brake test to be performed before departing Nogales and this contributes to increased amount of time crossings are blocked.

The UP waiver request is to permit movement of trains to Rio for the performance of the initial terminal air brake test. Trains involved in such movements would have the air brake test system charged, a set and release to ensure brakes setting and releasing on the rear car, and movement restricted to 25 mph, until the initial brake test could be performed at Rio. Any bad order cars discovered at Rio would be set out there for repair purposes.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2001–8697) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 30 days of the date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site *http://dms.dot.gov.*

Issued in Washington, D.C. on February 22, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–5408 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. 2001–9007]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved information collections. The **Federal Register** Notice with a 60-day comment period soliciting comments was published on December 13, 2000.

DATES: Comments must be submitted before April 5, 2001. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Sylvia L. Barney-Marion, Office of Administration, Office of Management Planning, (2020 366–6680.

SUPPLEMENTARY INFORMATION:

Title: 49 U.S.C. Section 5310—Capital Assistance Program for Elderly Persons and Persons with Disabilities and Section 5311—Nonurbanized Area Formula Program *(OMB Number 2132–0500).*

Abstract: The Capital Assistance Program for Elderly Persons and Persons with Disabilities provides financial assistance for the specialized transportation service needs of elderly persons and persons with disabilities. The program is administered by the States and may be used in all areas (urbanized, small urban, and rural). The Nonurbanized Area Formula Program provides financial assistance for the provision of public transportation services in nonurbanized areas and is also administered by the States. FTA is authorized to review applications for federal financial assistance to determine eligibility and compliance with statutory and administrative requirements by 49 U.S.C. 5310 and 5311. Information collected during the application stage includes the project budget, which identifies funds requested for project implementation; a program of projects, which identifies subrecipients to be funded, the amount of funding that each will receive, and a description of the projects to be funded; the project implementation plan; a list of annual certifications and assurances; and public hearings notice, certification and transcript. The applications must contain sufficient information to enable FTA to make the findings required by law to enforce the program requirements. Information collected during the project management stage includes an annual financial report, an annual program status report, and pre-award and post-delivery audits. The annual financial report and program status report provide a basis for monitoring approved projects to ensure timely and appropriate expenditure of federal funds by grant recipients.

Estimated Total Annual Burden: 6,540 hours.

Title: Americans with Disabilities Act *(OMB Number 2132–0555).*

Abstract: On July 26, 1990, the President signed into law civil rights legislation entitled, ''The Americans with Disabilities Act of 1990'' (ADA) (Pub. L. 101–336). It contains sweeping changes for individuals with disabilities in every major area of American life. One key area of the legislation addresses transportation services provided by public and private entities. Some of the requirements under the ADA are: (1) No transportation entity shall discriminate against an individual with a disability in connection with the provision of transportation service; (2) All new vehicles purchased by public and private entities after August 25, 1990, must be readily accessible to and usable by persons with disabilities, including individuals who use wheelchairs; (3) Public entities that provide fixed route transit must provide complementary paratransit service for persons with disabilities, who are unable to use the fixed route system, that is comparable to the level of service provided to individuals without disabilities; and (4) Public entities operating light, rapid or commuter rail systems must designate key stations which were to be made accessible by July 26, 1993, unless the operator received a statutory time extension.

If FTA reasonably believes that an entity may not be in compliance, FTA

may require periodic reports on a quarterly or annual basis. The information collected provides FTA with a basis for monitoring compliance. In addition, public entities, including recipients of FTA funds, are required to provide information during triennial reviews, compliant investigations, resolutions of complaints, and compliance reviews.

Estimated Total Annual Burden: 40,000 hours.

Title: Pre-Award and Post Delivery Review Requirements (*OMB Number 2132–0544*).

Abstract: Under the Federal Transit Laws, at 49 U.S.C. 5323(l), grantees must certify that pre-award and post-delivery reviews will be conducted when using FTA funds to purchase revenue service vehicles. FTA regulation 49 CFR Part 663 implements this law by specifying the actual certificates that must be submitted by each bidder to assure compliance with the Buy America, contract specification, and vehicle safety requirements for rolling stock. The information collected on the certification forms is necessary for FTA grantees to meet the requirements of 49 U.S.C. 5323(l).

Estimated Total Annual Burden: 3,024 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: FTA Desk Officer.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued: February 28, 2001.

Dorrie Y. Aldrich,

Associate Administrator for Administration.

[FR Doc. 01–5292 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 00–6985]

Insurance Cost Information Regulation

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

ACTION: Notice of availability.

SUMMARY: This notice announces publication by NHTSA of the 2001 text and data that all car dealers must include in an insurance cost information booklet that they must make available to prospective purchasers, pursuant to 49 CFR 582.4. This information may assist prospective purchasers in comparing differences in passenger vehicle collision loss experience that could affect auto insurance costs.

ADDRESSES: Interested persons may obtain a copy of this booklet by contacting the U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are from 10:00 am to 5:00 pm.)

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Chief, Consumer Programs Division, NHTSA, 400 Seventh Street SW., Washington, DC 20590 (202–366–0846).

SUPPLEMENTARY INFORMATION: Pursuant to section 201(e) of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 1941(e), on March 5, 1993, 58 FR 12545, the National Highway Traffic Safety Administration (NHTSA) amended 49 CFR Part 582, *Insurance Cost Information Regulation*, to require all dealers of automobiles to distribute to prospective customers information that compares differences in insurance costs of different makes and models of passenger cars based on differences in damage susceptibility. On March 17, 1994, NHTSA denied a petition submitted by the National Automobile Dealers Association (NADA) for NHTSA to reconsider Part 582 insofar as it requires all automobile dealers to prepare the requisite number of copies for distribution of the insurance cost information to prospective purchasers. 59 FR 13630.

On March 24, 1995, NHTSA published a Final Rule to amend Part 582 in a number of respects. 60 FR 15509. These changes included wording clarifications and a change in the availability date of the booklet.

