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Federal Register

6–1–01 Friday
Vol. 66 No. 106 June 1, 2001
Pages 29661–29894

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

RIN 0584–AC39

Food Stamp Program: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; Delay of Effective Date

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule; delay of effective date.

SUMMARY: The final rule, ''The Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996,'' was published on January 17, 2001 at FR 66 4438. The rule finalizes the proposed rule of the same name which was published December 17, 1999. It implements 13 provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The original effective date of the rule (with the exception of one amendment) was April 2, 2001. In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001, the effective date of the rule was delayed for 60 days to June 1, 2001, via an action published in the **Federal Register** on February 5, 2001 at 66 FR 8886. The Under Secretary of the Food, Nutrition, and Consumer Services and has just recently been confirmed and has not yet been sworn-in. In order to give the new Under Secretary time to review the rule, this action delays the effective date of the final rule (with the exception of one amendment) an additional 60 days to July 31, 2001.

In addition, the State agencies were required to implement the final rule no later than August 1, 2001. Because the rule will not be effective now until July 31, 2001, this action establishes a new implementation date of October 1, 2001.

DATES: The effective date of the Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, published in the **Federal Register**, on January 17, 2001, at 66 FR 4438, is delayed for an additional 60 days, from June 1, 2001 to a new effective date of July 31, 2001, except for the amendment to 7 CFR 272.2(d)(1)(xiii) which retains the effective date of August 1, 2001. The implementation date of the final rule is delayed for 60 days from August 1, 2001, to a new implementation date of October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Patrick Waldron, Chief, Certification Policy Branch, Program Development Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302, (703) 305–2495.

SUPPLEMENTARY INFORMATION: To the extent that 5 U.S.C. section 553 applies to this section, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. section 553(b)(A). Alternatively, the Department's implementation of this rule without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. section 553(b)(B) and 553(d)(3). Seeking public comment is impracticable, unnecessary and contrary to the public interest. The temporary 60-day delay in effective date is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. Given the imminence of the effective date, seeking prior public comment on this temporary delay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. The imminence of the effective date is also good cause for making this rule effective immediately upon publication.

Dated: May 29, 2001.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 01–13854 Filed 5–31–01; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 100, 103, 236, 245a, 274a and 299

[INS No. 2115–01; AG Order No. 2430–2001]

RIN 1115–AG06

Adjustment of Status Under Legal Immigration Family Equity (LIFE) Act Legalization Provisions and LIFE Act Amendments Family Unity Provisions

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule implements section 1104 of the Legal Immigration Family Equity Act (LIFE Act) and the LIFE Act Amendments by establishing procedures for certain class action participants to become lawful permanent residents of this country. Persons who may be eligible to adjust under section 1104 of the LIFE Act and its Amendments are aliens who have filed for class membership with the Attorney General, before October 1, 2000, in one of three legalization lawsuits: (1) *Catholic Social Services, Inc.* v. *Meese,* vacated sub nom. *Reno* v. *Catholic Social Services, Inc.,* 509 U.S. 43 (1993) (*CSS*); (2) *League of United Latin American Citizens* v. *INS,* vacated sub nom. *Reno* v. *Catholic Social Services, Inc.,* 509 U.S. 43 (1993) (*LULAC*); or (3) *Zambrano* v. *INS,* vacated, 509 U.S. 918 (1993) (*Zambrano*).

This interim rule also implements section 1504 of the LIFE Act Amendments by providing for a stay of removal and work authorization for certain spouses and unmarried children of those aliens eligible to adjust under section 1104 of the LIFE Act.

This rule is necessary to ensure that those aliens eligible to apply for benefits under the provisions of the LIFE Act and LIFE Act Amendments are able to do so in a timely manner.

DATES: *Effective date:* This interim rule is effective June 1, 2001.

Comment date: Written comments must be submitted on or before July 31, 2001.

ADDRESSES: Please submit written comments to Richard A. Sloan, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW, Room 4034, Washington, DC 20536. To ensure proper handling, please reference INS No. 2115–01 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Elizabeth N. Lee or Suzy Nguyen, Assistant Directors, for matters relating to LIFE Legalization; Elizabeth N. Lee or Rebecca Peters, for matters relating to Family Unity; Office of Adjudications, Immigration and Naturalization Service, 425 I Street NW, Room 3214, Washington, DC 20536, telephone (202) 514–3228.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

Legal Immigration Family Equity (LIFE) Act Legalization Provisions

1. Definitions
2. Eligibility
3. Ineligibility and grounds of inadmissibility
4. Filing and applications
5. During pendency of application
6. Proof of eligibility
7. Decisions, appeals, motions, and certifications

LIFE Act Amendments Family Unity Provisions

1. Eligibility
2. Description of program
3. Ineligible aliens
4. Filing
5. Protection from removal and eligibility for employment
6. Travel outside the United States
7. Termination of Family Unity benefits

Legal Immigration Family Equity (LIFE) Act Legalization Provisions

Definitions

What Are the Legalization Provisions of the LIFE Act?

On December 21, 2000, President Clinton signed into law the Legal Immigration Family Equity Act (LIFE Act), Title XI of H.R. 5548, enacted by reference in Public Law 106–553 (Dec. 21, 2000), and the LIFE Act Amendments, Title XV of H.R. 5666, enacted by reference in Public Law 106–554 (Dec. 21, 2000), which provides for numerous different immigration benefits. Section 1104 of the LIFE Act and its Amendments (LIFE Legalization) allow certain eligible aliens to apply for adjustment of status to that of a lawful permanent resident (LPR) under a modified version of section 245A of the Immigration and Nationality Act (Act) (8 U.S.C. 1255a). Aliens who are eligible to apply for adjustment under LIFE Legalization are *only* those who, before October 1, 2000, had filed with the Attorney General a written claim for class membership in the *CSS*, *LULAC*, or *Zambrano* legalization class action lawsuits. In order to qualify for adjustment, aliens must establish that they entered the United States before January 1, 1982, and thereafter resided in continuous unlawful status through May 4, 1988. Aliens must also establish that they were continuously physically present in the United States from November 6, 1986, through May 4, 1988. Furthermore, aliens must demonstrate basic citizenship skills. Finally, aliens must be otherwise admissible to the United States under the Act. LIFE Legalization also provides for a stay of removal or deportation and work authorization for eligible aliens under this law while their adjustment applications are pending.

What Are the Family Unity Provisions of the LIFE Act?

Section 1504 of the LIFE Act Amendments provides that the Attorney General may not remove certain spouses and children of aliens eligible to adjust under LIFE Legalization and shall grant employment authorization to those eligible spouses and children for the period of time in which they have been afforded Family Unity protection. The exact scope of the Family Unity provisions of the LIFE Act Amendments is discussed later in this interim rule.

What Are the Provisions of Section 245A of the Act?

On November 6, 1986, President Reagan signed into law the Immigration Reform and Control Act of 1986 (IRCA), Public Law 99–603. Section 201 of IRCA created a ''legalization'' program under section 245A of the Act, that allowed for certain aliens to apply for adjustment to temporary resident status, and later to LPR status. To be eligible, an alien needed to establish that he or she entered the United States before January 1, 1982, and that he or she resided continuously in the United States in an unlawful status since such date through the date that his or her application for temporary resident status was filed. Aliens who entered the United States without inspection and certain nonimmigrants were eligible to apply under the IRCA. The legalization program had a 1-year application period that began on May 5, 1987, and ended on May 4, 1988.

What Modifications Do the LIFE Legalization Provisions Make to Section 245A of the Act?

LIFE Legalization made several notable modifications to section 245A of the Act (8 U.S.C. 1255a). First, aliens who applied for legalization benefits under IRCA first needed to apply for adjustment to lawful temporary resident status. Subsequent to this adjustment, these aliens were required to apply for adjustment to LPR status. In contrast, those eligible aliens applying for adjustment of status under LIFE Legalization will be submitting applications to adjust to LPR status directly. There is no provision or requirement for first adjusting to lawful temporary resident status.

Second, sections 245A (c)(1) through (c)(4) of the Act allowed for qualified designated entities (QDEs) to forward applications for adjustment of status under section 245A of the Act to the Immigration and Naturalization Service (Service), provided the alien had consented to such action. The LIFE Legalization provisions have no such QDE provision. Accordingly, all applications for adjustment of status under LIFE Legalization must be filed by the alien, or by his or her representative, directly to the Service.

Third, section 245A(c)(7) of the Act provided for the allocation of up to $3 million of the application fees for section 245A of the Act to immigration-related unfair employment practices programs. The LIFE Legalization provisions specifically prohibit the use of any funds collected through this program to be used in such a manner.

Fourth, section 245A(f)(4)(C) of the Act prohibited any court from having jurisdiction over any cause or action or claim by, or on behalf of, any person asserting an interest under section 245A of the Act unless that person had actually filed or attempted to file an application under section 245A of the Act. This section does not apply to an alien eligible for adjustment under LIFE Legalization, effective November 6, 1986.

Fifth, section 245A(h) of the Act provided a 5-year prohibition on newly legalized aliens from receiving certain public welfare assistance. The LIFE Legalization provisions specifically state that section 245A(h) does not apply to those aliens who adjust to LPR status under LIFE Legalization. Although aliens who have adjusted their status under the LIFE Legalization provisions are exempt from the bar on public assistance under Section 245A(h), they

remain subject to the restrictions on access to benefits set forth in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform Act), as amended (Public Law 104–193, 110 Stat. 2105). The Welfare Reform Act, as amended, establishes restrictions on access to federal, state, and local public benefits by aliens, including lawful permanent residents. 8 U.S.C. 1601 through 1625. Aliens who adjust to permanent residency under LIFE Legalization are encouraged to contact the relevant benefit-granting agency for information about their eligibility for specific public benefit programs. *See also,* Notice, Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 62 FR 61344; Notice, Personal Responsibility and Work Opportunity Reconciliation Act of 1996; Interpretation of ''Federal Public Benefit,'' 63 FR 41658.

Sixth, LIFE Legalization provides for the same confidentiality provisions as the IRCA, with the exception that information furnished by an eligible alien pursuant to any applications filed under LIFE Legalization may be used by the Attorney General for purposes of rescinding LPR status pursuant to 8 CFR part 246.

In many other respects the provisions of LIFE Legalization are identical to those contained in section 245A of the Act. Accordingly, where applicable, much of the regulatory language contained in this interim rule is taken from 8 CFR 245a.3 (Application for adjustment from temporary to permanent resident status).

What Are the Three Pertinent Legalization Class Action Lawsuits CSS, LULAC, and Zambrano About?

The three class action lawsuits listed in LIFE Legalization involved claims by aliens who were unsuccessful in applying for legalization under section 245A of the Act enacted in 1986. The aliens in *CSS, LULAC,* and *Zambrano* argued that either their claims were denied or that they were discouraged from applying.

Eligibility

How is an Alien Eligible for Adjustment to LPR Status Under LIFE Legalization?

First, an alien must prove that he or she, before October 1, 2000, filed a written claim with the Attorney General for class membership in the *CSS, LULAC,* or *Zambrano* legalization class action lawsuits in order to be considered an eligible alien for adjustment to LPR status under LIFE Legalization. Applicants who were denied class membership in the *CSS, LULAC,* or *Zambrano* legalization class action lawsuits by the Service are still eligible to apply for adjustment of status under LIFE Legalization.

Second, an eligible alien must then submit evidence to establish the following five requirements—that he or she:

1. Properly files an application for adjustment under LIFE Legalization;
2. Entered the United States before January 1, 1982, and resided continuously in the United States in an unlawful status since that date through May 4, 1988;
3. Was continuously physically present in the United States during the period from November 6, 1986, through May 4, 1988;
4. Is not inadmissible to the United States for permanent residence under any provisions of the Act; and
5. Establishes basic citizenship skills as required.

Ineligibility and Grounds of Inadmissibility

Who Is Ineligible for Adjustment Under LIFE Legalization?

As under IRCA, LIFE Legalization specifies that any otherwise eligible alien who has ever been convicted of a felony or of three or more misdemeanors in the United States is ineligible to adjust status under LIFE Legalization. Further, any alien who has ever assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion is ineligible to adjust status under LIFE Legalization. There are no waivers available for the grounds of ineligibility described in this paragraph.

The LIFE Legalization provisions further specify that section 241(a)(5) of the Act (8 U.S.C. 1231(a)(5)) does not apply to an alien adjusting under LIFE Legalization. Section 241(a)(5) of the Act provides for the reinstatement of a removal order against any alien who illegally re-enters the United States after having been removed or after having departed voluntarily under an order of removal. It also bars any alien whose removal order has been reinstated from receiving any relief under the Act.

All aliens must establish that they are admissible under section 212(a) of the Act (8 U.S.C. 1182(a)). Sections 212(a)(5) (labor certification requirements) and 212(a)(7)(A) (documentation requirements for immigrants) are not applicable to LIFE Legalization applicants. Any alien who is inadmissible under other provisions of section 212(a) of the Act is not eligible for adjustment to LPR status under section 245A of the Act (8 U.S.C. 1255a). A waiver for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest is available for some, but not all, grounds of inadmissibility. In addition, the LIFE Legalization provisions also allow for waivers for those aliens inadmissible pursuant to sections 212(a)(9)(A) and 212(a)(9)(C) of the Act (aliens previously removed and aliens unlawfully present after previous immigration violations). The following grounds of inadmissibility under section 212(a) of the Act, however, may not be waived:

1. Sections 212(a)(2)(A) and (B) of the Act, crimes involving moral turpitude and controlled substances;
2. Section 212(a)(2)(C) of the Act, controlled substance traffickers;
3. Section 212(a)(3) of the Act, security and related grounds; and
4. Section 212(a)(4) of the Act, aliens likely to become a public charge.

In determining whether the alien is likely to become a public charge, and would therefore be inadmissible under section 212(a)(4) of the Act, there is a Special Rule that is discussed in this interim rule at 8 CFR 245a.18(d). In short, the Special Rule allows the Service to look at an alien's employment history when determining whether he or she is likely to become a public charge.

Filing and Applications

May an Alien Who is Already in Exclusion, Deportation, or Removal Proceedings, or Who has a Motion To Reopen or Motion To Reconsider Pending Before the Immigration Court or the Board of Immigration Appeals (Board) Apply for LIFE Legalization Adjustment With the Service?

Yes, an alien who has a proceeding pending before the Immigration Court or the Board, or who has a motion to reopen or a motion to reconsider filed with the Immigration Court or the Board, may still file an application for LIFE Legalization adjustment of status with the Service. However, the alien must also request that the Immigration Court or the Board, whichever has jurisdiction, administratively close proceedings, or indefinitely continue any pending motion to reopen or reconsider in order to allow the alien to proceed with a LIFE Legalization application. In the request to administratively close the matter or indefinitely continue the motion, the alien must include documents establishing prima facie eligibility for

relief, and proof that the LIFE Legalization application has already been filed with the Service. The Service must consent before the matter is administratively closed.

What Happens if an Applicant is the Subject of a Final Order of Exclusion, Deportation, or Removal?

Jurisdiction over LIFE Legalization applicants lies only with the Service. Thus, an eligible alien who is the subject of a final order of exclusion, deportation, or removal may file such application with the Service. The filing of a LIFE Legalization adjustment application during the application period stays the execution of any final order of exclusion, deportation, or removal. This stay shall remain in effect unless the district director who seeks to execute the order makes a final determination that the application does not present a prima facie claim to LIFE Legalization eligibility on certain criminal grounds and serves the applicant with a written decision explaining the reason for this determination.

How Does an Alien Apply for Adjustment of Status Under LIFE Legalization?

An alien must file Form I–485, Application to Register Permanent Residence or Adjust Status, during the 1-year application period beginning June 1, 2001, and ending May 31, 2002, along with all required documentary evidence and appropriate fee(s). An additional instruction form, Supplement D, LIFE Legalization Supplement to Form I–485 Instructions, will assist applicants with the application process.

When and Where Should the Application be Filed?

LIFE Legalization authorizes the Attorney General to provide a 1-year application period for LIFE Legalization applicants to file for adjustment. The application period begins on June 1, 2001, and ends on May 31, 2002. Pursuant to existing regulations at 8 CFR 103.2(a)(7), applications filed with the Service are considered to be ''received'' on the date of actual receipt in a Service office.

Because of the particular nature of the LIFE Legalization program, and the high anticipated volume of applications by the deadline date, the Service is making a special exception to the requirements at 8 CFR 103.2(a)(7). For purposes of LIFE Legalization only, the Service will implement a postmark rule that is patterned directly on the Internal Revenue Service (IRS) regulations at 26 CFR 301.7502–1. The IRS rules provide an established set of standards for determining the timeliness of mail, whether mailed from within the United States or from abroad. Any LIFE Legalization application that is postmarked by the United States Post Office on or before the deadline date will be considered to be timely filed, regardless of the date it is actually received by the Service. In the case where a postmark is illegible or missing, the Service will consider the application to be timely filed if it is received by June 3, 2002, if the application was mailed from within the United States, or by June 14, 2002, if the application was mailed from abroad. Applications that are postmarked after May 31, 2002, will be untimely and will be denied. To avoid the risk that an application may be postmarked after May 31, 2002, applicants within the United States might consider sending applications via United States registered or certified mail.

All applications for adjustment of status under LIFE Legalization must be submitted by *mail* to: United States Immigration and Naturalization Service, Post Office Box 7219, Chicago, IL 60607–7219. Applications may not be submitted to any other Service location.

Can an Alien Submit an Application for Adjustment of Status Under LIFE Legalization if He or She Is Outside the United States?

Yes, an applicant for LIFE Legalization may apply for adjustment of status from outside the United States. An applicant filing for LIFE Legalization from abroad must mail an application along with all required documentary evidence and appropriate fee(s) to: United States Immigration and Naturalization Service, Post Office Box 7219, Chicago, IL 60607–7219. Applications may not be submitted to any consular post. As with domestic applicants, the Service is making a special exception to the requirements at 8 CFR 103.2(a)(7). Any LIFE Legalization application that is postmarked on or before May 31, 2002, will be considered to be timely filed, regardless of the date it is actually received by the Service. In the case where a postmark is illegible or missing, and the application was mailed from abroad, the Service will consider the application to be timely filed if it is received by June 14, 2002. Applications that are postmarked after May 31, 2002, or applications that have illegible or no postmarks and are received after June 14, 2002, will be untimely and will be denied. If an application has both a foreign postmark and a postmark subsequently made by the United States Post Office, the Service will disregard the postmark made by the United States Post Office. The Service will then consider the foreign postmark when determining the timeliness of the filing of the application. LIFE Legalization provisions do not provide applicants outside the United States with a means to enter the United States in order to apply for adjustment under LIFE Legalization. Upon review of applications from abroad, the Service will notify applicants of any further evidence required and/or what further steps need to be taken.

How Will the Service Evaluate the Evidence Submitted?

In all cases, any doubts as to the existence, authenticity, veracity, or accuracy of the documentation shall be resolved by the official Government record, with Service records having precedence over the records of other agencies. Furthermore, adjudications will be made according to the weight of the evidence. It shall be the responsibility of the applicant to obtain and submit copies of the records of any other Government agency that the applicant desires to be considered in support of his or her application.

What Forms and Other Documents Should Be Filed?

Each applicant for LIFE Legalization adjustment of status benefits must file a separate Form I–485, accompanied by the required application fee(s) and supporting documents. As discussed later, applicants are encouraged to file applications for employment authorization and advance parole, if desired, with their Form I–485. Applicants should complete Part 2 (Application Type) of Form I–485 by checking box ''h—other'' and writing ''LIFE Legalization'' next to that block. Each application must be accompanied by:

1. Application fee;
2. Fingerprinting fee;
3. Proof of identity;
4. A completed Form G–325A, Biographic Information Sheet, if the applicant is between the age of 14 and 79;
5. A report of medical examination;
6. Two photographs as described in the Form I–485 instructions;
7. Evidence as described in 8 CFR 245a.14 to establish that before October 1, 2000, the alien filed with the Attorney General a written claim for class membership in the *CSS, LULAC,* or *Zambrano* lawsuit;
8. Evidence as described in 8 CFR 245a.15 to prove continuous residence in an unlawful status since prior to

January 1, 1982, through May 4, 1988, in the United States;

9. Evidence as described in 8 CFR 245a.16 to prove continuous physical presence between November 6, 1986, and May 4, 1988, in the United States; and

10. Evidence as described in 8 CFR 245a.17 to establish the applicant's citizenship skills.

It is noted that LIFE Legalization specifies that any alien who is a male who is at least 18 years of age, but not yet 26 years of age is required to register under the Military Selective Service Act. 50 U.S.C. 453(a). Once a Form I–485 has been accepted by the Service, any LIFE Legalization applicant required to register under the Military Selective Service Act will have his name, current address, Social Security number, date of birth, and the date the Form I–485 was filed forwarded to the Selective Service System. If the LIFE Legalization applicant has already registered with the Selective Service System, the Selective Service will check its records to avoid any duplication.