Pursuant to 49 CFR § 582.4, all automobile dealers are required to make available to prospective purchasers booklets that include this comparative information as well as certain mandatory explanatory text that is set out in section 582.5. Early each year, NHTSA publishes the annual **Federal Register** document updating the Highway Loss Data Institute's (HLDI) December Insurance Collision Report. Booklets reflecting the updated data must be available for distribution to prospective purchasers without charge within 30 days from the date of the **Federal Register**.

NHTSA is mailing a copy of the 2001 booklet to each dealer on the mailing list that the Department of Energy uses to distribute the ''Gas Mileage Guide.'' Dealers will have the responsibility of reproducing a sufficient number of copies of the booklet to assure that they are available for retention by prospective purchasers by April 6, 2001. Dealers who do not receive a copy of the booklet within 15 days of the date of this notice should contact Ms. Rosalind Proctor of NHTSA's Office of Planning and Consumer Programs (202) 366–0846 to receive a copy of the booklet and to be added to the mailing list. Dealers may also obtain a copy of the booklet through the NHTSA web page at: *http://www.nhtsa.dot.gov/cars/problems/studies/InsCost.*

Authority: (49 U.S.C. 32302; delegation of authority at 49 CFR 1.50(f).)

Issued on: February 28, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety, Performance Standards.

[FR Doc. 01–5294 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket NHTSA–99–5087]

Safety Performance Standards Program Meeting

AGENCY: National Highway Traffic Safety Administration (DOT).

ACTION: Notice of NHTSA rulemaking status meeting.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's vehicle regulatory program.

DATES: The Agency's regular, quarterly public meeting relating to its vehicle regulatory program will be held on Thursday, April 19, 2001, beginning at 9:45 a.m. and ending at approximately 12:00 p.m. at the Best Western Gateway

International Hotel in Romulus, Michigan. Questions relating to the vehicle regulatory program must be submitted in writing with a diskette (Wordperfect) by Friday, March 23, 2001, to the address shown below or by e-mail. If sufficient time is available, questions received after March 23, may be answered at the meeting. The individual, group or company submitting a questions(s) does not have to be present for the questions(s) to be answered. A consolidated list of the questions submitted by March 23, 2001, and the issues to be discussed, will be posted on NHTSA's web site (*http://www.nhtsa.dot.gov*) by Monday, April 16, 2001, and also will be available at the meeting. The agency will not hold a second research and development public meeting on April 19.

ADDRESSES: Questions for the April 19, NHTSA Rulemaking Status Meeting, relating to the agency's vehicle regulatory program, should be submitted to Delia Lopez, NPS–01, National Highway Traffic Safety Administration, Room 5401, 400 Seventh Street, SW., Washington, DC 20590, Fax Number 202–366–4329, e-mail dlopez@nhtsa.dot.gov. The meeting will be held at the Best Western Gateway International Hotel, 9191 Wickham Road, Romulus, Michigan. The telephone number for the Best Western Gateway International Hotel is 734–728–2800.

FOR FURTHER INFORMATION CONTACT: Delia Lopez, (202) 366–1810.

SUPPLEMENTARY INFORMATION: NHTSA holds a regular, quarterly meeting to answer questions from the public and the regulated industries regarding the agency's vehicle regulatory program. Questions on aspects of the agency's research and development activities that relate directly to ongoing regulatory actions should be submitted, as in the past, to the agency's Safety Performance Standards Office. The purpose of this meeting is to focus on those phases of NHTSA activities which are technical, interpretative or procedural in nature. Transcripts of these meetings will be available for public inspection in the DOT Docket in Washington, DC, within four weeks after the meeting. Copies of the transcript will then be available at ten cents a page, (length has varied from 80 to 150 pages) upon request to DOT Docket, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. The DOT Docket is open to the public from 10:00 a.m. to 5:00 p.m. The transcript may also be accessed electronically at *http://dms.dot.gov,* at docket NHTSA–99–5087. Questions to be answered at the quarterly meeting should be organized by categories to help us process the questions into an agenda form more efficiently. Sample format:

I. Rulemaking
  A. Crash avoidance
  B. Crashworthiness
  C. Other Rulemakings
II. Consumer Information
III. Miscellaneous

NHTSA will provide auxiliary aids to participants as necessary. Any person desiring assistance of ''auxiliary aids'' (e.g., sign-language interpreter, telecommunications devices for deaf persons (TDDs), readers, taped texts, brailled materials, or large print materials and/or a magnifying device), please contact Delia Lopez on (202) 366–1810, by COB Monday, April 16, 2001.

Issued: February 28, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–5293 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9023]

RIN 2127–AG18

Automobile Parts Content Labeling; Review: American Automobile Labeling Act; Evaluation Report

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for comments on technical report.

SUMMARY: This notice announces NHTSA's publication of a Technical Report reviewing and evaluating its existing regulation Part 583, *Automobile Parts Content Labeling.* The report's title is *Evaluation of the American Automobile Labeling Act.*

DATES: Comments must be received no later than July 5, 2001.

ADDRESSES: *Report:* You may obtain a copy of the report free of charge by sending a self-addressed mailing label to Publications Ordering and Distribution Services (NAD–51), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. A summary of the report is available on the Internet for viewing on line at *www.nhtsa.dot.gov/cars/rules/regrev/evaluate/809208.html.* The full report is available on the Internet in PDF format at *www.nhtsa.dot.gov/cars/rules/regrev/evaluate/pdf/809208.pdf.*

Comments: All comments should refer to the Docket number of this notice (NHTSA–2001–9023). You may submit your comments in writing to: U. S. Department of Transportation Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. You may also submit your comments electronically by logging onto the Dockets Management System website at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

You may call Docket Management at 202–366–9324 and visit the Docket from 10:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles J. Kahane, Chief, Evaluation Division, NPP–22, Plans and Policy, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW., Washington, DC 20590. Telephone: 202–366–2560. FAX: 202–366–2559. E-mail: *ckahane@nhtsa.dot.gov.*

For information about NHTSA's evaluations of the effectiveness of existing regulations and programs: Visit the NHTSA web site at *http://www.nhtsa.dot.gov* and click ''Regulations & Standards'' underneath ''Car Safety'' on the home page; then click ''Regulatory Evaluation'' on the ''Regulations & Standards'' page.