Must the Applicant Be Fingerprinted?

Yes, unless the applicant is under 14 years of age or over 75 years of age. Upon receipt of the application, the Service will instruct the applicant regarding procedures for obtaining fingerprints through one of the Service's Application Support Centers (ASCs) or authorized Designated Law Enforcement Agencies (DLEAs) chosen specifically for that purpose. Those instructions will direct the applicant to the ASC or DLEA nearest the applicant's home and advise the applicant of the date(s) and time(s) fingerprinting services may be obtained. Applicants should not submit fingerprint cards as part of the initial filing. If the applicant must be fingerprinted, he or she must submit the fee of $25 to cover fingerprinting costs at the time the Form I–485 is filed.

Is There a Fee for Filing This Application?

Yes, those aliens applying for adjustment of status under LIFE Legalization will be required to pay an application fee of $330. The Service recognizes that this is a higher fee than the current Form I–485 application fee; however, the provisions of section 245A of the Act allowed for the Service to provide for a schedule of fees to be charged for the filing of applications under section 245A of the Act. 8 U.S.C. 1255a(c)(7). Moreover, section 245A(g)(3) of the Act, which was not modified by LIFE Legalization, provides that regulations issued pursuant to section 245A of the Act may be prescribed to take effect on an interim final basis if the Attorney General determines, as is the case here, that it is necessary in order to implement that section in a timely manner. As will be discussed later in this interim rule, the Service determined that $330 represents the full cost of processing the Form I–485 for LIFE Legalization.

Can Someone Else Sign the Application if the Applicant is a Child or a Person Who is Mentally Incompetent?

In accordance with 8 CFR 103.2(a)(2), an application may be signed by a parent or legal guardian if the applicant is under 14 years of age, and by a legal guardian if the applicant is mentally incompetent. However, an applicant who is under age 14 is not precluded from signing the application if he or she is capable of understanding the significance of the attestation.

During Pendency of Application

What Other Benefits Are Eligible Aliens Entitled to During the Application Process?

Until a final determination is made on their application, eligible aliens in the United States who present a prima facie application for adjustment to LPR status under LIFE Legalization:

1. May not be deported or removed from the United States;

2. Are entitled to employment authorization; and

3. In accordance with procedures set forth in these regulations, may return to the United States following brief, casual, and innocent trips abroad.

For these reasons, all LIFE Legalization applicants who are in the United States, and who desire to work and/or travel abroad, are encouraged to submit a Form I–765, Application for Employment Authorization, and a Form I–131, Application for Travel Document, with appropriate fees, at the time the Form I–485 is submitted.

Can an Applicant Be Authorized to Work While His or Her LIFE Legalization Adjustment Application Is Pending?

Yes, an alien who establishes a prima facie claim for LIFE Legalization will be granted employment authorization. In determining a prima facie claim, the Service will verify that the applicant applied for class membership in the *CSS, LULAC,* or *Zambrano* lawsuit before October 1, 2000, and that the applicant presents, on the face of the application package, all of the eligibility requirements. An applicant for adjustment is able to apply for, and be granted, an extension of any such employment authorization if he or she remains eligible. An applicant for adjustment of status under LIFE Legalization who wishes to obtain initial employment authorization, or employment authorization renewals, during the pendency of the adjustment of status application, may file a Form I–765 with the Service. Further, if the applicant has already received employment authorization under any other provision of the Act, that employment authorization will not be affected by the filing of an application for adjustment of status under LIFE Legalization.

What is the Service's Policy on Travel Outside the United States by a LIFE Legalization Applicant Who Applied From Within the United States While His or Her LIFE Legalization Adjustment Application is Pending?

LIFE Legalization applicants wishing to travel outside the United States while their adjustment applications are pending should apply for ''advance parole'' on Form I–131, Application for Travel Document. The Form I–131 must be mailed to: United States Immigration and Naturalization Service, Post Office Box 7219, Chicago, IL 60607–7219. If an alien travels abroad and returns to the United States with a grant of advance parole, the Service will presume that the alien is entitled to return to the United States. Further, a LIFE Legalization applicant who departs the United States will not be subject to the provisions of section 212(a)(9)(B) of the Act (8 U.S.C. 1182(a)(9)(B)) (aliens unlawfully present in the United States who seek to reenter the United States). A LIFE Legalization applicant returning to the United States from travel abroad without a grant of advance parole may be subject to removal proceedings and may have to process or/and await his or her adjustment application from outside the United States. This is discussed in the regulations at 8 CFR 245a.13(a)(3), (e)(2), and (e)(3) in this interim rule.

Proof of Eligibility

How Does an Alien Establish That He or She Applied for Class Membership in the CSS, LULAC, or Zambrano Class Action Lawsuit?

Aliens who had applied for class membership in *CSS, LULAC,* or *Zambrano* before October 1, 2000, were required to submit various forms of written applications for class membership to the Service including, but not limited to, a Form I–687, Application for Status as a Temporary Resident—Applicants under Section 245A of the Immigration and

Nationality Act, as amended, a ''Questionnaire for class member applicants,'' and supporting documentation. The Service reviewed the application and evidence submitted, and made a determination on whether the alien qualified for class membership. A written notification was then sent to the alien, and/or his or her representative, informing them of the Service's decision. If the alien was determined to be a class member under *CSS, LULAC,* or *Zambrano,* the alien was entitled to employment authorization.

An alien filing a LIFE Legalization application should submit as many of the documents involved in the process previously described as necessary to establish that he or she had applied for class membership in the *CSS, LULAC,* or *Zambrano* lawsuit before October 1, 2000. These documents should, at a minimum, include the alien's full name, A-number, and date(s). The following documents, for example, may be submitted:

1. Employment authorization document (EAD) based on the class membership;
2. Service notification granting or denying the class membership;
3. Questionnaire for class member applicants in *CSS, LULAC,* or *Zambrano;*
4. Service document(s) pursuant to the class membership application (e.g., Parole Authorization, or denial of such, Order to Show Cause, Notice to Appear, Final Order of Removal, Request for Evidence (RFE), or Form I–687 submitted with the class membership application); or
5. Any other relevant documents.

The Service will check its databases and files to verify the alien's claim. If it can be verified that the alien had in fact applied for class membership, the Service will notify him or her of its determination and grant employment authorization (if applied for by the alien).

What Does it Mean To Prove Continuous Residence in an Unlawful Status Since Prior to January 1, 1982, Through May 4, 1988, in the United States?

As required by IRCA and again of LIFE Legalization applicants, the applicant must provide evidence that he or she entered the United States before January 1, 1982, either as a nonimmigrant or without inspection. Under LIFE Legalization, the applicant must also provide evidence that he or she thereafter resided in continuous unlawful status through May 4, 1988. An eligible alien who entered the United States as a nonimmigrant before January 1, 1982, must establish that:

1. His or her authorized period of admission as a nonimmigrant expired before January 1, 1982, through the passage of time and that he or she resided continuously in the United States in an unlawful status since that date through May 4, 1988; or
2. His or her unlawful status was known to the Government before January 1, 1982, and that he or she resided continuously in the United States in an unlawful status since that date through May 4, 1988.

How Does an Alien Establish That His or Her Unlawful Status Prior to January 1, 1982, Was ''Known to the Government''?

Known to the Government means that, prior to January 1, 1982, documents existed in one or more Federal Government agencies' files such that when such documentation is taken as a whole, it warrants a finding that the alien's status in the United States was unlawful. *See Mater of P-,* 19 I&N Dec. 823 (Comm. 1988). Further, any absence of mandatory annual and/or quarterly registration reports from Federal Government files does not warrant a finding that the alien's unlawful status was ''known to the Government.'' *See Matter of H-,* 20 I&N Dec. 693 (Assoc. Comm. 1993). (Under section 265 of the Act (8 U.S.C. 1305), nonimmigrants were required to register with the Service by January 30 of each year and to notify the Service of their address at the end of each 3-month period.)

What Does it Mean To Prove Continuous Physical Presence Between November 6, 1986, and May 4, 1988, in the United States?

Contained in IRCA and required of LIFE Legalization applicants, evidence must be provided to establish their continuous physical presence in the United States from November 6, 1986, through May 4, 1988.

Can an Alien be Absent Between November 6, 1986, and May 4, 1988, From the United States and Still be ''Continuously Physically Present'' in the United States?

Yes, so long as such absences were brief, casual, and innocent or were pursuant to a Service-authorized advance parole. ''Brief, casual, and innocent'' means temporary, occasional trips abroad as long as the purpose of the absence from the United States was consistent with the policies reflected in the immigration laws of the United States. Whether an absence is brief, casual, and innocent is a factual question appropriate for case-by-case analysis in consideration of the meaning of the phrase. Brief refers to the temporal length of the absence, and must not be so long as to reduce the significance of the whole period of continuous physical presence. *See Kamheangpatiyooth* v. *INS,* 597 F.2d 1253, 1256–1257 (9th Cir. 1979). Casual is interpreted to mean performed without regularity, occasionally. *See Castrejon-Garcia* v. *INS,* 60 F.3d 1359, 1363 (9th Cir. 1995). Innocent refers to the purpose of the absence from the United States, and whether that purpose was consistent with or contrary to a policy reflected in the immigration laws. *See Catholic Social Services* v. *Meese,* 685 F. Supp. 1149, 1158 (E.D. Cal. 1988).

If an alien was absent from the country pursuant to an advance parole, this absence will not be considered as having interrupted his or her continuous physical presence. Brief, casual, and innocent absences from the United States are not limited to absences with advance parole.

A single absence from the United States of more than 30 days or an aggregate of all absences exceeding 90 days shall not be deemed to be a brief, casual, and innocent absence unless the alien had advance parole or the alien can establish that due to emergent reasons, his or her return to the United States could not be accomplished within the time period(s) allowed.

Will an Applicant Who Establishes a Prima Facie Case of Eligibility be Required To Appear for an Interview?

If a LIFE Legalization applicant appears eligible for the benefit, an interview will be required as, at a minimum, the applicant must demonstrate a minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States as required under section 312(a) of the Act (8 U.S.C. 1423). If an applicant fails to appear for an interview, his or her LIFE Legalization adjustment application may be denied for lack of prosecution. If an applicant is determined to be statutorily ineligible, his or her LIFE Legalization adjustment application may be denied without interview.

As stated earlier, the LIFE Legalization provisions require applicants to demonstrate basic citizenship skills as specified in section 312(a) of the Act (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States). Therefore, during their interview, LIFE Legalization applicants

will be required to demonstrate a minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States as required under section 312(a) of the Act.

In lieu of the above, to meet the requirement, an applicant may instead submit: (1) A high school diploma; (2) a general educational development diploma (GED); or (3) a certification on letterhead stationery from a state recognized, accredited learning institution in the United States that the applicant is attending or has attended such institution. The course of study at such learning institution must be for a period of one academic year (or the equivalent thereof according to the standards of the learning institution) and the curriculum must include at least 40 hours of instruction in English and United States history and government.

Decisions, Appeals, Motions, and Certifications

When Will an Applicant Know That a Final Determination has Been Made on His or Her Adjustment Application?

The applicant will be notified in writing of the Service's decision on his or her adjustment application. If the application is approved, the applicant will be so advised and will also be advised of the delivery of his or her Form I–551, Permanent Resident Card, and of the process for obtaining temporary evidence of alien registration. If the application is denied, the applicant will be notified of the Service's decision and the reason(s) for denial. The applicant will also be notified of his or her appellate rights. If the application was denied because the Service was unable to verify a prima facie claim for LIFE Legalization, the applicant will neither be eligible for, nor entitled to, employment authorization or advance parole. If the reasons for the denial do not include inability to verify application for class membership in the CSS, *LULAC,* or *Zambrano* lawsuit or failure to present a prima facie claim for LIFE Legalization, and the applicant appeals the denial and was entitled to employment authorization and advance parole at the time of the decision of denial, he or she will continue to be eligible to apply for and be entitled to employment authorization and advance parole until a final decision is made on his or her appeal.

What Documentation Will be Issued if the Adjustment Application Is Approved at the Time of the Interview?

If, at the time of the interview, the Service officer conducting the interview determines that the application is approvable, the applicant will receive temporary evidence of LPR status. A Form I–551 will be mailed to the applicant at a later date; therefore, the applicant must maintain possession of any temporary evidence of LPR status until receipt of the Form I–551.

What Documentation Will Be Issued If, at the Time of the Interview, the Service Determines That the Adjustment Application Cannot Be Approved?

If the application cannot be approved at the time of the interview, and further review of the application and supporting documents is required, the applicant will be notified in writing of any subsequent decision rendered by the Service. Applicants should keep this notice for their records. If the application has been approved, a Form I–551 will be mailed separately to the applicant. To obtain temporary evidence of LPR status, the applicant may present the original approval notice and his or her passport or other photo identification at his or her local Service office. The local Service office will issue temporary evidence of LPR status after verifying the approval of the adjustment of status application. If the applicant is not in possession of a passport in which such temporary evidence may be endorsed, he or she should also submit two photographs meeting the specifications described in the instructions to the Form I–485 so that the Service may prepare and issue temporary evidence of LPR status.

What Happens if the Application Is Denied?

Whenever an application for adjustment of status under LIFE Legalization is denied, the alien, and his or her attorney or representative, shall be given written notice stating the specific reason(s) for the denial. The denial shall also contain advice to the alien that he or she may appeal the decision, and shall provide instructions on when and where the appeal must be filed. The alien shall be advised that he or she may submit additional evidence, and a supporting brief, with the appeal. The notice of denial shall additionally provide a notice to the alien that if he or she fails to file an appeal from the decision, the notice of denial will serve as a final notice of ineligibility.

What Is the Appeals Process?

All appeals from decisions of denials of applications under LIFE Legalization must be filed on Form I–290B, Notice of appeal to the Administrative Appeals Unit (AAU). Appeals filed from within the United States must be filed with the Service office that denied the application within 30 days of the date the decision was mailed. Any appeal that is received subsequent to this 30-day period will not be accepted for processing and the decision of denial will be considered to be a final notice of ineligibility. If an applicant's last known address of record was outside the United States, and the notice of denial was mailed to that foreign address, then the appeal must be received within 60 days of the date the decision was mailed. Any appeal from abroad that is received subsequent to this 60-day period will not be accepted for processing and the decision of denial will be considered a final notice of ineligibility.

All appeals must be properly completed and must be accompanied by the appropriate fee of $110. Upon receipt of an appeal, the administrative record will be forwarded to the Administrative Appeals Office (AAO) for review and decision. The decision on appeal will be provided to the alien, and his or her attorney or representative, in writing, and if the appeal is dismissed, it shall include a final notice of ineligibility. No further administrative appeal shall lie from this decision, nor may the application be filed or reopened before an Immigration Court or the Board of Immigration Appeals during exclusion, removal, or deportation proceedings.

If the appeal is sustained, and the application approved, the alien will be advised in writing of the decision and of the process for obtaining temporary evidence of alien registration. A Form I–551 will be mailed separately to the alien.

How Did the Service Decide That the LIFE Legalization Application Fee Should Be $330?

The Service believes that it is reasonable to identify a current application whose process is similar to the requirements outlined under LIFE Legalization in order to select an appropriate fee to charge applicants under LIFE Legalization. Aliens filing LIFE Legalization applications are applying to adjust their status to that of LPR. The current Service application whose process is most similar to the LIFE Legalization process is the Form I–485, which is currently used by other

aliens to adjust their status to that of LPR. In developing fees, the Service must comply with guidance provided in the Office of Management and Budget (OMB) Circular A–25. This guidance directs Federal agencies to charge the ''full cost'' of providing benefits when calculating fees that provide a special benefit to recipients. Section 6(d) of OMB Circular A–25 defined ''full cost'' as including ''all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service.'' Therefore, the Service referred to its most recent fee review—the FY 2000 ''Immigration Examinations Fee Account Review.'' This review conducted an in-depth analysis of both direct and indirect costs using an activity-based costing methodology. The fee review identified the current full cost of the Form I–485 to be $330. The Service determined that a $330 fee for the Form I–485 would underwrite the Service's processing and administrative costs incurred in the Form I–485 adjudication process, such as staffing, training of Service personnel, and adjudication of applications. The Service will thus use $330 for the fee for LIFE Legalization applications until the next biennial fee review, as required by the Chief Financial Officers Act of 1990, Public Law 101–576, 104 Stat. 2838. The Service will make the fee review available to the public upon request.

LIFE Act Amendments Family Unity Provisions

Eligibility

Who is Eligible for LIFE Act Amendments Family Unity Benefits?

Aliens who might benefit from the Family Unity provisions of the LIFE Act Amendments are those who:

1. Are currently in the United States;
2. Are the spouse or unmarried child of an alien who is eligible for adjustment under LIFE Legalization; and
3. Entered the United States before December 1, 1988, and were residing in the United States on such date.

Section 1504 of the LIFE Act Amendments extends immigration benefits to an alien ''who is the spouse or unmarried child'' of an alien described in section 1104 of the LIFE Act. The LIFE Act Amendments, however, do not refer to a specific date on which that familial status is to be determined. Consistent with the purpose of the Family Unity program to provide temporary protection to keep families together that are on a path to legalize their status under the Act, the Service takes the position that an eligible spouse who was married to an eligible principal alien on the date of enactment, December 21, 2000, but has since divorced, should no longer be entitled to Family Unity benefits after the divorce becomes final. On the other hand, a newly-married spouse would be able to get Family Unity benefits, if otherwise eligible, even if he or she was not married to the principal alien on December 21, 2000.

A more difficult issue, however, arises when an alien ''ages-out'' when he or she reaches his or her 21st birthday because he or she no longer meets the Act's definition of a ''child'', *see* 8 U.S.C. 1101(b)(1). As section 1504(b) of the LIFE Act Amendments describes an eligible child as an alien who ''is'' the unmarried child of an alien described in section 1104(b) of the LIFE Act, it is not apparent from the face of the statutory language that Family Unity protection can be extended to aliens who were children on December 21, 2000, but who ''age-out'' of the Act's definition of child by virtue of reaching their 21st birthday. Congress's precise intention is not clear in this regard, although the limited legislative history available states that the objective was to ensure that family members ''are treated in the same manner as the family members of those who adjusted their status under IRCA.'' *Joint Memorandum Concerning the Legal Immigration Family Equity Act of 2000 and the LIFE Act Amendments of 2000,* 146 Cong. Rec. S11851 (Dec. 15, 2000). However, the language of section 1504 is different from section 301 of the Immigration Act of 1990 (IMMACT 90), Public Law 101–649, 104 Stat. 4978, 5029, which specifically referred to status as a child as of a particular date in the past.

Given the need to implement an interpretation of the statute that is consistent as it applies to both spouses and children, and in view of the interpretation of other provisions of the immigration laws relating to a child who ''ages-out'' upon reaching the age of 21, the Department interprets section 1504(b) of the LIFE Act Amendments to require the requisite familial status (the spousal or child relationship) both at the time when the application for Family Unity benefits is adjudicated and thereafter. If the familial status does not exist at the time of adjudication the alien will not be eligible for Family Unity benefits. If the status as a spouse or child exists at the time of adjudication, but ceases to exist thereafter, the alien will no longer be eligible for Family Unity benefits. Similarly, an alien who ceases to be an unmarried child because of the alien's marriage is no longer eligible.

The fact that an alien is ineligible for Family Unity benefits under section 1504 of the LIFE Act Amendments solely because he or she has reached the age of 21 after December 21, 2000, or for other reasons, does not mean that the alien necessarily will be removed from the United States. The Service has in place guidance for the exercise of prosecutorial discretion that provide for the assessment, on a case-by-case basis, of whether seeking the removal of a particular alien serves a substantial Federal enforcement interest. Factors to be considered include, among others, humanitarian concerns (including family ties in the United States) and whether there is a legal avenue available for the alien to regularize his or her status if not removed from the United States. Whether an alien who is no longer eligible for Family Unity benefits is eligible for employment authorization depends upon whether the alien falls within one of the classes of aliens authorized employment in 8 CFR 274a.12. The Service is also considering whether to seek clarification of the scope of the Family Unity benefit as applied to ''age-out'' children through statutory amendment.

The LIFE Act Amendments also authorize the Attorney General to parole aliens who are no longer physically present in the United States into the United States so that they may obtain benefits under the LIFE Act Amendments Family Unity provisions. The Service is in the process of developing the specific procedures for implementing this provision of the LIFE Act Amendments. As such, the details will be discussed in a separate rulemaking at a later time. The parole provisions only apply to eligible family members of an alien who has already been granted LIFE Legalization, and do not apply to LIFE Legalization applicants or their families.

Description of Program

What Is the Difference Between the Existing Family Unity Program and the Family Unity Provisions of the LIFE Act Amendments?

The statutory eligibility requirements imposed on aliens in order to qualify for benefits under the existing Family Unity Program (FUP) implementing section 301 of IMMACT 90, and the LIFE Act Amendments Family Unity provisions are different. In order to benefit from the FUP, the applicant had to be the spouse or unmarried child (under the age of 21) of an alien who had already adjusted status to that of either temporary or permanent resident under section 245A of the Act (8 U.S.C. 1255a). Also, in

order to qualify, the FUP applicants were required to establish entry into the United States before May 5, 1988, residence on that date, continuous residence in the United States since that date, and that a qualifying relationship with the legalized alien existed as of May 5, 1988. 8 CFR 236.12. The specific eligibility requirements for aliens who might benefit from the LIFE Act Amendments Family Unity provisions will be discussed in more detail later in this interim rule. In general, however, aliens who might benefit from the LIFE Act Amendments Family Unity provisions must establish entry into the United States before December 1, 1988, residence in the United States on December 1, 1988, and that a qualifying relationship with an alien who is eligible for adjustment of status under LIFE Legalization currently exists. Thus, while the old FUP is focused on unifying families that were in existence as of May 5, 1988, the Family Unity provisions of the LIFE Act Amendments serve to benefit only those families that are in existence after the date of enactment of the LIFE Act Amendments.

Another difference between the two programs is that the current FUP regulations ban FUP beneficiaries from receiving Federal financial assistance. Specifically, 8 CFR 236.17 states that any spouse or child who receives Family Unity benefits through an alien who received lawful temporary residence, and who was banned from receiving certain public welfare assistance for a period of 5 years pursuant to section 245A(h) of the Act, is similarly banned from receiving certain public welfare assistance. The LIFE Act explicitly states that section 245A(h) of the Act does not apply to aliens adjusting status under LIFE Legalization. The inapplicability of section 245A(h) of the Act to aliens adjusting status under LIFE Legalization, however, does not mean that they are generally eligible for all public benefits. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104–193, 110 Stat. 2105, as amended, limits the eligibility of lawful permanent residents and other ''qualified aliens,'' as defined by the welfare reform law, for certain Federal, state, and local means-tested public benefits. 8 U.S.C. 1601 through 1625. Individuals are encouraged to contact the relevant benefit-granting agency for information about their eligibility for public benefit programs.

Ineligible Aliens

Who Is Ineligible for Family Unity Benefits Under the LIFE Act Amendments?

Pursuant to section 1504(d) of the LIFE Act Amendments (and by incorporation, section 241(b)(3)(B) of the Act, 8 U.S.C. 1231(b)(3)(B)), an alien is ineligible for Family Unity benefits if the Service finds or determines that:

1. The alien has been convicted of a felony or of three or more misdemeanors in the United States;
2. The alien has ordered, incited, assisted, or otherwise participated in the persecution of an individual because of the individual's race, religion, nationality, membership in a particular social group, or political opinion;
3. The alien has been convicted by a final judgment of a particularly serious crime and is a danger to the community of the United States;
4. There are serious reasons to believe that the alien has committed a serious nonpolitical crime outside the United States before the alien arrived in the United States; or
5. There are reasonable grounds to believe that the alien is a danger to the security of the United States.

It must be noted that under section 1504(a)(1) of the LIFE Act Amendments, an alien granted Family Unity benefits under the provisions of the LIFE Act Amendments may not be removed on certain grounds. The grounds on which such an alien may not be removed are limited to the following:

1. Section 237(a)(1)(A) of the Act (8 U.S.C. 1227(a)(1)(A)) (aliens who were inadmissible at the time of entry or adjustment of status), except that the alien may be removed if he or she is inadmissible because of a ground listed in section 212(a)(2) (criminal and related grounds) or in section 212(a)(3) (security and related grounds) of the Act;
2. Section 237(a)(1)(B) of the Act (aliens present in the United States in violation of the Act or any other law of the United States);
3. Section 237(a)(1)(C) of the Act (aliens who violated their nonimmigrant status or violated the conditions of entry); or
4. Section 237(a)(3)(A) of the Act (aliens who failed to comply with the change of address notification requirements).

Consistent with the existing regulations implementing section 301 of IMMACT 90, if an alien is removable on a ground that is not protected by section 1504(a)(1) of the LIFE Act Amendments, the Service finds that it would be inappropriate to grant Family Unity benefits to that alien. Accordingly, aliens in such circumstance will not be afforded Family Unity benefits.

Filing

How Does an Alien Who Is Present in the United States Apply for Benefits Under the Family Unity Provisions of the LIFE Act Amendments?

Aliens who are eligible for benefits under the Family Unity provisions of the LIFE Act Amendments and who are currently residing in the United States should file a Form I–817. The Form I–817 must be submitted by *mail* to: United States Immigration and Naturalization Service, Post Office Box 7219, Chicago, IL 60607–7219. An alien who is eligible for benefits under the Family Unity provisions of the LIFE Act Amendments and files a Form I–817 on or before May 31, 2002, need only demonstrate that he or she has a qualifying relationship to an alien who is *eligible to apply* for LIFE Legalization. Any Form I–817 that is filed on or after June 1, 2002 (i.e., after the statutorily mandated LIFE Legalization application period has ended), must include evidence that the alien through whom the applicant is alleging eligibility for Family Unity benefits has filed a Form I–485 pursuant to LIFE Legalization. If a Form I–817 is submitted on or before May 31, 2002, but is not adjudicated until on or after June 1, 2002, the Service will request that the applicant submit evidence that the alien through whom the applicant is alleging eligibility for Family Unity benefits has filed a Form I–485. When the Form I–817 is filed, the alien must include:

1. The required fee of $120.00;
2. Four photographs as described in the Form I–817 instructions;
3. Documentary evidence of his or her qualifying relationship to the alien eligible for adjustment of status under LIFE Legalization;
4. Documentary evidence of his or her entry into the United States prior to December 1, 1988;
5. Documentary evidence of his or her residence in the United States on December 1, 1988;
6. Documentary evidence that his or her spouse or parent applied for class membership in the *CSS, LULAC,* or *Zambrano* lawsuit before October 1, 2000;
7. If the Form I–817 is filed on or after June 1, 2002, documentary evidence that his or her spouse or parent has filed a Form I–485 seeking adjustment of status under LIFE Legalization; and
8. When required, a fingerprint fee of $25.00.

The instructions to the Form I–817 provide examples of documents that can

be submitted by an individual to prove eligibility under these provisions. The instructions also advise under what circumstances a fingerprint fee is required.

Will the Family Unity Applicants Be Required To Appear for an Interview?

Not every applicant under the Family Unity provisions of the LIFE Act Amendments will be required to appear before a Service officer for an interview. If, however, a Service officer believes that an interview would be necessary to review evidence of the applicant's eligibility, then one will be scheduled. The Family Unity applicant would be notified in writing of the time and place of the interview.

How Will a Family Unity Applicant Know That a Final Determination has Been Made on His or Her Form I–817?

The Service will notify the applicant in writing of any decision made on the Form I–817. If the Form I–817 is approved, the Family Unity beneficiary will be so notified and will receive an employment authorization document (EAD). The EAD will be valid for 1 year. If the Form I–817 is denied, the Family Unity applicant will be so notified. There is no appeal from the denial of a Form I–817.

Will a Family Unity Beneficiary Receive Automatic Extensions of His or Her EAD at the End of the 1-Year Period?

No, the Service will not automatically extend a Family Unity beneficiary's EAD upon its expiration. The Service is in the process of finalizing procedures that must be followed by all Family Unity beneficiaries to extend their EADs. These procedures will be discussed in a separate rulemaking at a later time.

Protection From Removal and Eligibility for Employment

Is a Family Unity Applicant Entitled to Employment Authorization While the Form I–817 Is Pending?

No, the initial filing of a Form I–817 does not entitle the applicant to employment authorization from the Service. If and when the applicant's initial Form I–817 is approved, the alien will receive Family Unity benefits prescribed by law, including employment authorization.

Is the Grant of Family Unity Benefits Under the LIFE Act Amendments a Period of Authorized Stay Such That the Beneficiary Is Not Accruing Unlawful Presence Within the Scope of Section 212(a)(9)(B) of the Act?

Yes, if an applicant is granted Family Unity benefits pursuant to the LIFE Act Amendments, he or she will be deemed to have received an authorized period of stay approved by the Attorney General. Such authorized period of stay will be deemed to begin as of the date the Form I–817 was filed. Accordingly, a Family Unity beneficiary will not accrue unlawful presence as long as he or she retains Family Unity protection. If, however, a beneficiary under the Family Unity provisions of the LIFE Act Amendments has his or her benefits terminated by the Service, the former Family Unity beneficiary will begin accruing unlawful presence immediately from the date of such termination.

Travel Outside the United States

Is a Family Unity Applicant Allowed To Travel Outside the United States While the Form I–817 Is Pending?

No, any applicant who departs the United States while his or her Form I–817 is pending will be deemed to have abandoned the application and the application will be denied. If a Form I–817 is approved, the Family Unity beneficiary will be allowed to travel to and from the United States provided he or she applies for advance parole, using Form I–131, before departing the United States.

Termination of Family Unity Benefits

Can an Alien's Family Unity Benefits Ever Be Terminated?

Yes, the Service may terminate Family Unity benefits whenever the necessity for such action comes to the attention of the Service. The following bases of termination are founded upon the grounds of ineligibility for Family Unity benefits discussed earlier in this interim rule. These grounds for termination include, but are not limited to:

1. A determination is made that Family Unity benefits were acquired as the result of fraud or willful misrepresentation of a material fact;
2. The Family Unity beneficiary commits an act or acts which render him or her ineligible for benefits under the LIFE Act Amendments Family Unity provisions; or
3. The alien, upon whose status LIFE Act Family Unity benefits are based, is issued a final determination of ineligibility for LIFE Legalization;
4. Failure of the alien, upon whose status LIFE Act Family Unity benefits are based, to apply for LIFE Legalization within the statutory application period;
5. The alien, upon whose status LIFE Act Family Unity benefits are based, loses his or her status as a LPR;
6. A qualifying relationship to the alien, upon whose status LIFE Act Family Unity benefits are based, no longer exists.

The LIFE Act Amendments do not specifically address the subject of termination. However, the reference in section 1504(a)(2) of the LIFE Act Amendments to ''the period of time in which protection is provided,'' and the general principle that an agency can act through regulation to fill gaps in a statute in a way that reasonably gives effect to the statutory scheme and avoids absurd results, support the Service's rulemaking to ensure, for example, that a benefit that is improvidently granted as a result of fraud may be withdrawn. The grounds for termination include situations in which the principal alien does not apply, or is found ineligible for legalization. As the very name ''Family Unity'' implies, a protection that is derivatively based upon another alien who has an opportunity to legalize his or her status, no longer carries out the reasonable statutory intention if that alien is ineligible to legalize and lacks protection from removal. Rather, this would place the derivative family members in a more advantageous immigration position than the principal alien, yet in a limbo situation in which they could not be removed on certain grounds of deportation but would not have any prospect of adjusting their status to lawful permanent residence. The rule avoids this absurd result by filling the gap in the LIFE Act Amendments by providing reasonable bases and procedures for termination.

What Is the Termination Process?

If the Service determines that an alien who received benefits pursuant to the LIFE Act Amendments Family Unity provisions is no longer eligible for such benefits, the alien will be advised in writing of such determination. The alien will be advised of the Service's intent to terminate and of the reason(s) thereof. The alien will be given 30 days to respond to the notice of intent to terminate and to submit evidence in his or her behalf. The alien will then be advised in writing of the Service's final determination.

Congressional Review Act

Although this rule falls under the category of major rule as that term is

defined in 5 U.S.C. 804(2)(A), the Department finds that under 5 U.S.C. 808(2) good cause exists for implementation of this rule on June 1, 2001. The reason for immediate implementation is as follows: The provisions of Public Law 106–553, which was enacted on December 21, 2000, require that the Service publish implementing regulations not later than 120 days after the date that Public Law 106–553 was enacted. Accordingly, the Service is required to issue regulations immediately. Moreover, because the application period prescribed under the LIFE Act for eligible aliens to apply for adjustment under section 245A of the Act, as modified by Public Law 106–553, does not begin until the Attorney General issues this regulation, and given the public interest in providing these important benefits and protections, the Attorney General has determined to issue this regulation as an interim final rule, effective immediately.

Interim Rule Justification

The Service is implementing this rule on an interim final basis with a request for post promulgation comments. The provisions of Public Law 106–553 require that the Attorney General issue implementing regulations no later than 120 days after the date that the legislation was enacted on December 21, 2000. Moreover, section 245A(g)(3) of the Act (8 U.S.C. 1255a(g)(3)), which was not modified by Public Law 106–553, provides that regulations issued pursuant to section 245A of the Act may be prescribed to take effect on an interim final basis if the Attorney General determines that it is necessary in order to implement that section in a timely manner. Because the application period prescribed under the LIFE Act for eligible aliens to apply for adjustment under section 245A of the Act, as modified by Public Law 106–553, does not begin until the Attorney General issues this regulation, and given the public interest in providing these important benefits and protections, the Attorney General has determined that timely implementation of the LIFE Legalization program requires the issuance of this regulation on an interim final basis.

Good Cause Exception

The foregoing statutory provisions notwithstanding, the Department also finds that this regulation falls within the ''good cause'' exception found at 5 U.S.C. 553(b)(3)(B) and (d)(3) as the immediate effectiveness of this rule is necessary in order to allow aliens to apply for these important benefits and protections at their earliest opportunity. Accordingly, prior notice and public comment on this interim rule is unnecessary and contrary to the public interest.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities because of the following factors. The rule applies to individuals, not small entities, and allows certain class action participants who entered before January 1, 1982, to apply for adjustment of status. It, therefore, has no effect on small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year, and it will not significantly or uniquely effect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996 (5 U.S.C. 804). This rule will result in an effect on the economy of:

$152,379,000 for 2001;
$77,352,000 for 2002; and
$34,260,000 for 2003.

This increase is directly associated with the expected increase in the number of applications as a result of Public Laws 106–553 and 106–554, and the increase in fee that is provided for in section 245A(c)(7) of the Act (8 U.S.C. 1255a(c)(7)). The Service projects that in fiscal year 2001, a total of 789,000 applications will be submitted because of the LIFE Act Legalization and Family Unity provisions as follows:

300,000 Forms I–485;
150,000 Forms I–131;
15,000 Forms I–193;
300,000 Forms I–765; and
24,000 Forms I–817.

The Service projects that in fiscal year 2002, a total of 568,000 applications will be submitted as follows:

100,000 Forms I–485;
55,000 Forms I–131;
5,000 Forms I–193;
400,000 Forms I–765; and
8,000 Forms I–817.

The Service projects that in fiscal year 2003, a total of 328,000 applications will be submitted as follows:

100,000 Forms I–130;
20,000 Forms I–131;
200,000 Forms I–765; and
8,000 Forms I–817.

Executive Order 12866

This rule is considered by the Department of Justice to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

Executive Order 13132

This regulation 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. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988: Civil Justice Reform

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Family Assessment

The Attorney General has reviewed this regulation and has determined that it may affect family well-being as that term is defined in section 654 of the Treasury General Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681, Div. A. Accordingly, the Attorney General has assessed this action in accordance with the criteria specified by section 654 (c)(1). In this rule, the Family Unity provisions of the LIFE Act Amendments positively affect the stability of the family by providing a means for the family unit to remain intact.

Paperwork Reduction Act of 1995

This rule provides for the use of a new Form I–485 Supplement D and the revision of Form I–817. These forms are considered information collection requirements under the Paperwork Reduction Act. Since the Service was required to publish regulations implementing Public Law 106–553 within 120 days after enactment, the Service has requested and received emergency review and clearance by the Office of Management and Budget

(OMB) in accordance with the Paperwork Reduction Act. The emergency approval is only valid for 180 days.

A regular review of this information will also be undertaken. Written comments are encouraged and will be accepted until July 31, 2001. Submit comments to: Immigration and Naturalization Service, Policy Directives and Instructions Branch, 425 I Street NW, Room 4034, Washington, DC 20536. Your comments should address one or more of the following points.

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and 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.

The Service, in calculating the overall burden the Form I–485 supplement D requirement will place on the public, estimates that approximately 400,000 applicants will apply for adjustment of status under LIFE Legalization. The Service has estimated that it takes applicants five and one quarter (5.25) hours to complete Form I–485. The Service also estimates that it will take the applicants approximately one (1) additional hour to complete the Form I–485 with the supplement D. As such, the Service estimates that it will take the applicants a total of six and one quarter (6.25) hours to complete the LIFE Legalization application. This amounts to 2.5 million total annual burden hours for the collection of this information.

The Service, in calculating the overall burden the revised Form I–817 requirement will place on the public, estimates that approximately 40,000 applicants will apply for Family Unity benefits under the LIFE Act Amendments. The Service also estimates that it will take the applicants approximately two and one half (2.5) hours to complete the application. This amounts to 100,000 total annual burden hours for the collection of this information.

Additionally, comments regarding this burden estimate or any aspect of these information collection requirements, including suggestions for reducing the burden, should be directed to the Immigration and Naturalization Service, Policy Directives and Instructions Branch, 425 I Street, N.W., Room 4034, Washington, DC 20536; Attention: Richard A. Sloan, Director, 202–514–3291.

List of Subjects

8 CFR Part 100

Organization of functions (Government agencies).

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 236

Administrative practice and procedure, Aliens, Immigration.

8 CFR Part 245a

Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 274a

Administrative practice and procedures, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 100—STATEMENT OF ORGANIZATION

1. The authority citation for part 100 continues to read as follows:

Authority: 8 U.S.C. 1103; 8 CFR part 2.

§ 100.4 [Amended]

2. Section 100.4 is amended in paragraph (e) by adding the entry for the ''Missouri Service Center, Lee's Summit, Missouri'' immediately after the entry for ''Vermont Service Center, St. Albans, Vermont''.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

3. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356; 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

4. Section 103.2 is amended by revising the first sentence in paragraph (a)(7)(i), to read as follows:

§ 103.2 Applications, petitions, and other documents.

* * * * *

(a) * * *

(7) * * *

(i) *General.* An application or petition received in a Service office shall be stamped to show the time and date of actual receipt and, unless otherwise specified in part 204 or part 245 or part 245a of this chapter, shall be regarded as properly filed when so stamped, if it is signed and executed and the required filing fee is attached or a waiver of the filing fee is granted. * * *

* * * * *

5. Section 103.7 is amended by adding a sentence at the end of the entry for ''Form I–485'' in paragraph (b)(1), to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

* * * * *

Form I–485. * * * All applicants filing for adjustment under LIFE Legalization (Public Law 106–553) must pay $330.00.

* * * * *

PART 236—APPREHENSION AND DETENTION OF INADMISSIBLE AND DEPORTABLE ALIENS; REMOVAL OF ALIENS ORDERED REMOVED

6. The authority citation for part 236 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1224, 1225, 1226, 1227, 1362; sec. 303(b) of Div. C of Pub. L. No. 104–208; 8 CFR part 2.

7. Section 236.14(a) is amended by revising the second sentence to read as follows:

§ 236.14 Filing.

(a) * * * A Form I–817, Application for Family Unity Benefits, must be filed with the correct fee required in § 103.7(b)(1) of this chapter and the required supporting documentation. * * *

* * * * *

PART 245a—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR LAWFUL TEMPORARY OR PERMANENT RESIDENT STATUS UNDER SECTION 245a OF THE IMMIGRATION AND NATIONALITY ACT

8. The authority citation for part 245a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1255a, and 1255a note.

9. Sections 245a.1 through 245a.5 are designated as Subpart A.

10. The heading for Subpart A is added to read:

Subpart A—Immigration Reform and Control Act of 1986 (IRCA) Legalization Provisions

11. Subparts B and C are added to read as follows:

Subpart B—Legal Immigration Family Equity (LIFE) Act Legalization Provisions

Sec.
245a.10 Definitions.
245a.11 Eligibility to adjust to LPR status.
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245a.17 Citizenship skills.
245a.18 Ineligibility and applicability of grounds of inadmissibility.
245a.19 Interviews.
245a.20 Decisions, appeals, motions, and certifications.
245a.21 Confidentiality.
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245a.23 through 245a.29 [Reserved]

Subpart C—LIFE Act Amendments Family Unity Provisions

245a.30 Description of program.
245a.31 Eligibility.
245a.32 Ineligible aliens.
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245a.34 Protection from removal, eligibility for employment, and period of authorized stay.
245a.35 Travel outside the United States.
245a.36 [Reserved]
245a.37 Termination of Family Unity Program benefits.