SUPPLEMENTARY INFORMATION: NHTSA regulation Part 583 (49 CFR 583), *Automobile Parts Content Labeling* requires passenger vehicles manufactured after October 1, 1994 to have labels specifying their percentage value of U.S./Canadian parts content, the country of assembly, and countries of origin of the engine and transmission (59 FR 37294). This regulation implements the American Automobile Labeling Act (AALA) of 1992, and its purpose is to help consumers in the selection of new vehicles by providing information about the country of origin of vehicles and their parts.

As required by the Government Performance and Results Act of 1993 and Executive Order 12866 (58 FR 51735), NHTSA reviews existing regulations to determine if they are achieving policy goals. This evaluation is based on a 1998 consumer survey to see if new-vehicle purchasers know about the labels, understand them, and/or use them to help select a vehicle; manufacturer and dealer surveys to learn about their response to the labels; and statistical analyses of the actual trends in U.S./Canadian parts content in new motor vehicles after 1994.

Over 75 percent of the 646 consumer survey participants were unaware of the existence of the AALA labels. Many participants who did read the label said they used the country-of-assembly information, but none said they used the numerical U.S./Canadian parts content score or the engine/transmission information. Overall U.S./Canadian parts content in new cars and light trucks dropped from 70 percent in model year 1995 to 67.6 percent in 1998; however, it increased from 47 to 59 percent in transplants while dropping from 89 to 84 percent in Big 3 vehicles.

How can I influence NHTSA's thinking on this evaluation?

NHTSA welcomes public review of the technical report and invites reviewers to submit comments about the data and the statistical methods used in the analyses. NHTSA will submit to the Docket a response to the comments and, if appropriate, additional analyses that update, supplement or revise the technical report.

The agency is especially interested in learning of any additional data or information on the following topics:

- Measures that could make the labels more widely known, more convenient, easier to understand or more influential for consumers, or less costly to produce.
- Evidence that consumers are aware of and/or influenced by the labels, or related information.
- Evidence that the labels, or related data, have been used as a marketing, advertising, or public-information tool by manufacturers, dealers, or any other organizations.
- Evidence that the labels, or related considerations have influenced decisions on where to manufacture or purchase parts, or to assemble vehicles.
- Factors that have influenced the trends in U.S./Canadian parts content before, during and after the 1994–98 period studied in the report.

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the Docket number of this document (NHTSA–2001–9023) in your comments.

Your primary comments must not be more than 15 pages long (49 CFR 553.21). However, you may attach additional documents to your primary comments. There is no limit on the length of the attachments.

Please send two paper copies of your comments to Docket Management or submit them electronically. The mailing address is U. S. Department of Transportation Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. If you submit your comments electronically, log onto the Dockets Management System website at *http://dms.dot.gov* and click on ''Help & Information'' or ''Help/Info'' to obtain instructions.

We also request, but do not require you to send a copy to Charles J. Kahane, Chief, Evaluation Division, NPP–22, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW., Washington, DC 20590 (alternatively, FAX to 202–366–2559 or e-mail to *ckahane@nhtsa.dot.gov).* He can check if your comments have been received at the Docket and he can expedite their review by NHTSA.

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, send three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NCC–01, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC 20590. Include a cover letter supplying the information specified in our confidential business information regulation (49 CFR Part 512).

In addition, send two copies from which you have deleted the claimed confidential business information to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit them electronically.

Will the agency consider late comments?

In our response, we will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

How can I read the comments submitted by other people?

You may read the comments by visiting Docket Management in person at Room PL–401, 400 Seventh Street, SW., Washington, DC from 10:00 a.m. to 5:00 p.m., Monday through Friday.

You may also see the comments on the Internet by taking the following steps:

- Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov*).
- On that page, click on ''search.''
- On the next page ((*http://dms.dot.gov/search/*) type in the four-digit Docket number shown at the beginning of this Notice (6545). Click on ''search.''
- On the next page, which contains Docket summary information for the Docket you selected, click on the desired comments. You may also download the comments.

Authority: 49 U.S.C. 30111, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

William H. Walsh,

Associate Administrator for Plans and Policy.

[FR Doc. 01–5392 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–01–8587; Notice No. 01–06]

Hazardous Materials Safety: Public Meeting Related to Customer Service and Regulatory Review

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of public meeting.

SUMMARY: RSPA will hold a public meeting to seek information from the public on improving safety, reducing costs (especially to small businesses), and increasing customer service through RSPA's management of the national hazardous materials transportation safety program. This meeting is being held in conjunction with a Hazardous Materials Multimodal Training Seminar sponsored by RSPA on March 27 and 28, 2001.

ADDRESSES: The public meeting will be held at the Sheraton North Charleston

Hotel, 4770 Goer Drive, North Charleston, South Carolina 29406 (843–747–1900). For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact Eileen Edmonson at the address or telephone number listed under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

DATES: The public meeting will be held on Wednesday, March 28, 2001, 1:00 p.m. to 4:00 p.m.; however, the meeting may end prior to 4:00 p.m., depending on public interest.

FOR FURTHER INFORMATION CONTACT: Eileen Edmonson, Office of Hazardous Materials Standards, RSPA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Telephone 202–366–8553.

SUPPLEMENTARY INFORMATION:

Focus on Issues of Interest to Affected Parties

RSPA (we) is interested in soliciting comments on the kind and quality of services our customers want and their level of satisfaction with the services we currently provide to promote understanding of and compliance with the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180). These services include the following:

(1) *Hazardous Materials Information Center (HMIC).* A staff of three persons is available from Monday to Friday (except federal holidays) between 9:00 a.m. and 5:00 p.m. EST to address telephone inquiries from shippers, carriers, packaging manufacturers, and other persons concerning requirements in the HMR for the safe transportation of hazardous materials. In 2000, the HMIC handled more than 33,000 calls. The toll-free number is 1–800–HMR–4922.

(2) *Internet access.* Our site on the worldwide web (*http://hazmat.dot.gov*) provides information concerning hazardous materials rulemakings, exemptions, letters of clarification, international activities, incident data, the 2000 Emergency Response Guidebook, and much more.

(3) *Fax on demand.* For persons who do not have access to the Internet, we operate an automated fax-back system that allows callers access to more than 600 pages of informational materials, including letters of clarification and recently published rulemakings, through their own fax machines. A facsimile copy of the catalog of available documents may be obtained by accessing the fax-on-demand feature through our HMIC number 1–800–HMR–4922.

(4) *Training.* To promote compliance with the HMR, we distribute brochures, charts, publications, training materials, videotapes, and other safety-related information to hazmat employers and hazmat employees in the private and government sectors and to the general public. We also offer hazardous materials training to federal, state, and local enforcement agencies, industry, and emergency response personnel. In addition, we provide personal computer-based self-study programs through a CD–ROM modular training series.

(5) *Government-Industry partnerships.* To the extent resources permit, we participate in meetings, conferences, training workshops, and the like, sponsored by the public sector, industry, and international organizations having an interest in the safe transportation of hazardous materials.

Regulations and Administrative Procedures

On January 12, 2001, we published a notice of regulatory review (Docket No. RSPA–01–8587, 66 FR 2870) requesting comments on the economic impact of the HMR on small entities. This year we are analyzing rules in 49 CFR parts 174, Carriage by Rail, and 177, Carriage by Public Highway. We are inviting participants to take this opportunity to suggest whether or not we, in an effort to lessen the impact on small entities, should revise or revoke specific rules.

We are also interested in receiving comments on the quality of our processing of written requests for information, applications for exemptions and approvals, registration statements, and other administrative actions. Participants are encouraged to provide suggestions on how we can improve our performance in processing these administrative actions.

We welcome all comments on ways to improve the understanding of and compliance with the HMR, including removal of obsolete requirements, revisions to conflicting or confusing requirements, and the use of plain language. We will also address inquiries concerning new or proposed requirements, including recently published actions concerning:

- Proposed revisions for infectious substances and genetically modified materials to: (1) Adopt new classification criteria for infectious substances based on defining criteria developed by the World Health Organization and consistent with international transportation standards; (2) eliminate the current exception for diagnostic specimens and impose new packaging and hazardous communication requirements; (3) limit the current exception for biological products to biological products licensed for use by the Food and Drug Administration or U.S. Department of Agriculture; (4) adopt new requirements for the transportation of genetically modified micro-organisms consistent with international requirements; and (5) provide new bulk packaging options for the transportation of regulated medical waste, based on current exemption provisions (Docket No. RSPA–98–3971, 66 FR 6942, January 22, 2001).
- Harmonization of the HMR requirements with standards published in the United Nations Recommendations on the Transport of Dangerous Goods, the International Maritime Dangerous Goods Code, and the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (Docket No. RSPA–2000–7702; 65 FR 63294, October 23, 2000).

Representatives from the United States Coast Guard, Federal Aviation Administration, Federal Railroad Administration, and Federal Motor Carrier Safety Administration will participate with RSPA in this public meeting to address mode-specific issues.

Conduct of the Meeting

This is an informal meeting intended to foster a dialogue between agency personnel and persons affected by the hazardous materials transportation safety program. The presiding official may find it necessary to limit the time available to each person to ensure that all participants have an opportunity to speak. Conversely, this meeting may conclude earlier than 4 p.m. if all persons wishing to participate have been heard. While there will be no transcript of the meeting, RSPA will prepare a written summary and post it in this notice's docket (RSPA–01–8587). Persons interested in participating in this public meeting need not be registered for the Hazardous Materials Multimodal Training Seminar.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration.

[FR Doc. 01–5297 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 27, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 5, 2001 to be assured of consideration.

U.S. Customs Service (CUS)

OMB Number: 1515–0213.
Form Number: None.
Type of Review: Extension.
Title: Drawback Process Regulations and Entry Collection Documents.
Description: The information is to be used by Customs Officers to expedite the filing and processing of drawback claims, while maintaining necessary enforcement information to maintain effective administrative oversight over the drawback program.
Respondents: Business or other for-profit, Not-for-profit institutions.
Estimated Number of Respondents: 8,150.
Estimated Burden Hours Per Respondent: 8 hours.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 90,000 hours.

OMB Number: 1515–0219.
Form Number: None.
Type of Review: Extension.
Title: Andean Trade Preferences.
Description: The collection identifies the country of origin and related rules which apply for purposes of duty-free or reduced-duty treatment on imported goods under the Act and specifies the documentary and other procedural requirements which apply to any claim for such preferential tariff treatment under the Act (Public Law 102–182, which is codified at 19 U.S.C. 3201 through 3206.
Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.
Estimated Number of Respondents: 150,000.
Estimated Burden Hours Per Respondent: 2 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 5,000 hours.
Clearance Officer: J. Edgar Nichols (202) 927–1426 or Tracey Denning (202) 927–1429, U.S. Customs Service, Information Services Branch, Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.

[FR Doc. 01–5322 Filed 3–5–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 27, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 5, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: New.
Revenue Procedure Number: Revenue Procedure 2001–XX.
Type of Review: New collection.
Title: Leveraged Leases.
Description: The revenue procedure sets forth the information and representations required to be furnished by taxpayers in requests for an advance ruling that a leveraged lease transaction is, in fact, a valid lease for federal income tax purposes.
Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.
Estimated Number of Respondents: 10.
Estimated Burden Hours Per Respondent: 80 hours.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 800 hours.

OMB Number: 1545–0735.
Regulation Project Number: LR–189–80 (TD 7927) Final.
Type of Review: Extension.
Title: Amortization of Reforestation Expenditures.
Description: Section 194 allows taxpayers to elect to amortize certain reforestation expenditures over a 7-year period if the election is proper and allowable.
Respondents: Individuals or households, Business or other for-profit.
Estimated Number of Respondents: 12,000.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 6,001 hours.