Subpart B—Legal Immigration Family Equity (LIFE) Act Legalization Provisions

§ 245a.10 Definitions.

In this Subpart B, the terms:

Eligible alien means an alien who, before October 1, 2000, filed with the Attorney General a written claim for class membership, with or without filing fee, pursuant to a court order issued in the case of:

(1) *Catholic Social Services, Inc.* v. *Meese,* vacated sub nom. *Reno* v. *Catholic Social Services, Inc.,* 509 U.S. 43 (1993) (*CSS*);

(2) *League of United Latin American Citizens* v. *INS,* vacated sub nom. *Reno* v. *Catholic Social Services, Inc.,* 509 U.S. 43 (1993) (*LULAC*); or

(3) *Zambrano* v. *INS,* vacated, 509 U.S. 918 (1993) (*Zambrano*).

Lawful Permanent Resident (LPR) means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

LIFE Act means the Legal Immigration Family Equity Act and the LIFE Act Amendments of 2000.

LIFE Legalization means the provisions of section 1104 of the LIFE Act and section 1503 of the LIFE Act Amendments.

Prima facie means eligibility is established if an ''eligible alien'' presents a properly filed and completed Form I–485 and specific factual information which in the absence of rebuttal will establish a claim of eligibility under this Subpart B.

§ 245a.11 Eligibility to adjust to LPR status.

An eligible alien, as defined in § 245a.10, may adjust status to LPR status under LIFE Legalization if:

(a) He or she properly files, with fee, Form I–485, Application to Register Permanent Residence or Adjust Status, with the Service during the application period beginning June 1, 2001, and ending May 31, 2002;

(b) He or she entered the United States before January 1, 1982, and resided continuously in the United States in an unlawful status since that date through May 4, 1988;

(c) He or she was continuously physically present in the United States during the period beginning on November 6, 1986, and ending on May 4, 1988;

(d) He or she is not inadmissible to the United States for permanent residence under any provisions of section 212(a) of the Act, except as provided in § 245a.18, and that he or she:

(1) Has not been convicted of any felony or of three or more misdemeanors committed in the United States;

(2) Has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(3) Is registered or registering under the Military Selective Service Act, if the alien is required to be so registered; and

(e) He or she can demonstrate basic citizenship skills.

§ 245a.12 Filing and applications.

(a) *When to file.* The application period begins on June 1, 2001, and ends on May 31, 2002. To benefit from the provisions of LIFE Legalization, an alien must properly file an application for adjustment of status, Form I–485, with appropriate fee, to the Service during this 1-year application period as described in this section. All applications, whether filed in the United States or filed from abroad, must be postmarked on or before May 31, 2002, to be considered timely filed.

(1) If the postmark is illegible or missing, and the application was mailed from within the United States, the Service will consider the application to be timely filed if it is *received* on or before June 3, 2002.

(2) If the postmark is illegible or missing, and the application was mailed from outside the United States, the Service will consider the application to be timely filed if it is *received* on or before June 14, 2002.

(3) If the postmark is made by other than the United States Post Office, and is filed from within the United States, the application must bear a date on or before May 31, 2002, and must be received on or before June 3, 2002.

(4) If an application filed from within the United States bears a postmark that was made by other than the United States Post Office, bears a date on or before May 31, 2002, and is received after June 3, 2002, the alien must establish:

(i) That the application was actually deposited in the mail before the last collection of the mail from the place of deposit which was postmarked by the United States Post Office May 31, 2002; and

(ii) That the delay in receiving the application was due to a delay in the transmission of the mail; and

(iii) The cause of such delay.

(5) If an application filed from within the United States bears both a postmark that was made by other than the United States Post Office and a postmark that was made by the United States Post Office, the Service shall disregard the postmark that was made by other than the United States Post Office.

(6) If an application filed from abroad bears both a foreign postmark and a postmark that was subsequently made by the United States Post Office, the Service shall disregard the postmark

that was made by the United States Post Office.

(7) In all instances, the burden of proof is on the applicant to establish timely filing of an application for LIFE Legalization.

(b) *Filing of applications in the United States.* The Service has jurisdiction over all applications for the benefits of LIFE Legalization under this Subpart B. All applications filed with the Service for the benefits of LIFE Legalization must be submitted by *mail* to the Service. After proper filing of the application, the Service will instruct the applicant to appear for fingerprinting as prescribed in § 103.2(e) of this chapter. The Director of the Missouri Service Center shall have jurisdiction over all applications filed with the Service for LIFE Legalization adjustment of status, unless the Director refers the applicant for a personal interview at a local Service office as provided in § 245a.19.

(1) *Aliens in exclusion, deportation, or removal proceedings, or who have a pending motion to reopen or motion to reconsider.* An alien who is prima facie eligible for adjustment of status under LIFE Legalization who is in exclusion, deportation, or removal proceedings before the Immigration Court or the Board of Immigration Appeals (Board), or who is awaiting adjudication of a motion to reopen or motion to reconsider filed with the Immigration Court of the Board, may request that the proceedings be administratively closed or that the motion filed be indefinitely continued, in order to allow the alien to pursue a LIFE Legalization application with the Service. In the request to administratively close the matter or indefinitely continue the motion, the alien must include documents demonstrating prima facie eligibility for the relief, and proof that the application for relief had been properly filed with the Service as prescribed in this section. With the concurrence of Service counsel, if the alien appears eligible to file for relief under LIFE Legalization, the Immigration Court or the Board, whichever has jurisdiction, shall administratively close the proceeding or continue the motion indefinitely.

(2) If an alien has a matter before the Immigration Court or the Board that has been administratively closed for reasons unrelated to this Subpart B, the alien may apply before the Service for LIFE Legalization adjustment of status.

(3) *Aliens with final orders of exclusion, deportation, or removal.* An alien, who is prima facie eligible for adjustment of status under LIFE Legalization, and who is subject to a final order of exclusion, deportation, or removal, may apply to the Service for LIFE Legalization adjustment.

(c) *Filing of applications from outside the United States.* An applicant for LIFE Legalization may file an application for LIFE Legalization from abroad. An application for LIFE Legalization filed from outside the United States shall be submitted by mail to the Service according to the instructions on the application. The Missouri Service Center Director shall have jurisdiction over all applications filed with the Service for LIFE Legalization adjustment of status. After reviewing the application and all evidence with the application, the Service shall notify the applicant of any further requests for evidence regarding the application and, if eligible, how an interview will be conducted.

(d) *Application and supporting documentation.* Each applicant for LIFE Legalization adjustment of status must file Form I–485. An applicant should complete Part 2 of Form I–485 by checking box ''h—other'' and writing ''LIFE Legalization'' next to that block. Each application must be accompanied by:

(1) The $330 application fee.

(2) The $25 fee for fingerprinting if the applicant is between the ages of 14 and 75.

(3) Evidence to establish identity, such as a passport, birth certificate, any national identity document from the alien's country of origin bearing photo and fingerprint, driver's license or similar document issued by a state if it contains a photo, or baptismal record/marriage certificate.

(4) A completed Form G–325A, Biographic Information Sheet, if the applicant is between the ages of 14 and 79.

(5) A report of medical examination, as specified in § 245.5 of this chapter.

(6) Two photographs, as described in the instructions to Form I–485.

(7) Proof of application for class membership in *CSS, LULAC,* or *Zambrano* class action lawsuits as described in § 245a.14.

(8) Proof of continuous residence in an unlawful status since prior to January 1, 1982, through May 4, 1988, as described in § 245a.15.

(9) Proof of continuous physical presence from November 6, 1986, through May 4, 1988, as described in § 245a.16.

(10) Proof of citizenship skills as described in § 245a.17.

(e) *Burden of proof.* An alien applying for adjustment of status under this part has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States under the provisions of section 212(a) of the Act, and is otherwise eligible for adjustment of status under this Subpart B. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification as set forth in paragraph (f) of this section.

(f) *Evidence.* The sufficiency of all evidence produced by the applicant will be judged according to its probative value and credibility. To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from his or her own testimony. In judging the probative value and credibility of the evidence submitted, greater weight will be given to the submission of original documentation.

(g) *Secondary evidence.* Except as otherwise provided in this paragraph, if the primary evidence required in this Subpart B is unavailable, church or school records, or other secondary evidence pertinent to the facts in issue, may be submitted. If such documents are unavailable, statements or other relevant documents may be submitted. In adjudicating the application for LIFE Legalization adjustment of status, the Service shall determine the weight to be given such secondary evidence. Secondary evidence may not be submitted in lieu of the documentation specified in paragraph (d)(3) of this section. However, subject to verification by the Service, if the evidence required to be submitted by the applicant is already contained in the Service's file relating to the applicant, the applicant may submit a statement to that effect in lieu of the actual documentation.

§ 245a.13 During pendency of application.

(a) *In general.* When an eligible alien in the United States submits a prima facie application for adjustment of status under LIFE Legalization during the application period, until a final determination on his or her application has been made, the applicant:

(1) May not be deported or removed from the United States;

(2) Is authorized to engage in employment in the United States and is provided with an ''employment authorized'' endorsement or other appropriate work permit; and

(3) Is allowed to travel and return to the United States as described at paragraph (e) of this section. Any domestic LIFE Legalization applicant who departs the United States while his or her application is pending without advance parole may be denied re-admission to the United States as

described at paragraph (e) of this section.

(b) *Determination of filing of claim for class membership.* With respect to each LIFE Legalization application for adjustment of status that is properly filed under this Subpart B during the application period, the Service will first determine whether or not the applicant is an ''eligible alien'' as defined under § 245a.10 of this Subpart B by virtue of having filed with the Service a claim of class membership in the *CSS, LULAC,* or *Zambrano* lawsuit before October 1, 2000. If the Service's records indicate, or if the evidence submitted by the applicant with the application establishes, that the alien had filed the requisite claim of class membership before October 1, 2000, then the Service will proceed to adjudicate the application under the remaining standards of eligibility.

(c) *Prima facie eligibility.* Unless the Service has evidence indicating ineligibility due to criminal grounds of inadmissibility, an application for adjustment of status shall be treated as a prima facie application during the pendency of application, until the Service has made a final determination on the application, if:

(1) The application was properly filed under this Subpart B during the application period; and

(2) The applicant establishes that he or she filed the requisite claim for class membership in the *CSS, LULAC,* or *Zambrano* lawsuit.

(d) *Authorization to be employed in the United States while the application is pending.*

(1) *Application for employment authorization.* An applicant for adjustment of status under LIFE Legalization who wishes to obtain initial or continued employment authorization during the pendency of the adjustment application must file a Form I–765, Application for Employment Authorization, with the Service, including the fee as set forth in § 103.7(b)(1) of this chapter. The applicant may submit Form I–765 either concurrently with or subsequent to the filing of the application for adjustment of status benefits on Form I–485.

(2) *Adjudication and issuance.* Until a final determination on the application has been made, an eligible alien who submits a prima facie application for adjustment of status under this Subpart B shall be authorized to engage in employment in the United States and be provided with an ''employment authorized'' endorsement or other appropriate work permit in accordance with § 274a.12(c)(24) of this chapter. An alien shall not be granted employment authorization pursuant to LIFE Legalization until he or she has submitted a prima facie application for adjustment of status under this Subpart B. If the Service finds that additional evidence is required from the alien in order to establish prima facie eligibility for LIFE Legalization, the Service shall request such evidence from the alien in writing. Nothing in this section shall preclude an applicant for adjustment of status under LIFE Legalization from being granted an initial employment authorization or an extension of employment authorization under any other provision of law or regulation for which the alien may be eligible.

(e) *Travel while the application is pending.* This paragraph is authorized by section 1104(c)(3) of the LIFE Act relating to the ability of an alien to travel abroad and return to the United States while his or her LIFE Legalization adjustment application is pending. Parole authority is granted to the Missouri Service Center Director for the purposes described in this section and may only be exercised pursuant to the standards prescribed in section 212(d)(5) of the Act. Nothing in this section shall preclude an applicant for adjustment of status under LIFE Legalization from being granted advance parole or admission into the United States under any other provision of law or regulation for which the alien may be eligible.

(1) An applicant for LIFE Legalization benefits applying from the United States should file, with his or her application for adjustment, a Form I–131, Application for Travel Document, with fee as set forth in § 103.7(b)(1) of this chapter. The Service shall approve the Form I–131 and issue an advance parole document, unless the Service finds that the alien's application does not establish a prima facie claim to adjustment of status under LIFE Legalization.

(2) If an alien travels abroad and returns to the United States with a grant of advance parole, the Service shall presume that the alien is entitled to return under section 1104(c)(3)(B) of the LIFE Act, unless, in a removal or expedited removal proceeding, the Service shows by a preponderance of the evidence, that one or more of the provisions of § 245a.11(d) makes the alien ineligible for adjustment of status under LIFE Legalization.

(3) If an alien travels abroad and returns without a grant of advance parole, he or she shall be denied admission and shall be subject to removal or expedited removal unless the alien establishes, clearly and beyond doubt, that:

(i) He or she filed an application for adjustment pursuant to LIFE Legalization during the application period that presented a prima facie claim to adjustment of status under LIFE Legalization; and,

(ii) His or her absence was either a brief and casual trip consistent with an intention on the alien's part to pursue his or her LIFE Legalization adjustment application, or was a brief temporary trip that occurred because of the alien's need to tend to family obligations relating to a close relative's death or illness or similar family need. A single absence from the United States of more than thirty (30) days or an aggregate of all absences exceeding ninety (90) days shall not be deemed to be a brief and casual trip unless the alien can establish that due to emergent reasons, his or her return to the United States could not be accomplished within the time period(s) allowed.

(4) An applicant for LIFE Legalization benefits who applies for admission into the United States shall not be subject to the provisions of section 212(a)(9)(B) of the Act.

(5) Denial of admission under this section is not a denial of the alien's application for adjustment. The alien may continue to pursue his or her application for adjustment from abroad, and may also appeal any denial of such application from abroad. Such application shall be adjudicated in the same manner as other applications filed from abroad.

(f) *Stay of final order of exclusion, deportation, or removal.* The filing of a LIFE Legalization adjustment application on or after June 1, 2001, and on or before May 31, 2002, stays the execution of any final order of exclusion, deportation or removal. This stay shall remain in effect until there is a final decision on the LIFE Legalization application, unless the district director who intends to execute the order makes a formal determination that the applicant does not present a prima facie claim to LIFE Legalization eligibility pursuant to §§ 245a.18(a)(1) or (a)(2), or §§ 245.18a(c)(2)(i), (c)(2)(ii), or (c)(2)(iii), and serves the applicant with a written decision explaining the reason for this determination. Any such stay determination by the district director is not appealable. Neither an Immigration Judge nor the Board has jurisdiction to adjudicate an application for stay of execution of an exclusion, deportation, or removal order, on the basis of the alien's having filed a LIFE Legalization adjustment application.

§ 245a.14 Application for class membership in the CSS, LULAC, or Zambrano lawsuit.

The Service will first determine whether an alien filed a written claim for class membership in the CSS, LULAC, or Zambrano lawsuit as reflected in the Service's indices, a review of the alien's administrative file with the Service, and by all evidence provided by the alien. An alien must provide with the application for LIFE Legalization evidence establishing that, before October 1, 2000, he or she was a class member applicant in the *CSS, LULAC,* or *Zambrano* lawsuit. An alien should include as many forms of evidence as the alien has available to him or her. Such forms of evidence include, but are not limited to:

(a) An Employment Authorization Document (EAD) or other employment document issued by the Service pursuant to the alien's class membership in the *CSS, LULAC,* or *Zambrano* lawsuit (if a photocopy of the EAD is submitted, the alien's name, A-number, issuance date, and expiration date should be clearly visible);

(b) Service document(s) addressed to the alien, or his or her representative, granting or denying the class membership, which includes date, alien's name and A-number;

(c) The questionnaire for class member applicant under *CSS, LULAC,* or *Zambrano* submitted with the class membership application, which includes date, alien's full name and date of birth;

(d) Service document(s) addressed to the alien, or his or her representative, discussing matters pursuant to the class membership application, which includes date, alien's name and A-number. These include, but are not limited to the following:

(1) Form I–512, Parole authorization, or denial of such;

(2) Form I–221, Order to Show Cause;

(3) Form I–862, Notice to Appear;

(4) Final order of removal or deportation;

(5) Request for evidence letter (RFE); or

(6) Form I–687 submitted with the class membership application.

(e) Any other relevant document(s).

§ 245a.15 Continuous residence in an unlawful status since prior to January 1, 1982, through May 4, 1988.

(a) *General.* The Service will determine whether an alien entered the United States before January 1, 1982, and resided in continuous unlawful status since such date through May 4, 1988, based on the evidence provided by the alien. An alien must provide with the application for LIFE Legalization evidence establishing that he or she entered the United States before January 1, 1982, and resided in continuous unlawful status since that date through May 4, 1988.

(b) *Evidence.*

(1) A list of evidence that may establish an alien's continuous residence in the United States can be found at § 245a.2(d)(3).

(2) The following evidence may establish an alien's unlawful status in the United States:

(i) Form I–94, Arrival-Departure Record;

(ii) Form I–20A–B, Certificate of Eligibility for Nonimmigrant (F–1) Student Status—For Academic and Language Students;

(iii) Form IAP–66, Certificate of Eligibility for Exchange Visitor Status;

(iv) A passport; or

(v) Nonimmigrant visa(s) issued to the alien.

(c) *Continuous residence.* An alien shall be regarded as having resided continuously in the United States if:

(1) No single absence from the United States has exceeded forty-five (45) days, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to emergent reasons, his or her return to the United States could not be accomplished within the time period allowed;

(2) The alien was maintaining residence in the United States; and

(3) The alien's departure from the United States was not based on an order of deportation.

(d) *Unlawful status.* The following categories of aliens, who are otherwise eligible to adjust to LPR status pursuant to LIFE Legalization, may file for adjustment of status provided they resided continuously in the United States in an unlawful status since prior to January 1, 1982, through May 4, 1988:

(1) An eligible alien who entered the United States without inspection prior to January 1, 1982.

(2) *Nonimmigrants.* An eligible alien who entered the United States as a nonimmigrant before January 1, 1982, whose authorized period of admission as a nonimmigrant expired before January 1, 1982, through the passage of time, or whose unlawful status was known to the Government before January 1, 1982. Known to the Government means documentation existing in one or more Federal Government agencies' files such that when such document is taken as a whole, it warrants a finding that the alien's status in the United States was unlawful. Any absence of mandatory annual and/or quarterly registration reports from Federal Government files does not warrant a finding that the alien's unlawful status was known to the Government.

(i) *A or G nonimmigrants.* An eligible alien who entered the United States for duration of status (D/S) in one of the following nonimmigrant classes, A–1, A–2, G–1, G–2, G–3 or G–4, whose qualifying employment terminated or who ceased to be recognized by the Department of State as being entitled to such classification prior to January 1, 1982. A dependent family member may be considered a member of this class if the dependent family member was also in A or G status when the principal A or G alien's status terminated or ceased to be recognized by the Department of State.

(ii) *F nonimmigrants.* An eligible alien who entered the United States for D/S in one of the following nonimmigrant classes, F–1 or F–2, who completed a full course of study, including practical training, and whose time period, if any, to depart the United States after completion of study expired prior to January 1, 1982. A dependent F–2 alien otherwise eligible who was admitted into the United States with a specific time period, as opposed to duration of status, documented on Form I–94, Arrival-Departure Record, that extended beyond January 1, 1982, is considered eligible if the principal F–1 alien is found eligible.

(iii) *Nonimmigrant exchange visitors.* An eligible alien who was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J) of the Act), who entered the United States before January 1, 1982, and who:

(A) Was not subject to the 2-year foreign residence requirement of section 212(e) of the Act; or

(B) Has fulfilled the 2-year foreign residence requirement of section 212(e) of the Act; or

(C) Has received a waiver for the 2-year foreign residence requirement of section 212(e) of the Act.

(3) *Asylum applicants.* An eligible alien who filed an asylum application prior to January 1, 1982, and whose application was subsequently denied or whose application was not decided by May 4, 1988.

(4) *Aliens considered to be in unlawful status.* Aliens who were present in the United States in one of the following categories were considered to be in unlawful status:

(i) An eligible alien who was granted voluntary departure, voluntary return, extended voluntary departure, or placed

in deferred action category by the Service prior to January 1, 1982.

(ii) An eligible alien who is a Cuban or Haitian entrant (as described in paragraph (1) or (2)(A) of section 501(e) of Public Law 96–422 and at § 212.5(g) of this chapter), who entered the United States before January 1, 1982. Pursuant to section 1104(c)(2)(B)(iv) of the LIFE Act, such alien is considered to be in an unlawful status in the United States.

(iii) An eligible alien who was paroled into the United States prior to January 1, 1982, and whose parole status terminated prior to January 1, 1982.

(iv) An eligible alien who entered the United States before January 1, 1982, and whose entries to the United States subsequent to January 1, 1982, were not documented on Form I–94.

§ 245a.16 Continuous physical presence from November 6, 1986, through May 4, 1988.

(a) The Service will determine whether an alien was continuously physically present in the United States from November 6, 1986, through May 4, 1988, based on the evidence provided by the alien. An alien must provide with the application evidence establishing his or her continuous physical presence in the United States from November 6, 1986, through May 4, 1988. Evidence establishing the alien's continuous physical presence in the United States from November 6, 1986, to May 4, 1988, may consist of any documentation issued by any governmental or nongovernmental authority, provided such evidence bears the name of the applicant, was dated at the time it was issued, and bears the signature, seal, or other authenticating instrument of the authorized representative of the issuing authority, if the document would normally contain such authenticating instrument.

(b) For purposes of this section, an alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences from the United States. Also, brief, casual, and innocent absences from the United States are not limited to absences with advance parole. Brief, casual, and innocent absence(s) as used in this paragraph means temporary, occasional trips abroad as long as the purpose of the absence from the United States was consistent with the policies reflected in the immigration laws of the United States. A single absence from the United States of more than thirty (30) days or an aggregate of all absences exceeding ninety (90) days shall not be deemed to be a brief, casual, and innocent absence unless the alien had advance parole or the alien can establish that due to emergent reasons, his or her return to the United States could not be accomplished within the time period(s) allowed.

(c) An alien who has been absent from the United States in accordance with the Service's advance parole procedures shall not be considered as having interrupted his or her continuous physical presence as required at the time of filing an application under this section.

§ 245a.17 Citizenship skills.

(a) *Requirements.* Applicants for adjustment under LIFE Legalization must meet the requirements of section 312(a) of the Act (8 U.S.C. 1423(a)) (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States). Unless an exception under paragraph (c) of this section applies to the applicant, LIFE Legalization applicants must establish that:

(1) He or she has complied with the same requirements as those listed for naturalization applicants under §§ 312.1 and 312.2 of this chapter; or

(2) He or she has a high school diploma or general educational development diploma (GED) from a school in the United States. A GED gained in a language other than English is acceptable only if a GED English proficiency test has been passed. (The curriculum for both the high school diploma and the GED must have included at least 40 hours of instruction in English and United States history and government). The applicant may submit a high school diploma or GED either at the time of filing Form I–485, subsequent to filing the application but prior to the interview, or at the time of the interview (the applicant's name and A-number must appear on any such evidence submitted); or

(3) He or she has attended, or is attending, a state recognized, accredited learning institution in the United States, and that institution certifies such attendance. The course of study at such learning institution must be for a period of one academic year (or the equivalent thereof according to the standards of the learning institution) and the curriculum must include at least 40 hours of instruction in English and United States history and government. The applicant may submit certification on letterhead stationery from a state recognized, accredited learning institution either at the time of filing Form I–485, subsequent to filing the application but prior to the interview, or at the time of the interview (the applicant's name and A-number must appear on any such evidence submitted).

(b) *Second interview.* An applicant who fails to pass the English literacy and/or the United States history and government tests at the time of the interview, shall be afforded a second opportunity after 6 months (or earlier, at the request of the applicant) to pass the tests or submit evidence as described in paragraphs (a)(2) or (a)(3) of this section. The second interview shall be conducted prior to the denial of the application for permanent residence and may be based solely on the failure to pass the basic citizenship skills requirements.

(c) *Exceptions.* LIFE Legalization applicants are exempt from the requirements listed under paragraph (a)(1) of this section if he or she has qualified for the same exceptions as those listed for naturalization applicants under §§ 312.1(b)(3) and 312.2(b) of this chapter. Further, at the discretion of the Attorney General, the requirements listed under paragraph (a) of this section may be waived if the LIFE Legalization applicant:

(1) Is 65 years of age or older; or

(2) Is developmentally disabled as defined under § 245a.1(v).

§ 245a.18 Ineligibility and applicability of grounds of inadmissibility.

(a) *Ineligible aliens.*

(1) An alien who has been convicted of a felony or of three or misdemeanors committed in the United States is ineligible for adjustment to LPR status under this Subpart B; or

(2) An alien who has assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion is ineligible for adjustment of status under this Subpart B.

(b) *Grounds of inadmissibility not to be applied.* Section 212(a)(5) of the Act (labor certification requirements) and section 212(a)(7)(A) of the Act (immigrants not in possession of valid visa and/or travel documents) shall not apply to applicants for adjustment to LPR status under this Subpart B.

(c) *Waiver of grounds of inadmissibility.* Except as provided in paragraph (c)(2) of this section, the Service may waive any provision of section 212(a) of the Act only in the case of individual aliens for humanitarian purposes, to ensure family unity, or when the granting of such a waiver is otherwise in the public interest. If available, an applicant may apply for an individual waiver as provided in paragraph (c)(1) of this section without regard to section 241(a)(5) of the Act.

(1) *Special rule for waiver of inadmissibility grounds for LIFE Legalization applicants under sections 212(a)(9)(A) and 212(a)(9)(C) of the Act.* An applicant for adjustment of status under LIFE Legalization who is inadmissible under section 212(a)(9)(A) or 212(a)(9)(C) of the Act, may apply for a waiver of these grounds of inadmissibility while present in the United States, without regard to the normal requirement that a Form I–212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal, be filed prior to embarking or re-embarking for travel to the United States, and without regard to the length of time since the alien's removal or deportation from the United States. Such an alien shall file Form I–690, Application for Waiver of Grounds of Excludability Under Sections 245A or 210 of the Immigration and Nationality Act, with the district director having jurisdiction over the applicant's case if the application for adjustment of status is pending at a local office, or with the Director of the Missouri Service Center. Approval of a waiver of inadmissibility under section 212(a)(9)(A) or section 212(a)(9)(C) of the Act does not cure a break in continuous residence resulting from a departure from the United States at any time during the period from January 1, 1982, and May 4, 1988, if the alien was subject to a final exclusion or deportation order at the time of the departure.

(2) *Grounds of inadmissibility that may not be waived.* Notwithstanding any other provisions of the Act, the following provisions of section 212(a) of the Act may not be waived by the Attorney General under paragraph (c) of this section:

(i) Sections 212(a)(2)(A) and (2)(B) (crimes involving moral turpitude and controlled substances);

(ii) Section 212(a)(2)(C) (controlled substance traffickers);

(iii) Section 212(a)(3) (security and related grounds); and

(iv) Section 212(a)(4) (public charge) except for an alien who is or was an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act). If a LIFE Legalization applicant is determined to be inadmissible under section 212(a)(4) of the Act, he or she may still be admissible under the Special Rule described under paragraph (d)(3) of this section.

(d) *Determination of ''likely to become a public charge'' and special rule.* Prior to use of the special rule for determination of public charge under paragraph (d)(3) of this section, an alien must first be determined to be inadmissible under section 212(a)(4) of the Act. If the alien is determined to be ''likely to become a public charge'', he or she may still be admissible under the terms of the Special Rule.

(1) In determining whether an alien is ''likely to become a public charge'', financial responsibility of the alien is to be established by examining the totality of the alien's circumstance at the time of his or her application for adjustment. The existence or absence of a particular factor should never be the sole criteria for determining if an alien is likely to become a public charge. The determination of financial responsibility should be a prospective evaluation based on the alien's age, health, family status, assets, resources, education and skills.

(2) The special rule for determination of public charge under paragraph (d)(3) of this section is to be applied only after an initial determination that the alien is inadmissible under the provisions of section 212(a)(4) of the Act.

(3) An alien who has a consistent employment history which shows the ability to support himself or herself even though his or her income may be below the poverty level is not excludable under paragraph (c)(2)(iv) of this section. The alien's employment history need not be continuous in that it is uninterrupted. It should be continuous in the sense that the alien shall be regularly attached to the workforce, has an income over a substantial period of the applicable time, and has demonstrated the capacity to exist on his or her income without recourse to public cash assistance. The Special Rule is prospective in that the Service shall determine, based on the alien's history, whether he or she is likely to become a public charge. Past acceptance of public cash assistance within a history of consistent employment will enter into this decision. The weight given in considering applicability of the public charge provisions will depend on many factors, but the length of time an applicant has received public cash assistance will constitute a significant factor. It is not necessary to file a waiver in order to apply the special rule for determination of public charge.

(e) *Public cash assistance and criminal history verification.* Declarations by an alien that he or she has not been the recipient of public cash assistance and/or has not had a criminal record are subject to a verification by the Service. The alien must agree to fully cooperate in the verification process. Failure to assist the Service in verifying information necessary for proper adjudication may result in denial of the application.

§ 245a.19 Interviews.

(a) All aliens filing applications for adjustment of status with the Service under this section must be personally interviewed, except that the adjudicative interview may be waived for a child under the age of 14, or when it is impractical because of the health or advanced age of the applicant. Applicants will be interviewed by an immigration officer as determined by the Director of the Missouri Service Center. An applicant failing to appear for the scheduled interview may, for good cause, be afforded another interview. Where an applicant fails to appear for two scheduled interviews, his or her application shall be denied for lack of prosecution. Applications for LIFE Legalization adjustment may be denied without interview if the applicant is determined to be statutorily ineligible.

(b) At the time of the interview, wherever possible, original documents must be submitted except the following: official government records; employment or employment-related records maintained by employers, unions, or collective bargaining organizations; medical records; school records maintained by a school or school board; or other records maintained by a party other than the applicant. Copies of records maintained by parties other than the applicant which are submitted in evidence must be certified as true and correct by such parties and must bear their seal or signature or the signature and title of persons authorized to act in their behalf.

(c) If at the time of the interview the return of original documents is desired by the applicant, they must be accompanied by notarized copies or copies certified true and correct by the alien's representative. At the discretion of the district director, original documents, even if accompanied by certified copies, may be temporarily retained for forensic examination by the Service.

§ 245a.20 Decisions, appeals, motions, and certifications.

(a) *Decisions.*

(1) *Approval of applications.* If the Service approves the application for adjustment of status under LIFE Legalization, the district director shall record the alien's lawful admission for permanent residence as of the date of such approval and notify the alien accordingly. The district director shall also advise the alien regarding the delivery of his or her Form I–551,

Permanent Resident Card, and of the process for obtaining temporary evidence of alien registration. If the alien has previously been issued a final order of exclusion, deportation, or removal, such order shall be deemed canceled as of the date of the district director's approval of the application for adjustment of status. If the alien had been in exclusion, deportation, or removal proceedings that were administratively closed, such proceedings shall be deemed terminated as of the date of approval of the application for adjustment of status by the district director.

(2) *Denials.* The alien shall be notified in writing of the decision of denial and of the reason(s) therefore. If the Service intends to rely on adverse information of which the applicant is not aware, the Service will comply with § 103.2(b)(16) of this chapter, and will not deny the application until the applicant has had the opportunity to respond to the adverse information. If inconsistencies are found between information submitted with the adjustment application and information previously furnished by the alien to the Service, the alien shall be afforded the opportunity to explain discrepancies or rebut any adverse information. A party affected under this part by an adverse decision is entitled to file an appeal on Form I–290B, Notice of appeal to the Administrative Appeals Unit (AAU), with required fee specified in § 103.7(b)(1) of this chapter. Except in instances when a LIFE Legalization application is denied for failure to establish timely application for class membership in the *CSS*, *LULAC*, or *Zambrano* lawsuit, or in instances when the LIFE Legalization applicant failed to present a prima facie application for LIFE Legalization as defined in § 245a.13(c), employment authorization will be granted until a final decision has been rendered on appeal or until the end of the appeal period if no appeal is filed. After exhaustion of an appeal, an alien who believes that the grounds for denial have been overcome may submit another application with fee, provided that the application is submitted on or before May 31, 2002.

(b) *Appeals process.* An adverse decision under this part may be appealed to the Associate Commissioner, Examinations, Administrative Appeals Office (AAO), who is the appellate authority designated in § 103.1(f)(3) of this chapter. Any appeal shall be submitted to the Service office that rendered the decision with the required fee.

(1) If an appeal is filed from within the United States, it must be received by the Service within 30 calendar days after service of the Notice of Denial (NOD) in accordance with the procedures of § 103.3(a) of this chapter. An appeal received after the 30 day period has tolled will not be accepted. The 30 day period for submitting an appeal begins 3 days after the NOD is mailed. If a review of the Record of Proceeding (ROP) is requested by the alien or his or her legal representative, and an appeal has been properly filed, an additional 30 days will be allowed for this review from the time the ROP is photocopied and mailed.

(2) If an applicant's last known address of record was outside the United States, and the NOD was mailed to that foreign address, the appeal must be received by the Service within 60 calendar days after service of the NOD in accordance with the procedures of § 103.3(a) of this chapter. An appeal received after the 60 day period has tolled will not be accepted. The 60-day period for submitting an appeal begins 3 days after the NOD is mailed.

(c) *Motions.* The Service director who denied the application may reopen and reconsider any adverse decision *sua sponte.* When an appeal to the AAO has been filed, the director may issue a new decision that will grant the benefit that has been requested. Motions to reopen a proceeding or reconsider a decision shall not be considered under this Subpart B.

(d) *Certifications.* The Service director who adjudicates the application may, in accordance with § 103.4 of this chapter, certify a decision to the AAO when the case involves an unusually complex or novel question of law or fact.

(e) *Effect of final adjudication of application on aliens previously in proceedings.*

(1) *Upon the granting of an application.* If the application for LIFE Legalization is granted, proceedings shall be deemed terminated or a final order of exclusion, deportation, or removal shall be deemed canceled as of the date of the approval of the LIFE Legalization application for adjustment of status.

(2) *Upon the denial of an application.*

(i) *Where proceedings were administratively closed.* In the case of an alien whose previously initiated exclusion, deportation or removal proceeding had been administratively closed or continued indefinitely under § 245a.12(b)(1), the director shall make a request for recalendaring to the Immigration Court that had administratively closed the proceeding, or the Board, as appropriate, when there is a final decision denying the LIFE Legalization application. The Immigration Court or the Board will then recalendar the prior proceeding.

(ii) *Where final order was stayed.* If the application for LIFE Legalization is denied, the stay of a final order of exclusion, deportation, or removal afforded in § 245a.13(f) shall be deemed lifted as of the date of such denial.

§ 245a.21 Confidentiality.

(a) No person other than a sworn officer or employee of the Department of Justice or bureau or agency thereof, will be permitted to examine individual applications. For purposes of this part, any individual employed under contract by the Service to work in connection with the LIFE Legalization provisions shall be considered an employee of the Department of Justice or bureau or agency thereof.

(b) No information furnished pursuant to an application for permanent resident status under this Subpart B shall be used for any purpose except:

(1) To make a determination on the application;

(2) For the enforcement of the provisions encompassed in section 245A(c)(6) of the Act, except as provided in paragraphs (c) of this section; or

(3) For the purposes of rescinding, pursuant to section 246(a) of the Act (8 U.S.C. 1256(a)), any adjustment of status obtained by the alien.

(c) If a determination is made by the Service that the alien has, in connection with his or her application, engaged in fraud or willful misrepresentation or concealment of a material fact, knowingly provided a false statement or document in making his or her application, knowingly made a false statement or representation, or engaged in any other activity prohibited by section 245A(c)(6) of the Act, the Service shall refer the matter to the United States Attorney for prosecution of the alien and/or of any person who created or supplied a false statement or document for use in an application for adjustment of status under this Subpart B.

(d) Information contained in granted files may be used by the Service at a later date to make a decision:

(1) On an immigrant visa petition or other status filed by the applicant under section 204(a) of the Act;

(2) On a naturalization application submitted by the applicant;

(3) For the preparation of reports to Congress under section 404 of the Immigration Reform and Control Act of 1986; or

(4) For the furnishing of information, at the discretion of the Attorney General, in the same manner and

circumstances as census information may be disclosed by the Secretary of Commerce under 13 U.S.C. 8.

(e) Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

§ 245a.22 Rescission.

(a) Rescission of adjustment of status under LIFE Legalization shall occur only under the procedures of 8 CFR part 246.

(b) Information furnished by an eligible alien pursuant to any application filed under LIFE Legalization may be used by the Attorney General, and other officials and employees of the Department of Justice and any bureau or agency thereof, for purposes of rescinding, pursuant to 8 CFR part 246, any adjustment of status obtained by the alien.

§§ 245a.23 through 245a.29 [Reserved]

Subpart C—LIFE Act Amendments Family Unity Provisions

§ 245a.30 Description of program.

This Subpart C implements the Family Unity provisions of section 1504 of the LIFE Act Amendments, Public Law 106–554.

§ 245a.31 Eligibility.

An alien who is currently in the United States may obtain Family Unity benefits under section 1504 of the LIFE Act Amendments if he or she establishes that:

(a) He or she is the spouse or unmarried child under the age of 21 of an eligible alien (as defined under § 245a.10) at the time the alien's application for Family Unity benefits is adjudicated and thereafter;

(b) He or she entered the United States before December 1, 1988, and resided in the United States on such date; and

(c) If applying for Family Unity benefits on or after June 1, 2002, he or she is the spouse or unmarried child under the age of 21 of an alien who has filed a Form I–485 pursuant to this Subpart B.

§ 245a.32 Ineligible aliens.

The following categories of aliens are ineligible for Family Unity benefits under the LIFE Act Amendments:

(a) An alien who has been convicted of a felony or of three or more misdemeanors in the United States; or

(b) An alien who has ordered, incited, assisted, or otherwise participated in the persecution of an individual because of the individual's race, religion, nationality, membership in a particular social group, or political opinion; or

(c) An alien who has been convicted by a final judgment of a particularly serious crime and who is a danger to the community of the United States; or

(d) An alien who the Attorney General has serious reasons to believe has committed a serious nonpolitical crime outside the United States before the alien arrived in the United States; or

(e) An alien who the Attorney General has reasonable grounds to believe is a danger to the security of the United States.

§ 245a.33 Filing.

(a) *General.* An application for Family Unity benefits under section 1504 of the LIFE Act Amendments must be filed on a Form I–817, Application for Family Unity Benefits, with the Missouri Service Center. A Form I–817 must be filed with the correct fee required in § 103.7(b)(1) of this chapter and the required supporting documentation. A separate application with appropriate fee and documentation must be filed for each person claiming eligibility.

(b) *Decision.* The Missouri Service Center Director has sole jurisdiction to adjudicate an application for Family Unity benefits under the LIFE Act Amendments. If the Service finds that additional evidence is required from the alien in order to properly adjudicate the application, the Service shall request such evidence from the alien in writing. The Director will provide the applicant with specific reasons for any decision to deny an application. Denial of an application may not be appealed. An applicant who believes that the grounds for denial have been overcome may submit another application with the appropriate fee and documentation.

(c) *Referral of denied cases for consideration of issuance of notice to appear.* If an application is denied, the case will be referred to the district director with jurisdiction over the alien's place of residence for consideration of whether to issue a notice to appear. After an initial denial, an applicant's case will not be referred for issuance of a notice to appear until 90 days from the date of the initial denial, to allow the alien the opportunity to file a new Form I–817 application in order to attempt to overcome the basis of the denial. However, if the applicant is found not to be eligible for benefits under § 245a.32(a), the Service reserves the right to issue a notice to appear at any time after the initial denial.

§ 245a.34 Protection from removal, eligibility for employment, and period of authorized stay.

(a) *Scope of protection.* Nothing in this Subpart C shall be construed to limit the authority of the Service to commence removal proceedings against an applicant for or beneficiary of Family Unity benefit under this Subpart C on any ground of removal. Also, nothing in this Subpart C shall be construed to limit the authority of the Service to take any other enforcement action against such an applicant or beneficiary with respect to any ground of removal not specified in paragraphs (a)(1) through (a)(4) of this section. Protection from removal under this Subpart C is limited to the grounds of removal specified in:

(1) Section 237(a)(1)(A) of the Act (aliens who were inadmissible at the time of entry or adjustment of status), except that the alien may be removed if he or she is inadmissible because of a ground listed in section 212(a)(2) (criminal and related grounds) or in section 212(a)(3) (security and related grounds) of the Act; or

(2) Section 237(a)(1)(B) of the Act (aliens present in the United States in violation of the Act or any other law of the United States);

(3) Section 237(a)(1)(C) of the Act (aliens who violated their nonimmigrant status or violated the conditions of entry); or

(4) Section 237(a)(3)(A) of the Act (aliens who failed to comply with the change of address notification requirements).