OMB Number: 1545–1300.
Regulation Project Number: FI–46–89 Final.
Type of Review: Extension.
Title: Treatment of Acquisition of Certain Financial Institutions: Certain Tax Consequences of Federal Financial Assistance to Financial Institutions.
Description: Recipients of Federal financial assistance (FFA) must maintain an account of FFA that is deferred from inclusion in gross income and subsequently recaptured. This information is used to determine the recipient's tax liability. Also, tax not subject to collection must be reported and information must be provided if certain elections are made.
Respondents: Business or other for-profit, Federal Government.
Estimated Number of Respondents/Recordkeepers: 500.
Estimated Burden Hours Per Respondent/Recordkeeper: 4 hours, 24 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 2,200 hours.

OMB Number: 1545–1564.
Regulation Project Number: REG–103330–97 Final.
Type of Review: Extension.
Title: IRS Adoption Taxpayer Identification Numbers.
Description: The regulation authorized the IRS to assign a new form of taxpayer identification number, the IRS Adoption Taxpayer Identification Number (ATIN), to children who are being adopted. The regulation is issued under section 6109 and is effective for tax returns due on or after April 15, 1998.
Respondents: Individuals or households.
Estimated Number of Respondents: 1.
Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–5323 Filed 3–5–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 720–CS

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 720–CS, Carrier Summary Report.

DATES: Written comments should be received on or before May 7, 2001, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Carrier Summary Report.

OMB Number: 1545–1733.

Form Number: 720–CS.

Abstract: Representatives of the motor fuel industry, state governments, and the Federal government are working to ensure compliance with excise taxes on motor fuels. This joint effort has resulted in a system to track the movement of all products to and from terminals. Form 720–CS is an information return that will be used by carriers to report their monthly deliveries and receipts of products to and from terminals.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 475.

Estimated Time Per Respondent: 312 hours, 36 minutes.

Estimated Total Annual Burden Hours: 148,485.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 28, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–5454 Filed 3–5–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5308

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5308, Request for Change in Plan/Trust Year.

DATES: Written comments should be received on or before May 7, 2001, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Request for Change in Plan/Trust Year.

OMB Number: 1545–0201.

Form Number: 5308.

Abstract: Form 5308 is used to request permission to change the plan or trust year for a pension benefit plan. The information submitted is used in determining whether IRS should grant permission for the change.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 480.

Estimated Time Per Respondent: 42 minutes.

Estimated Total Annual Burden Hours: 339.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 28, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–5455 Filed 3–5–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4768

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4768, Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.

DATES: Written comments should be received on or before May 7, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.

OMB Number: 1545–0181.

Form Number: 4768.

Abstract: Form 4768 is used to request an extension of time to file an estate (and generation-skipping) tax return and/or to pay the estate (and generation-skipping) taxes and to explain why the extension should be granted. IRS uses the information to decide whether the extension should be granted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 18,500.

Estimated Time Per Respondent: 1 hour, 12 minutes.

Estimated Total Annual Burden Hours: 22,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 27, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–5456 Filed 3–5–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–QDT

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 706–QDT, U.S. Estate Tax Return for Qualified Domestic Trusts.

DATES: Written comments should be received on or before May 7, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Estate Tax Return for Qualified Domestic Trusts.

OMB Number: 1545–1212.

Form Number: 706–QDT.

Abstract: Form 706–QDT is used by the trustee or the designated filer to compute and report the Federal estate

tax imposed on qualified domestic trusts by Internal Revenue Code section 2056A. The IRS uses the information to enforce this tax and to verify that the tax has been properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and business or other for-profit organizations.

Estimated Number of Respondents: 80.

Estimated Time Per Respondent: 4 hours, 28 minutes.

Estimated Total Annual Burden Hours: 357.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 27, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–5457 Filed 3–5–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 720–TO

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 720–TO, Terminal Operator Report.

DATES: Written comments should be received on or before May 17, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Terminal Operator Report.

OMB Number: 1545–1734.

Form Number: 720–TO.

Abstract: Representatives of the motor fuel industry, state governments, and the Federal government are working to ensure compliance with excise taxes on motor fuels. This joint effort has resulted in a system to track the movement of all products to and from terminals. Form 720–TO is an information return that will be used by terminal operators to report their monthly receipts and disbursements of products.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,500.

Estimated Time Per Respondent: 1,523 hours, 31 minutes.

Estimated Total Annual Burden Hours: 2,285,280.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 27, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–5458 Filed 3–5–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Florida Citizen Advocacy Panel

ACTION: Notice.

SUMMARY: An open meeting of the Florida Citizen Advocacy Panel will be held in Orlando, Florida.

DATES: The meeting will be held Friday, March 23, 2001 and Saturday, March 24, 2001.

FOR FURTHER INFORMATION CONTACT: Nancy Ferree at 1–888–912–1227, or 954–423–7973.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1988) that an open meeting of the Citizen Advocacy Panel will be held Friday, March 23, 2001 from 6 p.m. to 9 p.m.

and Saturday, March 24, 2001 from 9 a.m. to 12 p.m., at the Sheraton World, 10100 International Dr., Orlando, Florida 32821. The public is invited to make oral comments. Individual comments will be limited to 10 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 954–423–7973, or write Nancy Ferree, CAP Office, 7771 W. Oakland Park Blvd., Rm. 225, Sunrise, FL 33351, or e-mail firstcapsfl@mindspring.com. Due to limited conference space, notification of intent to attend the meeting must be made with Nancy Ferree. Ms. Ferree can be reached at 1–888–912–1227 or 954–423–7973, or e-mail firstcapsfl@mindspring.com.

The agenda will include the following: various IRS issue updates and reports by the CAP sub-groups.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: February 22, 2001.

John J. Mannion,

Director, Program Planning and Quality.

[FR Doc. 01–5459 Filed 3–5–01; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0325]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to authorize advance payment of educational assistance benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 7, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail comments to: nancy.kessinger@mail.va.gov. Please refer to ''OMB Control No. 2900–0325'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Certificate of Delivery of Advance Payment and Enrollment, VA Form 22–1999V.

OMB Control Number: 2900–0325.

Type of Review: Extension of a currently approved collection.

Abstract: VA is authorized to pay educational assistance to veterans and other eligible individuals pursuing approved programs of education. If certain requirements are met, VA is authorized to issue payments in advance of the beginning date of training. The schools or training establishments deliver advance payments and are required to certify the deliveries to VA. The schools or training establishments are also required to report the following to VA: (1) The failure of the student to enroll; (2) an interruption or termination of attendance; or, (3) a finding of unsatisfactory attendance conduct or progress. VA Form 22–1999V serves as the certificate of delivery of the advance payment and also the report of any changes in training status.

Affected Public: Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Government.

Estimated Annual Burden: 1,779 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 21,353.

Dated: February 15, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–5301 Filed 3–5–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0021]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 5, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981 or e-mail to: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0021.''

SUPPLEMENTARY INFORMATION:

Titles:

a. Notice of Default, VA Form 26–6850.

b. Notice of Default and Intention to Foreclose, VA Form 26–6850a.

c. Notice of Intention to Foreclose, VA Form 26–6851.

OMB Control Number: 2900–0021.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: Holders of guaranteed loans are required to notify VA within 45 days of a loan default by reason of nonpayment of any installment for a

period of 60 days from the date of the first uncured default of their intention to foreclose. After delivery of such notice to VA, 30 days must pass before the holder can begin court proceedings or give notice of sale under power of sale or otherwise take steps to terminate the debtor's rights in the security. Many times, defaults are determined insoluble by holders at the time the notice of default is to be filed with VA. In such cases, the holders are required to file VA Form 26–6850a, which will provide both notices of default and intent to foreclose together on one form. VA Form 26–6850a requires that servicing efforts be fully explained so that VA can determine whether supplement servicing could develop further information which might justify the extension of forbearance to the veteran-borrower as opposed to foreclosure. The information provided is used to coordinate actions of VA and the holder to ensure that all legal requirements regarding foreclosure and claim payment are met.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on October 17, 2000, at pages 61379 and 61380.

Affected Public: Individuals or households and Business or other for-profit.

Estimated Annual Burden: 66,166.

a. VA Form 26–6850—20,166 hours.

b. VA Form 26–6850a—26,000 hours.

c. VA Form 26–6851—20,000 hours.

Estimated Average Burden Per Respondent:

a. VA Form 26–6850—10 minutes.

b. VA Form 26–6850a—20 minutes.

c. VA Form 26–6851—15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 279,000.

a. VA Form 26–6850—121,000 respondents.

b. VA Form 26–6850a—78,000 respondents.

c. VA Form 26–6851—80,000 respondents.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0021'' in any correspondence.

Dated: February 8, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–5298 Filed 3–5–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0438]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Information and Technology, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Office of Information and Technology, Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 5, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981 or e-mail to: *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0438'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: 38 CFR 1.519(A) Lists of Names and Addresses.

OMB Control Number: 2900–0438.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: Title 38, U.S.C., 5701(f)(1) authorizes VA to disclose mailing lists of veterans and their dependents to nonprofit organizations, but only for certain specific and narrow purposes. Criminal penalties are provided for improper use of the list by the organization in violation of subsection (f) limitations. The information collection in this regulation ensures that any disclosure of a list under this subsection is authorized by law. VA must ascertain that the applicant is a nonprofit organization and intends to use the list for a proper purpose; if not, Title 38, U.S.C., 5701(a) prohibits disclosure. The additional information collection (specific geographic locations, point of contact, type of output and signature of organization head) is necessary to ensure timely and accurate processing of each application. Failure to obtain this information will prevent the Department from fulfilling its statutory obligations.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on September 14, 2000 at page 55680.

Affected Public: Not-For-Profit Institutions and State, Local or Tribal Governments.

Estimated Annual Burden: 50 hours.

Estimated Average Burden Per Respondent: 60 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 50.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0438'' in any correspondence.

Dated: January 26, 2001.

By direction of the Secretary:

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–5299 Filed 3–5–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control Number 2900–0572]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 5, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control Number 2900–0572.''

SUPPLEMENTARY INFORMATION:

Title: Application for Spina Bifida Benefits, VA Form 21–0304.

OMB Control Number: 2900–0572.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The law allows VA to pay a monetary allowance to a child born with Spina Bifida who is a natural child of a veteran who served in the Republic of Vietnam during the Vietnam era. The form is used to gather information to determine eligibility for the monetary allowance and appropriate level of payment.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on September 25, 2000, at pages 57654 and 57655.

Affected Public: Individuals or households.

Estimated Annual Burden: 335 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control Number 2900–0572'' in any correspondence.

Dated: January 31, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–5300 Filed 3–5–01; 8:45 am]

BILLING CODE 8320–01–U

Corrections

Federal Register
Vol. 66, No. 44
Tuesday, March 6, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMISSION

Request of the Cantor Exchange (CX) for Approval of its US Treasury Ten–Year Note Futures Contract

Correction

In notice document 01–3762 appearing on page 10273 in the issue of Wednesday, February 14, 2001, make the following correction:

On page 10273, in the second column, under the heading **ADDRESSES**, in the ninth line, the facsimile number ''(202) 481-5521'' should read, ''(202) 418-5521''.

[FR Doc. C1–3762 Filed 3–5–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–11–AD; Amendment 39–11959; AD 2000–22–13]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Model 430 Helicopters

Correction

In rule document 00–28235 beginning on page 66617 in the issue of Tuesday, November 7, 2000, the docket number is corrected to read as set forth above.

[FR Doc. C0–28235 Filed 3–5–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8921]

RIN 1545–AY23

Tax Treatment of Cafeteria Plans

Correction

In rule document 01–258 beginning on page 1837 in the issue of Wednesday, January 10, 2001, make the following correction:

On page 1838, in the first column, in footnote 5, in the second line, ''group-item life'' should read ''group-term''.