(b) *Duration of protection from removal.* An alien whose application for Family Unity benefits under the LIFE Act Amendments is approved will receive protection from removal, commencing with the date of approval of the application. While any evidence of protection from removal shall be dated to expire 1 year after the date of approval, a grant of protection from removal under this section shall be considered effective from the date on which the application was properly filed.

(c) *Employment authorization.* An alien granted Family Unity benefits under the LIFE Act Amendments is authorized to be employed in the United States. The validity period of the employment authorization document shall be dated to expire 1 year after the date of approval of the Form I–817.

(d) *Period of authorized stay.* An alien granted Family Unity benefits under the LIFE Act Amendments is deemed to have received an authorized period of stay approved by the Attorney General within the scope of section 212(a)(9)(B) of the Act.

§ 245a.35 Travel outside the United States.

(a) An alien who departs the United States while his or her application for Family Unity benefits is pending will be deemed to have abandoned the application and the application will be denied.

(b) An alien granted Family Unity benefits under the LIFE Act Amendments who intends to travel outside the United States temporarily must apply for advance authorization using Form I–131. The authority to grant an application for advance authorization for an alien granted Family Unity benefits under the LIFE Act Amendments rests solely with the Service. An alien who is granted advance authorization and returns to the United States in accordance with such authorization, and who is found not to be inadmissible under section 212(a)(2) or (3) of the Act, shall be paroled into the United States. He or she shall be provided the remainder of the protection from removal period previously granted under the Family Unity provisions of the LIFE Act Amendments.

§ 245a.36 [Reserved]

§ 245a.37 Termination of Family Unity Program benefits.

(a) *Grounds for termination.* The Service may terminate Family Unity benefits under the LIFE Act Amendments whenever the necessity for the termination comes to the attention of the Service. Such grounds will exist in situations including, but not limited to, those in which:

(1) A determination is made that Family Unity benefits were acquired as the result of fraud or willful misrepresentation of a material fact;

(2) The beneficiary commits an act or acts which render him or her ineligible for Family Unity benefits under the LIFE Act Amendments;

(3) The alien, upon whose status Family Unity benefits under the LIFE Act were based, fails to apply for LIFE Legalization by May 31, 2002, has his or her LIFE Legalization application denied, or loses his or her LPR status; or

(4) A qualifying relationship to the alien, upon whose status Family Unity benefits under the LIFE Act Amendments were based, no longer exists.

(b) *Notice procedure.* Notice of intent to terminate and of the grounds thereof shall be served pursuant to the provisions of § 103.5a of this chapter. The alien shall be given 30 days to respond to the notice and may submit to the Service additional evidence in rebuttal. Any final decision of termination shall also be served pursuant to the provisions of § 103.5a of this chapter. Nothing in this section shall preclude the Service from commencing removal proceedings prior to termination of Family Unity benefits.

(c) *Effect of termination.* Termination of Family Unity benefits under the LIFE Act Amendments shall render the alien amenable to removal under any ground specified in section 237 of the Act (including those grounds described in § 245a.34(a)). In addition, the alien will no longer be considered to be in a period of stay authorized by the Attorney General as of the date of such termination.

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

12. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

13. Section 274a.12 is amended by:

a. Revising the last sentence in paragraph (a) introductory text;

b. Removing the word ''or'' at the end of paragraph (a)(12);

c. Replacing the period with ''; or'' at the end of paragraph (a)(13);

d. Adding paragraph (a)(14); and by

e. Adding paragraph (c)(24).

The revisions and additions read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

(a) *Aliens authorized employment incident to status.* * * * Any alien who is within a class of aliens described in paragraphs (a)(3) through (a)(8) or (a)(10) through (a)(14) of this section, and who seeks to be employed in the United States, must apply to the Service for a document evidencing such employment authorization.

* * * * *

(14) An alien granted Family Unity benefits under section 1504 of the Legal Immigrant Family Equity (LIFE) Act Amendments, Public Law 106–554, and the provisions of 8 CFR part 245a, Subpart C of this chapter, as evidenced by an employment authorization document issued by the Service.

* * * * *

(c) * * *

(24) An alien who has filed an application for adjustment pursuant to section 1104 of the LIFE Act, Public Law 106–553, and the provisions of 8 CFR part 245a, Subpart B of this chapter. Employment authorization shall be granted in increments not exceeding 1 year during the period that the application is pending (including any period when an administrative appeal is pending) and shall expire on a specific date.

* * * * *

PART 299—IMMIGRATION FORMS

14. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

15. Section 299.1 is amended in the table by:

a. Adding the entry for Form ''I–485 Supplement D'' in proper numerical sequence; and by

b. Revising the entries for Forms ''I–765'' and ''I–817'', to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
* * *	*	* * *
I–485 Supplement D	04–26–01	LIFE Legalization Supplement to Form I–485 Instructions.
* * *	*	* * *
I–765	04–24–01	Application for Employment Authorization.
* * *	*	* * *
I–817	04–26–01	Application for Family Unity Benefits.
* * *	*	* * *

16. Section 299.5 is amended in the table by:

a. Adding the entry for Form ''I–485 Supplement D'' in proper numerical sequence; and by

b. Revising the entry for Form ''I–817'', to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB control No.
*	*	*
I–485 Supplement D	LIFE Legalization Supplement to Form I–485 Instructions	1115–0239
*	*	*
I–817	Application for Family Unity Benefits	1115–0166
*	*	*

Dated: May 25, 2001.

John Ashcroft,

Attorney General.

[FR Doc. 01–13669 Filed 5–31–01; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 299

[INS No. 2108–01]

RIN 1115–AG03

Establishing Premium Processing Service for Employment-Based Petitions and Applications

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Immigration and Naturalization Service (Service) regulations by establishing a Premium Processing Service for certain employment-based petitions and applications. If an entity pays the required fee for Premium Processing Service, the Service will process the petition or application within 15 calendar days. Premium Processing Service will provide American businesses with the opportunity to obtain faster processing of petitions and applications to meet their needs for foreign workers.

DATES: *Effective date:* This interim rule is effective June 1, 2001.

Comment date: Written comments must be submitted on or before July 31, 2001.

ADDRESSES: Please submit written comments to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC 20536, or via fax to (202) 305–0143. To ensure proper handling, please reference INS No. 2108–01 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Tracy Renaud, Adjudications Officer, Immigration Services Division, Immigration and Naturalization Service, 800 K Street, NW., 10th Floor, Washington, DC 20536, telephone (202) 305–8010.

SUPPLEMENTARY INFORMATION:

Background

What Is the Authority To Charge a Premium Processing Fee?

On December 21, 2000, the President signed the District of Columbia Appropriations Act, 2001, Public Law 106–553, 114 Stat. 2762 (2000). The legislation added a new section 286(u) to the Immigration and Nationality Act (Act) that authorizes the Attorney General to collect a $1,000 ''premium processing'' fee in addition to the regular filing fee that must be paid for the filing with the Service of certain petitions and applications. Under this new legislation, the authority to collect the premium processing fee applies only to employment-based petitions and applications.

Why Have Premium Processing Service?

The Premium Processing Service will enable the Service to improve its services to its business customers. These businesses must sometimes recruit and hire foreign workers to fill jobs in short time frames. The Service's current processing times for employment-based petitions and applications may not accommodate the needs of these businesses. The Premium Processing Service will give American businesses an option to pay for faster processing of petitions and applications for foreign workers.

What Is Premium Processing Service?

The District of Columbia Appropriations Act of 2001, Public Law 106–553, established ''premium processing service'' and the associated filing fee. It also specified that the Service was required to process applications under the Premium Processing Service in 15 calendar days. However, the legislation did not explicitly define what ''premium processing service'' means. Therefore, the Service is using its authority under section 103(a) of the Act to establish the details of this new service.

For example, if the applicant or petitioner pays for Premium Processing Service of a petition or application, the Service will issue an approval notice, notice of intent to deny, request for evidence, or notice of an investigation for fraud or misrepresentation within 15 calendar days. Premium Processing Service begins on the day the Service physically receives a petition or application and ends on the day the Service issues a notice or request. If the Service does not issue a notice or request within 15 calendar days, the Service will refund the fee automatically. However, when the Service fails to issue a notice or request within 15 calendar days and refunds the fee, the Service will still expeditiously process the case. If the application or petition in question was not eligible for Premium Processing Service, the fee will be refunded and the Service will continue to process the case normally.

What Are the Benefits of the Premium Processing Service?

The Premium Processing Service provides a benefit to all entities that file applications and petitions with the Service, and not just to those employers

who are granted Premium Processing Service. The fee revenue generated by Premium Processing Service will be deposited into the Immigration Examinations Fee Account and used by the Service to hire additional adjudicators, contact representatives, and support personnel to provide service to all its customers. The fee will also be used for infrastructure improvements.

What Is the Fee for the Premium Processing Service?

The fee for Premium Processing Service is $1,000 in addition to the filing fee for the petition or application. As an example, H–2B cases are eligible for Premium Processing Service. There are two fees involved: The Form I–129, Petition for Nonimmigrant Worker, filing fee of $110 and the $1,000 Premium Processing fee.

Can the Fee for Premium Processing Service Be Waived?

The fee for Premium Processing Service is set by law and cannot be waived for any reason. However, the Service will refund the fee if it cannot complete its adjudication within 15 calendar days or if Premium Processing for a particular application or petition has been suspended.

The Service will continue its existing policy and procedures for requesting expeditious processing, without any additional fee, of petitions that are filed by petitioners designated as non-profit by the Internal Revenue Service and for petitions and applications that are not designated for Premium Processing Service.

How Do I Request Premium Processing Service?

You may request Premium Processing Service by filing a completed Form I–907, Request for Premium Processing Service, with the petition or application and paying the Premium Fee. You must pay the Premium Fee with a separate check or money order in the amount of $1,000. This check is in addition to the check for the regular filing fee for the application or petition.

Can I Request Premium Processing Service for a Pending Petition or Application?

Yes, if you want to request Premium Processing Service, you can file Form I–907, Request for Premium Processing Service, with the Premium Fee, either at the same time as or after a petition or application. If you file Form I–907, after you file the related petition or application, the 15 calendar day processing period will begin when the Service receives the Form I–907.

Where Should I Mail My Request for Premium Processing?

If the Form I–907 is filed at the same time as the related petition, submit both forms to the designated Premium Processing address for the INS Service Center indicated on the petition. If the Form I–907 is filed after the related petition, submit it to the designated Premium Processing Address for the INS Service Center where the related petition was previously filed. When submitting a Form I–907 after a related petition, if possible, include a copy of the Form I–797, Notice of Action, showing receipt of the related petition.

A designated Premium Processing address for each of the four centers will be published on the instruction sheet to Form I–907. The designated address must be used to be sure the Premium Processing petition immediately enters the Premium Processing unit. If an alternate address is used, the 15 calendar day processing time will begin when the Service initially identifies the case as a request for Premium Processing.

In addition, the employer must file the Premium Processing request at the INS Service Center designated for the specific application or petition. The Service has established special filing procedures for certain applications and petitions. For example, petitions involving the E–1 and E–2 nonimmigrant classifications must be filed at either the Texas or California Service Center. Therefore, the Premium Processing request must also be filed at these locations. A Form I–907 filed in connection with a petition involving the E–1 or E–2 nonimmigrant classification must be submitted to the designated Premium Processing address for the Texas or California Service Center, as appropriate.

What if I Have a Question About My Premium Processing petition?

Designated customer service e-mail addresses will be provided on the instruction sheet to Form I–907. The Service will also provide customers with designated phone numbers on receipt notices for the Form I–907. The phone numbers and e-mail addresses will be for use by Premium Processing customers only.

Can I Request Premium Processing Service for any Employment-Based Petition or Application?

The Service will designate certain employment-based petitions or applications for Premium Processing Service. Absent the Premium fee, the Service will process the petition or application under normal procedures. If you request Premium Processing Service for a petition or application that has not been designated by the Service, the Service will return the Premium Processing Fee and Form I–907 and continue normal processing of the petition or application.

How Will the Service Designate Petitions and Applications for Premium Processing Service?

The Service will designate petitions and applications for Premium Processing Service by publishing notices in the **Federal Register**. These notices will specify the form types and the visa classifications for which Premium Processing Service is available. The notices will also specify the dates on which the availability of Premium Processing Service begins and ends.

The Service is designating Form I–129, Petition for Nonimmigrant Worker, for Premium Processing Service beginning on June 1, 2001. Classifications within the Form I–129 eligible for the Premium Processing program as of June 1, 2001 are:

(1) E–1 Treaty Trader;
(2) E–2 Treaty Investor;
(3) H–2A Agricultural Worker;
(4) H–2B Temporary Worker;
(5) H–3 Trainee;
(6) L–1 Intracompany Transferree;
(7) O–1 and O–2 Aliens of Extraordinary Ability or Achievement;
(8) P–1, P–2, and P–3 Athletes and Entertainers; and
(9) Q–1 International Cultural Exchange Aliens.

Classifications within the Form I–129 eligible for the Premium Processing program as of July 30, 2001 are:

(1) H–1B Temporary Worker with Specialty Occupation;
(2) R–1 Temporary Worker in Religious Occupations; and
(3) TN NAFTA Professional.

These designations will continue until the Service publishes a notice amending or terminating them.

What if the Beneficiary of a Premium Processing Petition Has Dependent Family Members Who Are Seeking Derivative Benefits?

If the family members application(s) is filed concurrently with the Premium Processing petition, the Service will process the application(s) for the family members with the Premium Processing petition in 15 calendar days without requiring an additional $1,000 fee for the family member's application(s). This

applies only to dependents of the beneficiary of the Premium Processing petition.

How Will the Service Process Requests for Premium Processing Service of Petitions for Nonimmigrant Classifications Subject to Annual Numerical Limitations?

The Service is designating Premium Processing Service for certain nonimmigrant classifications that are subject to annual numerical limitations. Like petitions filed under regular procedures, petitions for which Premium Processing Service is requested will be processed in the order of receipt. Once the annual limitation for a nonimmigrant classification is met (e.g., when the Service has received a volume of H–1B petitions sufficient to reach the annual numerical limitation), INS will temporarily terminate Premium Processing Service for all pending petitions filed for entry in that fiscal year. The Service will then process all pending petitions (regular and premium together) in the order of receipt.

The Service believes that temporary termination of Premium Processing Service is the fairest method to balance the interest of expedited processing while reasonably preserving the ability of all individuals to access numerically limited immigration programs.

The Service will announce the temporary termination by publication of a notice in the **Federal Register**. When the Service announces temporary termination of Premium Processing Service for a particular nonimmigrant classification, it will return the Form I–907 and Premium Fee for all requests subject to the termination.

Explanation of Changes

What Changes Is the Service Making to the Regulations?

1. Changes in § 103.2

In § 103.2 the Service is adding a new paragraph (f) to describe the process that the Service will use to process requests for Premium Processing Service.

2. Changes in § 103.7

In § 103.7, the Service is amending the regulations to add the fee for Premium Processing Service for certain employment-based petitions and applications. The fee is established at $1,000 per petition or application requesting Premium Processing Service. Payment of the fee guarantees 15 calendar day processing of the petition or application. The fee for Premium Processing Service cannot be waived.

3. Changes in § 299.1 and § 299.5

In § 299.1 and § 299.5, the Service is amending the regulations to add the Form I–907, Request for Premium Processing Service, to the listing of forms. This form must be filed in conjunction with a petition or application to request Premium Processing Service.

Good Cause Exception

This interim rule is effective on June 1, 2001, although the Service invites post-promulgation comments and will address any such comments in a final rule. For the following reasons, the Service finds that good cause exists for adopting this rule without the prior notice and comment period or the delay in the effective date ordinarily required by 5 U.S.C. 553(b)(3)(B) and (d)(3). Section 112 of Public Law 106–553 specifically authorizes the Attorney General to collect a fee for employment-based petitions and applications to be used to provide certain Premium Processing Services to business customers. By delaying implementation of this rule, these business customers will not be able to immediately benefit from the Premium Processing Services. Premium Processing Services allows for United States employers to fill key vacancies expeditiously allowing these employers to enhance their profitability and productivity. The benefit will result in certain businesses saving valuable time in hiring foreign-workers that can result in benefits to the entire country. A delay in the implementation of this statutory process would, therefore, be contrary to the public interest. Accordingly, the Service finds that it is impracticable and contrary to the public interest to publish this rule with prior notice and comment period or a delay in the effective date normally required under 5 U.S.C. 553.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. Although there is an additional cost for entities (both large and small) to obtain Premium Processing Service, the $1,000 Premium Processing Fee is established by statute. The Premium Processing Service is voluntary and is intended to expedite requests by American businesses to hire foreign workers.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely effect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review. It is estimated that petitioners and applicants will pay $25 million in fiscal year 2001 for Premium Processing Services, and $80 million in fiscal year 2002.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Since this interim rule takes effect on June 1, 2001, and the Form I–907, is

required by the business community to request Premium Processing Services, the Service is using emergency review procedures for review and clearance by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act (PRA) of 1995. The Service has requested that OMB waive the comment period for the emergency paperwork review. If granted, the emergency approval is only valid for 180 days.

A regular review of this information collection will also be undertaken. Written comments are encouraged and will be accepted until July 31, 2001. Submit comments to: Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC 20536, or via fax to (202) 305–0143. Your comments should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and 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.

The Service in calculating the overall burden this requirement will place upon the public, estimates 80,000 applications for Premium Processing Services will be requested annually. The Service estimated that it will take approximately .25 hours to comply with the requirements of Form I–907. This amounts to 20,000 total burden hours.

Organizations and individuals interested in submitting comments regarding this burden estimate or any aspect of these information collection requirements, including suggestions for reducing the burden, should direct them to the Immigration and Naturalization Service, Policy Directives and Instructions Branch, 425 I Street, NW., Suite 4034, Washington, DC 20536; Attention: Richard A. Sloan, Director, (202) 514–3048.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Reporting and recordkeeping requirements.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1252, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. Section 103.2 is amended by adding a new paragraph (f) to read as follows:

§ 103.2 Applications, petitions, and other documents.

* * * * *

(f) *Requests for Premium Processing Service.*—(1) *Filing information.* A petitioner or applicant requesting Premium Processing Service shall submit Form I–907, with the appropriate fee to the Director of the service center having jurisdiction over the application or petition. Premium Processing Service guarantees 15 calendar day processing of certain employment-based petitions and applications. The 15 calendar day processing period begins when the Service receives Form I–907, with fee, at the designated address contained in the instructions to the form. The Service will refund the fee for Premium Processing Service, but continue to process the case, unless within 15 calendar days of receiving the application or petition and Form I–907, issues and serves on the petitioner or applicant an approval notice, a notice of intent to deny, a request for evidence, or opens an investigation relating to the application or petition for fraud or misrepresentation.

(2) *Applications and petitions eligible for Premium Processing Service.* The Service will designate and terminate petitions and applications as eligible for Premium Processing Service by publication of notices in the **Federal Register**.

(3) *Fees for Premium Processing Services.* The fee for Premium Processing Service may not be waived. The fee for Premium Processing Service is in addition to all other filing fees for the application or petition as provided for in § 103.7. A separate remittance must be submitted for the filing fee for Form I–907. If the Service fails to process a petition or application with the 15 calendar day period, the fee for Premium Processing Services will be automatically refunded to the petitioner or applicant, and the Service will continue to process the application/petition on the premium processing track.

(4) *Temporary termination of Premium Processing Service.* The Service may designate as eligible for Premium Processing Service certain petitions or applications filed on behalf of nonimmigrant aliens that are subject to annual numerical limitations. In order to ensure equitable access to these limited visa programs, the Service may temporarily terminate the availability of Premium Processing Service for certain petitions or applications. The Service will announce a temporary termination by publication of a notice in the **Federal Register**. Upon temporary termination of a classification the petition or application will not be rejected. Instead, the petition or application will be moved into the pool of normal processing cases and only the Form I–907 will be rejected and the Fee for Form I–907 will be returned to the applicant or petitioner.

* * * * *

3. Section 103.7 is amended by:

a. Amending paragraph (b)(1) by adding the entry ''Form I–907'' in proper alpha-numerical sequence to the listing of fees; and

b. Revising paragraph (c)(1).

The addition and revision read as follows:

§ 103.7 Fees.

* * * * *

(b) * * * (1) * * *

* * * * *

Form I–907. For filing a request for Premium Processing Service for certain employment based applications and petitions-$1,000. The fee for Premium Processing Service may not be waived.