[FR Doc. C1–258 Filed 3–5–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
March 6, 2001

Part II

The President

Proclamation 7410—Fortieth Anniversary of the Peace Corps

Proclamation 7411—Women's History Month, 2001

Proclamation 7412—National Poison Prevention Week, 2001

Federal Register
Vol. 66, No. 44
Tuesday, March 6, 2001

Presidential Documents

Title 3—

The President

Proclamation 7410 of February 28, 2001

Fortieth Anniversary of the Peace Corps

By the President of the United States of America

A Proclamation

The generous spirit of the American people has given this country a great and long-standing tradition of voluntary service. During the past four decades, the members of the Peace Corps have carried on that tradition with dramatic and far-reaching effect.

Established in 1961, the Peace Corps has brought a wealth of practical assistance to individuals and communities through out the world. Since its inception, more than 161,000 Americans have served as Peace Corps volunteers in 134 countries. Peace Corps volunteers have not only helped to fill immediate and dire human needs, but also have helped promote sustainable, long-term development in agriculture, business, education, urban development, health care, and the environment.

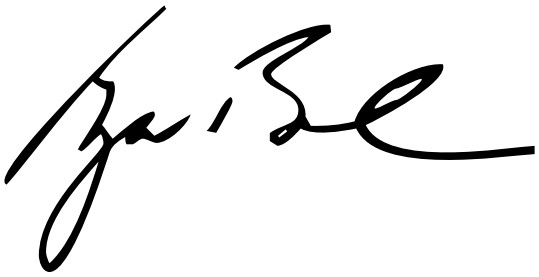
In many countries of the world, there exists an intense hunger for peace, hope, and opportunity—for genuine social and economic development that is rooted in respect for human rights and a belief in human potential. Recognizing the dignity and worth of all peoples and determined to help individuals help themselves, Peace Corps volunteers have served as our Nation's emissaries of hope and goodwill. Accordingly, their generous efforts have helped to foster mutual understanding and respect between the people of the United States and citizens of other countries.

Respected for its work around the world, the Peace Corps also conducts a number of valuable programs here at home. For example, through programs such as the Paul Coverdell World Wise Schools and Peace Corps Fellows/USA, Peace Corps volunteers are helping children in every State of our Nation to learn more about the world in which we live.

I am pleased to note that the current volunteer corps is the most ethnically diverse in Peace Corps history and that more and more Americans are joining in the work of the Peace Corps through its growing partnerships with the public and private sectors. These trends are a tribute to the many past achievements of the Peace Corps, and they are a promising sign of more to come.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby urge all Americans to observe March 1, 2001—the 40th anniversary of the Peace Corps—with appropriate programs, ceremonies, and activities designed to honor Peace Corps volunteers, past and present, for their many contributions to our country and to the universal cause of peace and human progress.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of February, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 01–5669
Filed 3–5–01; 11:47 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7411 of March 1, 2001

Women's History Month, 2001

By the President of the United States of America

A Proclamation

In 1845, journalist and author Margaret Fuller laid out her hope for the future of this Nation's women: ''We would have every arbitrary barrier thrown down. We would have every path laid open to women as freely as to men. If you ask me what offices they may fill, I reply—any, I do not care what case you put; let them be sea captains, if you will.''

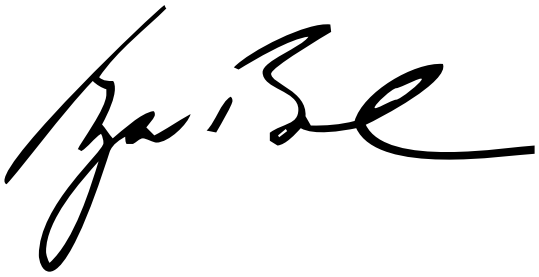
More than 150 years later, we are closer than ever to realizing Margaret Fuller's dream. Women account for nearly half of all workers. Today, women are ''captains'' of their own destinies, and they will continue to help shape our Nation's future. Women hold 74 seats in the United States Congress, more than at any time in our country's history, and women own more than 9 million businesses employing more than 27.5 million workers. Through their tireless service on a daily basis, the women of our Nation have woven the fabric of families and communities. They contribute immeasurably through faith-based and community organizations.

Our Nation's women could not be where they are—nor could our country be where it is—without the strength and courage, wisdom and persistence of those who preceded them. America has been blessed with women like Harriet Beecher Stowe, Susan B. Anthony, and Jane Addams, all of whom refused to accept oppression as inevitable. Female political leaders including Margaret Chase Smith and Eleanor Roosevelt forever changed the face of American government. Women have played a vital role in educating our Nation: Mary Lyon, Dorothea Dix, Elizabeth Blackwell, and Mary McLeod Bethune all fought history and stereotypes to become scholars in their own right and pass their knowledge to subsequent generations. Similarly, female authors such as Anne Bradstreet, Emily Dickinson, Pearl Buck, and Zora Neale Hurston represent only a small sample of the many women who have contributed to the American literary canon.

Our Nation boasts a rich history of women whose heroic achievements speak to the sense of excellence, potential, and patriotism shared by all Americans. Anna Warner Bailey's and Clara Barton's courage in war has inspired generations of men and women called upon to fight for America. The fortitude of spirit displayed by Helen Keller, Amelia Earhart, and Wilma Rudolph has made them role models both here and abroad. Finally, from the sacrifice of mothers and grandmothers to the dedication of successful women in business, government, and charitable work, the legacy of women in America gives all young people in this country the impetus to dream without limits.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 2001 as ''Women's History Month.'' I call upon all the people of the United States to observe this month with appropriate ceremonies and activities and to remember their contributions throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of March, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 01–5670
Filed 3–5–01; 11:47 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7412 of March 2, 2001

National Poison Prevention Week, 2001

By the President of the United States of America

A Proclamation

National Poison Prevention Week alerts Americans to the dangers of accidental childhood poisonings and to the measures that help prevent poisonings. During the 40 years since the Congress authorized the annual proclamation of National Poison Prevention Week, our Nation has seen a dramatic decrease in deaths from childhood poisoning. In 1962, nearly 450 children died from poisoning after they accidentally swallowed medicines or household chemicals. From 1993 through 1997, an average of 36 children died each year from poisoning. This dramatic reduction in poisoning fatalities is a significant public health success.