* * * * *

(c)(1) Except as otherwise provided in this paragraph (c) and in § 3.3(b) of this chapter, any of the fees prescribed in paragraph (b) of this section relating to applications, petitions, appeals, motions, or requests may be waived by the Immigration Judge in any case under his/her jurisdiction in which the alien or other party affected is able to substantiate that he or she is unable to

pay the prescribed fee. The person seeking a fee waiver must file his or her affidavit, or unsworn declaration made pursuant to 28 U.S.C. 1746, asking for permission to prosecute without payment of fee of the application, petition, appeal, motion, or request, and stating his or her belief that he or she is entitled to or deserving of the benefit requested and the reasons for his or her inability to pay. The officer of the Service having jurisdiction to render a decision on the application, petition, appeal, motion, or request may, in his discretion, grant the waiver of fee. Fees for ''Passenger Travel Reports via Sea and Air'' and for special statistical tabulations may not be waived. The payment of the additional sum prescribed by section 245(i) of the Act when applying for adjustment of status under section 245 of the Act may not be waived. The payment of the additional $500 fee prescribed by section 214(c)(9) of the Act when applying for petition for nonimmigrant worker under section 101(a)(15)(H)(i)(b) of the Act may not be waived. The fee for Form I–907, Request for Premium Processing Services, may not be waived.

* * * * *

PART 299—IMMIGRATION FORMS

4. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

5. Section 299.1 is amended in the table by adding the entry for Form I–907, in proper alpha-numerical sequence, to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
*	*	*
I–907	05–16–01	Request for Premium Processing Services.
*	*	*

6. Section 299.5 is amended in the table by adding the entry for Form ''I–907'', in proper alpha-numerical sequences, to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB control No.
*	*	*
I–907	Request for Premium Processing Services	1115–0241
*	*	*

Dated: May 24, 2001.

Kevin D. Rooney,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–13566 Filed 5–31–01; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–031–1]

Change in Disease Status of France, Ireland, and The Netherlands Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations governing the importation of certain animals, meat, and other animal products by removing France, Ireland, and The Netherlands from the list of regions considered to be free of rinderpest and foot-and-mouth disease. We recently removed Great Britain and Northern Ireland from the list of regions considered free of rinderpest and foot-and-mouth disease because of the confirmed outbreak of foot-and-mouth disease in those regions. The outbreak in the United Kingdom has since spread elsewhere in the European Union. We are taking this additional action with respect to France, Ireland, and The Netherlands because the existence of foot-and-mouth disease has been confirmed there and these Member States do not yet meet the Office International des Epizooties criterion for freedom of foot-and-mouth disease (i.e., a 3-month waiting period after the last case in a region previously recognized as free of the disease). The effect of this action is to prohibit or restrict the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from France, Ireland, and The Netherlands.

DATES: This interim rule was effective on February 19, 2001. We invite you to comment on this docket. We will consider all comments that we receive by July 31, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–031–1, 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. 01–031–1.

You may read any comments that we receive on this docket 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.

Furthermore, a risk assessment documenting the basis for including the designated Member States in this action is available for review in our reading room and on the Internet at http://www.aphis.usda.gov/vs/reg-request.html, or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Assistant Director, Sanitary Trade Issues, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products into the United States in order to prevent the introduction of various animal diseases including rinderpest, foot-and-mouth disease (FMD), African swine fever, hog cholera, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.1 of the regulations lists regions of the world that are declared free of rinderpest or free of both rinderpest and FMD. Rinderpest or FMD exists in all other regions of the world not listed. Section 94.11 of the regulations lists regions of the world that have been declared free of rinderpest and FMD, but that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected regions.

On March 14, 2001, we published in the **Federal Register** (66 FR 14825–14826, Docket No. 01–018–1) an interim rule, effective January 15, 2001, that removed Great Britain (England, Scotland, Wales, and the Isle of Man) and Northern Ireland from the list of regions considered to be free of rinderpest and FMD because the existence of FMD had been confirmed in both regions. Great Britain and Northern Ireland participate in the European Union (EU) through the individual Member State status of the United Kingdom. Due to the magnitude and rate of spread of FMD in the United Kingdom, we felt it necessary to act immediately to remove Great Britain and Northern Ireland from the list of FMD-free regions in order to safeguard the animal health status of the United States.

Prior to the effective date of this interim rule, the EU Member States of France, Ireland, and The Netherlands were listed in §§ 94.1 and 94.11 of the regulations as regions considered to be free of rinderpest and FMD. However, a series of FMD outbreaks have occurred in France, Ireland, and The Netherlands. Specifically:

- On March 13, 2001, France's Ministry of Agriculture and Fisheries (MAF) clinically confirmed an outbreak of FMD in the department of Mayenne, followed by confirmation of a second outbreak in the department of Seine-et-Marne on March 23, 2001;
- On March 22, 2001, Ireland's Department of Agriculture, Food and Rural Development (DAFRD), reported clinical confirmation of an outbreak of FMD in County Louth; and
- The Netherlands' Ministry of Agriculture, Nature Management and Fisheries (MANMF) reported clinical confirmation of FMD outbreaks in the provinces of Overijssel and Gelderland on March 21, 2001, and March 24, 2001. MANMF has since confirmed a number of additional outbreaks in The Netherlands.

MAF, DAFRD, and MANMF notified the Office International des Epizooties (OIE) and the U.S. Department of Agriculture at the time of clinical confirmation of these FMD diagnoses. Based on preliminary epidemiological studies, the sources of the outbreaks in France, Ireland, and The Netherlands have been traced back to the United Kingdom.

Because of the close trading relationships that exist among the EU Member States, coupled with the speed with which FMD has spread from the United Kingdom to other areas of the EU, we initially believed it necessary to impose additional trade restrictions relating to FMD on the 13 EU Member States listed in our regulations as FMD-free after implementation of the interim rule for the United Kingdom in order to safeguard the animal health status of the United States. Consequently, on March 13, 2001, we imposed temporary import restrictions applicable to the EU with respect to swine and ruminants, any fresh (chilled or frozen) swine or ruminant meat, and other products of swine and ruminants. As part of this process, we also requested information from the European Commission and the individual Member States to justify why individual Member States should continue to be considered FMD-free, and therefore remain on our list of FMD-free regions in the regulations. We intended to use this information to evaluate the potential risks of further FMD outbreaks occurring in different regions of the EU. Any region for which sufficient data were not available to make such an evaluation would be considered to be a high FMD risk until information became available to support an alternative determination. We set a deadline of April 27, 2001, for the receipt of this information. To assist us in evaluating a region's level of risk relating to FMD, we asked that the information submitted to us address the following:

- Outbreak history in the Member State or region;
- Complete information on European Community (Community) legislation in force to control spread of disease among Member States, including information on limitations that were identified in Community legislation in force at the time of the outbreak, changes made to address these limitations, enforcement processes to implement the changes and enforcement of compliance;
- Information on surveillance or control measures implemented by individual Member States in addition to Community legislation;
- Statistics on trade in live animals and high-risk animal products within the Community since January 2001;
- Traceback results for animals moving from affected areas;
- Information on practices that might serve to introduce disease (e.g., garbage feeding of swine), surveillance of those practices, and recent or planned legislative changes that might affect these practices;
- Mechanisms in place to ensure compliance with Community and Member State legislation, as well as mechanisms to identify and correct failures in the safeguarding system; and
- Vaccination practices and vaccination records for the regions, as applicable.

Other issues such as environmental factors (e.g., prevailing winds) that might contribute to disease spread may also be considered.

Based on our evaluation of the information submitted to us by the European Commission and the individual Member States, published literature, and reports to the OIE, we are removing France, Ireland, and The Netherlands from the list of regions considered to be free of rinderpest and FMD primarily because the existence of FMD has been confirmed there and these Member States do not yet meet the OIE criterion for freedom of FMD (i.e., a 3-month waiting period after the last case in a region previously recognized as free of the disease). We have determined that the other EU Member

States that APHIS considers to be FMD-free represent a low risk for the introduction of FMD into the United States, and therefore will be allowed to remain on the list of free regions. The basis for our designation of these Member States is documented in a risk assessment that may be viewed on the Internet at http://www.aphis.usda.gov/vs/reg-request.html. You may also request paper copies of the risk assessment by calling or writing the person listed under **FOR FURTHER INFORMATION CONTACT.** Please refer to Docket No. 01–031–1 when requesting copies. The risk assessment 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 document).

We believe that this course of action is consistent with our obligations under the World Trade Organization in the Agreement on the Application of Sanitary and Phytosanitary Measures and the United States-European Union Veterinary Equivalency Agreement. We are imposing these provisional measures to safeguard the United States from FMD, but not before taking due account of the information and other supporting data provided us by the European Commission and the individual Member States of the EU in order to avoid any unnecessary disruption of trade.

Therefore, we are amending the regulations in § 94.1 by removing France, Ireland, and The Netherlands from the list of regions that have been declared to be free of rinderpest and FMD. We are also removing France, Ireland, and The Netherlands from the list in § 94.11 of regions that are declared to be free of these diseases, but that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest-or FMD-affected regions. As a result of this action, the importation into the United States of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants and swine from any part of France, Ireland, and The Netherlands is prohibited or restricted. We are making these amendments effective retroactively to February 19, 2001, because the disease may have been present in the affected areas of France, Ireland, and The Netherlands for some time before the initial outbreaks were clinically confirmed in each of these regions. The date of February 19, 2001, takes into account the potential disease risk prior to discovery and the incubation period for FMD.

Although we are removing France, Ireland, and The Netherlands from the list of regions considered to be free of rinderpest and FMD, we recognize that the European Commission and the regions affected by this action have responded to the detection of FMD by imposing restrictions on the movement of ruminants, swine, and ruminant and swine products from FMD-affected areas; by conducting heightened surveillance activities; and by initiating measures to eradicate the disease. We intend to reassess this situation at a future date in accordance with the standards of the OIE. As part of that reassessment process, we will consider all comments received on this interim rule, as well as any additional information or data from the European Commission or individual Member States that support changing the disease status of a given region or regions. In future reassessments, we will determine whether it is necessary to continue to prohibit or restrict the importation of ruminants or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine from France, Ireland, and The Netherlands, or whether we can restore some or all of those countries to the list of regions in which FMD is not known to exist or regionalize portions of France, Ireland, and The Netherlands as FMD-free.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the introduction of FMD into the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

We are amending the regulations governing the importation of certain animals, meat, and other animal products by removing France, Ireland, and The Netherlands from the list of regions considered to be free of rinderpest and FMD. We are taking this action because the existence of FMD has been confirmed there and these Member States do not yet meet the OIE criterion for freedom of FMD (i.e., a 3-month waiting period after the last case in a region previously recognized as free of the disease). The effect of this action is to prohibit or restrict the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from France, Ireland, and The Netherlands on or after February 19, 2001. This action is necessary to protect the livestock of the United States from FMD.

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has retroactive effect to February 19, 2001; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751 and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) is amended by removing the words ''France,'', ''Ireland,'', and ''The Netherlands,''.

§ 94.11 [Amended]

3. In § 94.11, paragraph (a) is amended by removing the words ''France,'', ''The Netherlands,'', and ''Republic of Ireland,''.

Done in Washington, DC, this 25th day of May 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–13757 Filed 5–31–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–18–AD; Amendment 39–12246; AD 2001–11–05]

RIN 2120–AA64

Airworthiness Directives; CFM International (CFMI) CFM56–2, –2B, –3, –5B, –5C and –7B Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to CFMI CFM56–2, –2B, –3, –5B, –5C and –7B series turbofan engines. This action requires limiting engines with certain No. 4 bearings to one on each airplane, replacement of certain No. 4 bearings, and increased frequency of inspections for magnetic particles until the suspect bearing is replaced. This action is prompted by reports of two bearing failures in the fleet since December 2000. The actions specified in this AD are intended to prevent bearing failures, which could cause an engine failure.

DATES: Effective June 11, 2001.

Comments for inclusion in the Rules Docket must be received on or before July 31, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–18–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.

FOR FURTHER INFORMATION CONTACT: James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7152, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: This proposal is prompted by reports of two No. 4 bearing failures on CFMI CFM56–7B series turbofan engines since December 2000. Inspections of the failed bearings indicate marginal metallurgical structure, most likely due to an uneven heat treatment process. Both failed bearings are from a manufacturing lot of 47 parts simultaneously heat-treated. This condition, if not corrected, could result in bearing failures, which could cause an engine failure.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other CFMI CFM56–2, –2B, –3, –5B, –5C and –7B series turbofan engines of the same type design, this AD is being issued to prevent bearing failures which could cause an engine failure.

This AD requires:

- Limiting the number of engines with a suspect No. 4 bearing installed to one on each airplane within 300 hours time-in-service (TIS) after the effective date of this AD, but no later than July 1, 2001, whichever occurs earlier. AND
- Increasing the frequency of inspections for magnetic particles until the suspect bearing is replaced. AND
- Replacing all suspect No. 4 bearings within 2,000 hours TIS after the effective date of this AD, but no later than December 31, 2001, whichever occurs earlier.

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 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, 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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NE–18–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 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

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, 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:

2001–11–05 CFM International: Amendment 39–12246. Docket 2001–NE–18–AD.

Applicability: This airworthiness directive (AD) is applicable to CFM International CFM56–2, –2B, –3, –5B, –5C and –7B series turbofan engines with a No. 4 bearing, part number (P/N) 305–355–717–0, that has a serial number (SN) listed in Table 1 of this AD installed. These engines are installed on, but not limited to Airbus Industrie A319, A320, A321 and A340 series airplanes, Boeing 737 and KC135 series airplanes, and McDonnell Douglas DC8 series airplanes.

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

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

To prevent bearing failures, which could cause an engine failure, do the following:

Number of Hours Until Number of Engines Must Be Limited

(a) Limit the number of engines with a suspect No. 4 bearing that has a SN listed in the following Table 1 of this AD to one on each airplane within 300 hours time-in-service (TIS) after the effective date of this AD, but no later than July 1, 2001, whichever occurs earlier:

TABLE 1.—CFM56 ENGINES WITH SUSPECT NO. 4 BEARINGS

Part No.	Part serial No.	Engine model	Engine serial No.
305–355–717–0	DB387598–C	2B	714172
305–355–717–0	DB387670–5	2	692251
305–355–717–0	DB387608–F	3	725109
305–355–717–0	DB387612–8	3	720493
305–355–717–0	DB387614–4	3	721253
305–355–717–0	DB387625–H	3	720383
305–355–717–0	DB387647–Y	3	857594
305–355–717–0	DB387650–6	3	721237
305–355–717–0	DB387651–5	3	726245
305–355–717–0	DB387661–K	3	856671
305–355–717–0	DB387604–K	5B	779783
305–355–717–0	DB387605–J	5B	779784
305–355–717–0	DB387603–L	5B	779785
305–355–717–0	DB387590–5	5B	779786
305–355–717–0	DB387591–4	5B	779787
305–355–717–0	DB387634–3	5B	779796
305–355–717–0	DB387658–D	5B	779798
305–355–717–0	DB387654–2	5B	779799
305–355–717–0	DB387683–G	5B	779802
305–355–717–0	DB387648–W	5B	779803
305–355–717–0	DB387660–L	5B	779804
305–355–717–0	DB387606–H	5B	779960
305–355–717–0	DB387618–O	5B	779961
305–355–717–0	DB387599–B	5C	741948
305–355–717–0	DB387609–Y	7B	876395
305–355–717–0	DB387611–7	7B	876399
305–355–717–0	DB387615–3	7B	876400
305–355–717–0	DB387601–N	7B	876401
305–355–717–0	DB387594–1	7B	876403
305–355–717–0	DB387592–3	7B	876405
305–355–717–0	DB387610–8	7B	876406
305–355–717–0	DB387600–P	7B	876410
305–355–717–0	DB387649–V	7B	876421
305–355–717–0	DB387678–C	7B	876423
305–355–717–0	DB387652–4	7B	876424
305–355–717–0	DB387659–C	7B	876429
305–355–717–0	DB387693–1	7B	876431
305–355–717–0	DB387655–1	7B	876432
305–355–717–0	DB387684–F	7B	876434
305–355–717–0	DB387588–V	7B	876727
305–355–717–0	DB387657–E	7B	876729
305–355–717–0	DB387653–3	7B	876730
305–355–717–0	DB387597–D	7B	877404
305–355–717–0	DB387602–M	7B	877408

TABLE 1.—CFM56 ENGINES WITH SUSPECT NO. 4 BEARINGS—Continued

Part No.	Part serial No.	Engine model	Engine serial No.
305–355–717–0	DB387589–U	7B	877427
305–355–717–0	DB387656–O	7B	875232
305–355–717–0	DB387671–4	7B	874219

Replacement of Suspect No. 4 Bearings

(b) For engines that have a suspect No. 4 bearing that has a SN listed in Table 1 of this AD, replace the No. 4 bearing with a serviceable part within 2,000 hours TIS, after the effective date of this AD, but no later than December 31, 2001, whichever occurs earlier.

Installation of Suspect No. 4 Bearings

(c) After the effective date of this AD, do not install any No. 4 bearing that has a SN listed in Table 1 of this AD.

(d) After the effective date of this AD, do not install any engine that has a No. 4 bearing with a serial number listed in Table 1 of this AD.

Initial Inspections for Chip Detector Indications

(e) For engines that have a suspect No. 4 bearing that has a SN listed in Table 1 of this AD, inspect for magnetic chip indications within in the specified times, and if necessary, disposition as follows:

(1) For CFM56–5B engines, check electronic magnetic chip detector (EMCD) visual indicator within 50 to 75 hours TIS after the effective date of this AD.

(2) For CFM56–5C engine (741948), check for class 2 Electronic Centralized Aircraft Monitor (ECAM) message ''MAGNETIC CHIP DETECTED'' before further flight.

(3) For CFM56–7B engines equipped with Debris Monitoring System (DMS) option, check Flight Management Computer—Master Control Display Unit (FMC–MCDU) for message 79–2114 before further flight.

(4) For CFM56–7B engines equipped with classic magnetic chip detectors (MCD), inspect aft sump MCD within 50 to 75 hours TIS after the effective date of this AD.

(5) For CFM56–2, –2B, and –3 engines, inspect aft sump MCD within 50 to 75 hours TIS after the effective date of this AD.

(6) If bearing particles are found, remove engine from service before further flight.

Repetitive Inspections for Chip Detector Indications

(f) Thereafter, inspect for chip indications in accordance with the specified time-since-last-inspection (TSLI), and if necessary, disposition as follows:

(1) For CFM56–5B engines, check EMCD visual indicator every 50–75 hours TSLI.

(2) For CFM56–5C engine (741948), check for class 2 ECAM message ''MAGNETIC CHIP DETECTED'' after every flight.

(3) For CFM56–7B engines equipped with DMS option, check FMC–MCDU for message 79–2114 once per day.

(4) For CFM56–7B engines equipped with classic MCD, inspect aft sump MCD every 50–75 hours TSLI.

(5) For CFM56–2, –2B, and –3 engines, inspect aft sump MCD every 50–75 hours TSLI.

(6) If bearing particles are found, remove engine from service before further flight.

Terminating Action

(g) Replacement of a No. 4 bearing that has a SN listed in Table 1 of this AD with a No. 4 bearing that does not have a SN listed in Table 1 of this AD is terminating action for the repetitive inspection requirements specified in paragraph (f) of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

(i) Special flight permits may be issued in accordance §§ 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.

Effective Date of This AD

(j) This amendment becomes effective on June 11, 2001.

Issued in Burlington, Massachusetts, on May 24, 2001.

Thomas A. Boudreau,

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

[FR Doc. 01–13720 Filed 5–31–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ACE–2]

Amendment to Class E Airspace; Phillipsburg, KS

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Phillipsburg, KS.

EFFECTIVE DATE: 0901 UTC, July 12, 2001.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 2, 2001 (66 FR 13011). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 12, 2001. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on May 9, 2001.

Richard L. Day,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 01–13673 Filed 5–31–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30249; Amdt. No. 2052]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the **Federal Register** on December 31, 1980, and reapproved as of January 1, 1982.