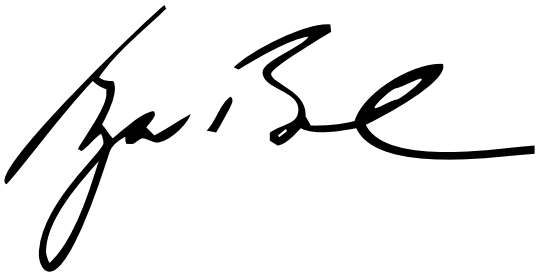
However, the death of even one child from poisoning should be prevented. According to the American Association of Poison Control Centers, more than 1 million children each year are exposed to potentially poisonous medicines and household chemicals. The first line of defense is child-resistant packaging required by the Consumer Product Safety Commission for many medicines and household chemicals. But this special packaging is ''child-resistant,'' not ''child-proof.'' Therefore, potential poisons must be locked up away from children. And if a poisoning occurs, local poison control centers should be called immediately.

The Poison Prevention Week Council brings together 35 national organizations to distribute poison prevention information to pharmacies, public health departments, and safety organizations nationwide. National Poison Prevention Week has been very effective, but there is more to do. We all should use and properly re-close child-resistant packaging, keep poisonous substances locked up away from children, and keep available poison control center phone numbers next to the telephone. These measures can help prevent tragedies.

To encourage the American people to learn more about the dangers of accidental poisonings and to take more preventive measures, the Congress, by joint resolution approved September 26, 1961 (75 Stat. 681), has authorized and requested the President to issue a proclamation designating the third week of March each year as ''National Poison Prevention Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim the week beginning March 18, 2001, as National Poison Prevention Week. I call upon all Americans to observe this week by participating in appropriate ceremonies and activities and by learning how to prevent accidental poisonings among children.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of March, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 01–5671
Filed 3–5–01; 11:47 am]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 66, No. 44

Tuesday, March 6, 2001

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Commodity Credit Corporation

Loan and purchase programs:
- Wheat, barley or oats; 2001 grazing payments; published 3-6-01

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Toxic substances:
- Lead-based paint activities—
  - Residences and child-occupied facilities; identification of dangerous levels of lead; published 1-5-01

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:
- Sponsor name and address changes—
  - Sweetlix, LLC; published 3-6-01

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Federal Aviation Administration

Airworthiness directives:
- Short Brothers; published 1-30-01

VETERANS AFFAIRS DEPARTMENT

Board of Veterans Appeals:
- Veterans law judges; new title for Board members; published 3-6-01

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Farm Service Agency

Program regulations:
- Low-documentation direct operating loan (Lo-Doc) regulations; implementation; comments due by 3-12-01; published 1-9-01

AGRICULTURE DEPARTMENT

Rural Business-Cooperative Service

Program regulations:
- Low-documentation direct operating loan (Lo-Doc) regulations; implementation; comments due by 3-12-01; published 1-9-01

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Rural Housing Service

Program regulations:
- Low-documentation direct operating loan (Lo-Doc) regulations; implementation; comments due by 3-12-01; published 1-9-01

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Electric loans:
- Principal and interest; payments extensions; comments due by 3-12-01; published 1-9-01

Program regulations:
- Low-documentation direct operating loan (Lo-Doc) regulations; implementation; comments due by 3-12-01; published 1-9-01

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- Magnuson-Stevens Act provisions—
  - Domestic fisheries; exempted fishing permit applications; comments due by 3-14-01; published 2-27-01
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- Helium acquisition; comments due by 3-12-01; published 1-11-01

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- New Jersey; comments due by 3-12-01; published 1-9-01

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Tebufenozide; comments due by 3-12-01; published 1-10-01

Superfund program:
- National oil and hazardous substances contingency plan—
  - National priorities list update; comments due by 3-12-01; published 1-11-01

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- Fixed microwave services—
  - Multichannel video and data distribution service; 12.2-12.7 GHz band; comments due by 3-12-01; published 1-24-01

Radio stations; table of assignments:
- California; comments due by 3-12-01; published 2-1-01
- Georgia; comments due by 3-12-01; published 2-1-01
- North Dakota; comments due by 3-12-01; published 2-1-01

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- Helium acquisition; comments due by 3-12-01; published 1-11-01

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Health Care Financing Administration

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- Clinical psychology training programs; payment; comments due by 3-13-01; published 1-12-01

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  - Bay checkerspot butterfly; comments due by 3-12-01; published 2-9-01
  - Spruce-fir moss spider; correction; comments due by 3-14-01; published 2-27-01
- Dolly Varden; comments due by 3-12-01; published 1-9-01

Marine mammals:
- Polar bear trophies; importation from Canada; change in finding for M'Clintock Channel population; comments due by 3-12-01; published 1-10-01

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Employment and Training Administration

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

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PENSION BENEFIT GUARANTY CORPORATION

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Federal Aviation Administration

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- McDonnell Douglas; comments due by 3-12-01; published 2-14-01
- Raytheon; comments due by 3-12-01; published 2-14-01

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Class E airspace; correction; comments due by 3-15-01; published 2-12-01

TRANSPORTATION DEPARTMENT

Federal Railroad Administration

Railroad workplace safety:
- Roadway maintenance machine safety; comments due by 3-12-01; published 1-10-01

TRANSPORTATION DEPARTMENT

Saint Lawrence Seaway Development Corporation

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- Tariff of tolls; fees and charges for 2001 navigation season; comments due by 3-12-01; published 2-9-01

VETERANS AFFAIRS DEPARTMENT

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- Type 2 diabetes; herbicide exposure; diseases subject to presumptive service connection; comments due by 3-12-01; published 1-11-01

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 ''P L U S'' (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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