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

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

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

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

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

The Rule

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on May 25, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

** * * Effective July 12, 2001*

Twin Falls, ID, Joslin Field-Magic Valley Regional, ILS RWY 25, Amdt 8

Manistee, MI, Manistee County-Blacker, VOR RWY 9, Orig

Manistee, MI, Manistee County-Blacker, VOR RWY 27, Orig

Manistee, MI, Manistee County-Blacker, VOR OR GPS RWY 9, Amdt 11 CANCELLED
Manistee, MI, Manistee County-Blacker, VOR OR GPS RWY 27, Amdt 11 CANCELLED
Saginaw, MI, MBS Intl, VOR RWY 5, Amdt 14A
Saginaw, MI, MBS Intl, VOR RWY 14, Amdt 13B
Saginaw, MI, MBS Intl, VOR RWY 23, Amdt 14A
Saginaw, MI, MBS Intl, VOR RWY 32, Amdt 9B
Saginaw, MI, MBS Intl, RNAV (GPS) RWY 5, Orig
Saginaw, MI, MBS Intl, RNAV (GPS) RWY 14, Orig
Saginaw, MI, MBS Intl, RNAV (GPS) RWY 23, Orig
Saginaw, MI, MBS Intl, RNAV (GPS) RWY 32, Orig
Minneapolis, MN Minneapolis-St Paul Intl/ Wold Chamberlain, ILS RWY 22, Amdt 8
Point Lookout, MO, M. Graham Clark, NDB RWY 29, Amdt 7A (CANCELLED)
St. Louis, MO, Lambert-St. Louis Int'l, ILS PRM RWY 30R, Orig (Simultaneous Close Parallel)
Fargo, ND, Hector Intl, VOR OR TACAN RWY 35, Amdt 12B
Fargo, ND, Hector Intl, VOR/DME OR TACAN RWY 17. Orig-D
Fargo, ND, Hector Intl, RNAV (GPS) RWY 13, Orig
Fargo, ND, Hector Intl, RNAV (GPS) RWY 17, Orig
Fargo, ND, Hector Intl, RNAV (GPS) RWY 31, Orig
Fargo, ND, Hector Intl, RNAV (GPS) RWY 35, Orig
Del Rio, TX, Del Rio Intl, RNAV (GPS) RWY 13, Orig
Del Rio, TX, Del Rio Intl, GPS RWY 13, Amdt 1, CANCELLED
Charlotte Amalie, VI, Cyril E. King, RNAV (GPS) Z RWY 10, Amdt 1

** * * Effective September 6, 2001*

White Plains, NY, Westchester County, RNAV (GPS) RWY 34, Amdt 1

[FR Doc. 01–13794 Filed 5–31–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30250; Amdt. No. 2053]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

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

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

The Rule

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

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

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable,

that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on May 25, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

FDC date	State	City	Airport	FDC No.	Subject
04/30/01	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	1/4048	ILS Rwy 36L, Amdt 6A
05/09/01	NY	Westhampton Beach	The Francis S. Gabreski	1/4326	Copter ILS Rwy 24, Amdt 1A
05/09/01	TX	Cleveland	Cleveland Muni	1/4368	GPS 16, Orig
05/09/01	NY	White Plains	Westchester County	1/4389	Copter ILS/DME 162, Orig–A
05/10/01	NC	Maxton	Laurinburg-Maxton	1/4434	NDB or GPS Rwy 5, Orig–A
05/15/01	MI	Romeo	Romeo State	1/4534	GPS Rwy 36, Orig
05/15/01	MI	Romeo	Romeo State	1/4535	VOR/DME or GPS–A, Amdt 7
05/15/01	MI	Coldwater	Branch County Memorial	1/4541	VOR Rwy 6, Amdt 4A
05/15/01	MI	Lansing	Capital City	1/4549	VOR or GPS Rwy 24, Amdt 8A
05/15/01	MI	Lansing	Capital City	1/4550	Radar–1, Amdt 14
05/15/01	OK	Tulsa	Tulsa Intl	1/4571	HI–NDB or ILS Rwy 18L, Amdt 4
05/15/01	VA	Saluda	Hummel Field	1/4589	GPS Rwy 36, Orig (This replaces FDC 1/4589 in TL 01–12)
05/16/01	CA	Oakland	Metropolitan Oakland Intl	1/4602	NDB Rwy 27R, Amdt 5 (This replaces FDC 1/2278 in TL 01–12)
05/16/01	AK	Koliganek	Koliganek	1/4612	GPS Rwy 27, Orig–A
05/16/01	AK	Koliganek	Koliganek	1/4613	GPS Rwy 9, Orig–A
05/17/01	NY	Elmira	Elmira/Corning Regional	1/4631	RNAV (GPS) Rwy 28, Orig
05/17/01	OH	Cleveland	Cleveland-Hopkins Intl	1/4632	ILS Rwy 5R (CAT I, II, III), Amdt 16
05/17/01	OH	Cleveland	Cleveland-Hopkins Intl	1/4633	NDB or GPS Rwy 5R, Amdt 5A
05/17/01	OH	Cleveland	Cleveland-Hopkins Intl	1/4634	ILS Rwy 23L, Amdt 17A
05/17/01	OH	Cleveland	Cleveland-Hopkins Intl	1/4635	NDB or GPS Rwy 23L, Amdt 1A
05/17/01	NM	Albuquerque	Albuquerque Intl Sunport	1/4654	ILS Rwy 3, Orig–B
05/17/01	AZ	Phoenix	Williams Gateway	1/4663	VOR or TACAN Rwy 30C, Amdt 1A
05/17/01	AZ	Phoenix	Williams Gateway	1/4664	ILS Rwy 30C, Amdt 2
05/17/01	MI	Ionia	Ionia County	1/4666	RNAV (GPS) Rwy 27, Orig
05/17/01	MI	Coldwater	Branch County Memorial	1/4669	RNAV (GPS) Rwy 6, Orig–A
05/17/01	TX	Harlingen	Valley International	1/4680	NDB or GPS Rwy 17R, Amdt 11A
05/17/01	TX	Waco	Waco Regional	1/4689	GPS Rwy 19, Orig–A
05/17/01	TX	Waco	Waco Regional	1/4690	GPS Rwy 1, Orig–A
05/17/01	OK	Ardmore	Ardmore Downtown Executive	1/4699	GPS Rwy 17, Orig
05/18/01	MN	Minneapolis	Minneapolis-St Paul Intl (Wold-Chamberlain).	1/4734	Copter ILS Rwy 30R, Orig
05/18/01	MN	Minneapolis	Minneapolis-St Paul Intl (Wold-Chamberlain).	1/4735	ILS Rwy 30R, Amdt 10A
05/18/01	MN	Minneapolis	Minneapolis-St Paul Intl (Wold-Chamberlain).	1/4736	ILS PRM Rwy 30R, Amdt 5A
05/21/01	NM	Albuquerque	Albuquerque Intl Sunport	1/4813	NDB or GPS Rwy 35, Amdt 7A
05/22/01	CA	San Jose	San Jose Intl	1/4869	LOC/DME Rwy 30L, Amdt 11
05/22/01	CA	San Jose	San Jose Intl	1/4870	NDB/DME Rwy 30L, Amdt 5
05/22/01	CA	San Jose	San Jose Intl	1/4871	VOR Rwy 12R, Amdt 3
05/22/01	CA	San Jose	San Jose Intl	1/4872	GPS Rwy 12R, Orig
05/22/01	CA	San Jose	San Jose Intl	1/4873	VOR/DME Rwy 30L, Amdt 1
05/23/01	NY	New York	Laguardia	1/4943	Copter ILS/DME Rwy 22, Amdt 1

[FR Doc. 01–13795 Filed 5–31–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–456 ; Re: Notice No. 882]

RIN 1512–AA07

Diamond Mountain District Viticultural Area (99R–223P)

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

ACTION: Treasury decision, final rule.

SUMMARY: This Treasury decision will establish a viticultural area in Napa County, California, to be known as ''Diamond Mountain District.'' This viticultural area is a result of a petition submitted by Rudy von Strasser of Von Strasser Winery on behalf of the Diamond Mountain Appellation Committee, representing 15 growers and vintners in the proposed area.

EFFECTIVE DATE: Effective July 31, 2001.

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Bureau of Alcohol, Tobacco and Firearms, 111 W. Huron Street, Room 219, Buffalo, New York 14202–2301, (716) 551–4048.

SUPPLEMENTARY INFORMATION:

1. Background on Viticultural Areas

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

ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) on August 23, 1978. 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 on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added 27 CFR part 9, American Viticultural Areas, for 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?

An American viticultural area is a delimited grape-growing region distinguishable by geographic 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 characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;
- A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and
- A copy (or copies) of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

2. Rulemaking Proceeding

Petition

Rudy von Strasser of Von Strasser Winery petitioned ATF for the establishment of a viticultural area in Napa County, California, to be called ''Diamond Mountain.'' The petition was filed on behalf of the Diamond Mountain Appellation Committee, whose 15 growers and vintners represent 87 percent of the total vineyard holdings in the viticultural area. The proposed viticultural area is located entirely in Napa County, California and encompasses approximately 5,000 acres, of which approximately 450 acres are planted to vineyards.

Notices of Proposed Rulemaking

A Notice of Proposed Rulemaking, Notice No. 882, was published in the **Federal Register** on September 29, 1999, requesting comments from all interested persons concerning the proposed viticultural area. The comment period was to close on November 29, 1999. On November 15, 1999, ATF received a request from Fred and Mary Constant of Diamond Mountain Vineyard to extend the comment period an additional 60 days. Diamond Mountain Vineyard is located within both Napa and Sonoma Counties, partially within the boundaries proposed for the Diamond Mountain viticultural area. According to the winery, it had been unable to get timely and complete information on the specifics of the proposal and therefore it needed additional time to prepare its comments. In view of this, on November 26, 1999, ATF published Notice No. 886 extending the comment period until January 28, 2000.

Comments

Thirty-nine comments were received in response to Notice 882. Thirty-seven of the comments favored adoption of the viticultural area as proposed. Twenty-five of these specifically supported the use of the Napa and Sonoma county line as one of the boundary lines for proposed area. These commenters maintained that because the name ''Diamond Mountain'' has always been associated with Napa Valley, the boundaries should not encompass any areas outside Napa County.

Fred and Mary Constant of Diamond Mountain Vineyards submitted two comments proposing two changes to the proposed viticultural area. First, they proposed changing the name to ''Diamond Mountain District.'' The Constants argued that because the proposed area does not physically encompass all of Diamond Mountain, as identified on the U.S.G.S. map included in the petition, the name ''Diamond Mountain'' could be confusing. The Constants, who own a trademark for the name ''Diamond Mountain Vineyard'', also felt that ''Diamond Mountain District'' would reduce confusion and conflicts with their trademark, their winery name, and other Diamond Mountain trademarks. As evidence for the use of this name, the Constants submitted two documents in which ''District'' is used in association with ''Diamond Mountain''. One, a 1913 school board document, twice referred to the Diamond Mountain school district. The other, an article from the 12/4/99 issue of the Wine Business Insider on the proposed Diamond Mountain viticultural area, used the phrase ''Diamond Mountain District''.

The Constants also proposed amending the southwestern boundary of the viticultural area to include their Sonoma county property. Their vineyard, Diamond Mountain Vineyard, straddles the Napa and Sonoma county line. Fifty-five of its acres are located in Napa County within the proposed boundaries of the Diamond Mountain viticultural area, while 15 of its acres are in Sonoma county, just outside the proposed boundaries. The Constants argued that their Sonoma property is on Diamond Mountain and should therefore be included in any viticultural area bearing its name. Referring to the U.S.G.S. map submitted by the petitioners (Calistoga, CA 1993, 1:24,000), they pointed out that much of

Diamond Mountain, including its peak, is actually in Sonoma County.

Their proposal was supported by their assertion that the climate and soil of their Sonoma property is indistinguishable from that of their Napa property. They stated that it is unlikely for climate to vary dramatically over a distance of a few hundred feet on the same side of a mountain. The elevation of their Sonoma property is not an issue, according to the Constants, because the highest part of their Sonoma property is no higher than the highest part of their Napa property. The soil, they asserted, is also consistent between their Napa and Sonoma parcels. The Constants did not provide any evidence supporting this claim.

Additionally, the Constants stated that their vineyard, originally planted to vines around 1900 by Andrew Rasmussen, is one of the oldest on Diamond Mountain. They submitted several pieces of evidence which mention the Rasmussen vineyards as located on Diamond Mountain near the Napa-Sonoma County line. Because of the historical importance of their vineyard, the Constants felt it should be included in the viticultural area in its entirety.

Finally, the Constants stated that the division of their vineyards by the viticultural area boundaries will create an administrative and financial burden for them by forcing them to track the origin of their grapes.

Petitioners' Response

The petitioners, in counter comments, initially disagreed with both the proposed name change and the proposal to include Sonoma County property in the viticultural area, calling the evidence cited for these changes weak.

On January 22, 2001, the petitioners wrote to ATF stating that they had reconsidered and now wished to change the name of the viticultural area to ''Diamond Mountain District.'' However, they stated that they were against any change in the proposed boundaries.

While the petitioners acknowledged that Diamond Mountain's peak is in Sonoma County, they argued that historical and current usage of the name is strongly associated with Napa, not Sonoma, County. The petitioners submitted, as part of either the petition or counter comments, over 40 articles referencing Diamond Mountain as a grape growing area in Napa Valley or Napa County. The petitioners felt that including Sonoma County land in a viticultural area associated with Napa Valley would be confusing to the public.

The petitioners also submitted, as part of their counter comments, a document written by wine historian William F. Heintz titled ''Diamond Mountain—An Overview of its History & the Rasmussens on Diamond Mountain Napa County, California.'' Mr. Heintz found historical records indicating that ''Diamond Mountain'' was a Napa County region name and road name before it was used for the mountain peak. According to Mr. Heintz's research, the earliest use of the name on a Sonoma County map was in 1970. Thus, the petitioners argued, ''Diamond Mountain'' is historically a Napa County name.

Mr. Heintz also researched the history of the Rasmussen's vineyards by examining Napa and Sonoma County assessment records and interviewing individuals familiar with the Rasmussen/Constant property. He concluded that the Rasmussens never grew grapes on the Sonoma portion of their property. Two commenters concurred, stating their personal observations of the property in question showed that, prior to the Constants' ownership, it was heavily forested and contained no evidence of old grape plantings.

Finally, the petitioners argued that the division of the Constants' vineyards by the viticultural area boundary would not create a financial or administrative burden. They pointed out that this boundary is already one of the boundaries of the Napa Valley viticultural area. They argued that the Constants knowingly purchased a parcel in Sonoma, on the other side of the present Napa Valley boundary, thus choosing to divide their vineyard holdings. Their financial and administrative burden, the petitioners maintained, would not change with the establishment of the proposed Diamond Mountain District boundaries.

ATF Analysis of Comments

After careful review of the comments, ATF has concluded that the evidence provided supports the creation of the viticultural area with the name ''Diamond Mountain District'' and with the boundaries as originally proposed.

Name

ATF finds that sufficient evidence has been submitted to support the name ''Diamond Mountain District.'' In addition to insuring that the viticultural name is that by which the area is locally and/or nationally known, ATF must also insure that the name is not false or misleading to the consumer. While the evidence shows that the area has also been called ''Diamond Mountain'', ATF finds that this name could be confused with the Constants ' winery, Diamond Mountain Vineyards. ATF therefore feels that the name ''Diamond Mountain District'' is a better choice. This name is known to refer to the viticultural area and is not misleading.

Boundaries

ATF finds that the evidence provided by Fred and Mary Constant is not sufficient to change the boundaries as originally proposed. In order for ATF to adopt their proposal, the evidence would need to show that: (1) Their Sonoma County property is recognized by consumers and the wine industry as part of the viticultural area, and (2) their Sonoma County property shares geographic characteristics with the viticultural area. Both of these elements must be proved by the evidence for the proposal to be adopted.

First, the Constants did not establish that their Sonoma County property is recognized as part of the viticultural area. To provide name recognition and boundary evidence, the petitioners submitted over forty articles from newspapers, magazines, and reference books referring to Diamond Mountain as a wine region in Napa Valley or Napa County. None of these articles mention wineries or vineyards in Sonoma County.

Both the petitioners and the Constants referenced an article from the January-February 1977 issue of Connoisseurs' Guide to California Wine titled ''Napa Valley Appellations.'' This article identifies Diamond Mountain as one of several Napa Valley areas having unique grape-growing characteristics. In their comments, the Constants quote this article, ''We would identify the whole mountain area west of the Valley and north of Spring Mountain as Diamond Mountain,'' and argue that it supports the inclusion of their vineyard in the viticultural area. However, because of the vagueness of this description, and the fact that this article is clearly referencing Napa Valley areas, ATF does not find this article to be sufficient evidence for the Constants' proposed boundaries.

Both the Constants and the petitioners presented arguments on whether the Rasmussens grew grapes on the Constants' Sonoma parcel on Diamond Mountain. The petitioners submitted several pieces of evidence that persuasively indicated that while the Rasmussens did grow grapes on their Napa property, they did not grow any on their Sonoma property. The Constants' evidence was more general and merely established the site of the Rasmussens' property, and not that they

grew grapes in Sonoma County. After analysis of the combined evidence, ATF finds that the Sonoma County portion of Diamond Mountain does not share the viticultural history of the Napa County portion.

Second, the Constants did not establish that that their Sonoma County property shares geographic characteristics with the proposed viticultural area. It is indisputable that the geographic feature called ''Diamond Mountain'', as depicted on the petitioners'' U.S.G.S. map, includes part of Sonoma County and the Constants' vineyard. However, ATF has created other viticultural areas named for a mountain that do not encompass the entire mountain. In many cases, separate areas of a mountain may have varying climates, soils, or other geographic features, thus creating different grape growing conditions. For example, when establishing the Bell Mountain viticultural area (T.D. ATF–238), ATF cited the soils and topography in its decision to include only the south and southwestern slopes of Bell Mountain in the viticultural area. In another example, the higher elevations of Sonoma Mountain were not included in the Sonoma Mountain viticultural area (T.D. ATF–196) because of climate and topography. In cases such as these, the viticultural area should not encompass the entire mountain since geographic features (climate, soil, elevation, physical features) should be similar within the viticultural area. In the case of Diamond Mountain District, the petitioners have submitted persuasive evidence that the soil and climate in the Napa County part of Diamond Mountain are different from those in the adjacent part of the mountain in Sonoma County. In view of this, the evidence must show that the Constants' Sonoma parcel not only is physically on Diamond Mountain, but also shares similar soil and climatic conditions with the petitioner's proposed viticultural boundaries. Because the Constants have not submitted any evidence regarding the climate or soils of their proposed boundaries, ATF cannot determine if they are similar to those in the proposed viticultural boundaries proposed by the petitioner.

Taken as a whole, the historic and current evidence regarding the boundaries supports the original boundaries proposed by the petitioners. No evidence was present that associated Sonoma County or the Constants' Sonoma vineyard with the grape growing area known as ''Diamond Mountain District.'' ATF's conclusion is that the Diamond Mountain District is locally and nationally known as referring to that part of Diamond Mountain in Napa County. This, along with the petitioners' climate and soil evidence, supports designating only the Napa County part of Diamond Mountain as the viticultural area ''Diamond Mountain District.''

Evidence That the Name of the Area Is Locally or Nationally Known

The Diamond Mountain District has been home to vineyards and wineries since the 1860's. According to the petitioner's evidence, a Mr. Joseph Schram planted his first vines as early as 1863 and had a hundred acres of vineyards by 1892.

According to the petitioner, the evolution of Diamond Mountain into a Napa Valley regional name began in the early decades of the 20th century, with Diamond Mountain School and Diamond Mountain Road being the first features in the region to bear the name. The naming of the school took place in 1909, with the major access road in the region designated as Diamond Mountain Road shortly thereafter. The petitioner has also presented substantial evidence that the Diamond Mountain District began to gain national renown in the early 1970's, as expanding consumer interest in California wines resulted in new vineyards, new wineries and a greater awareness of regional wine character. As evidence for this national name, the petitioner included an excerpt from the second edition of *The Wines of America* by Leon Adams that states, ''Diamond Mountain, like Mt. Veeder and Spring Mountain also on the west side of Napa Valley, is regarded as a viticultural district separate from the rest of Napa Valley.''

Historical or Current Evidence That the Boundaries of the Viticultural Area Are as Specified in the Petition

According to the petitioner, precise boundaries for the region being proposed have never been delineated. The evidence submitted, however, shows that the Diamond Mountain District's viticultural history and identity are strongly associated with Napa Valley. For this reason, the boundaries of the viticultural area are entirely within Napa County. According to the petitioner, the petition took a conservative approach to establishing boundaries for the Diamond Mountain District. The petitioner stated that special care was taken to assure that the boundaries encompass only those lands that meet both the historic and geographic criteria for inclusion in the viticultural area. Also, the boundaries have been drawn to respect neighboring regions with separate names, histories, geographic features and political boundaries. The petitioner cited the Fourth Edition of *The Connoisseurs' Handbook of the Wines of California and the Pacific Northwest* for a description of the proposed area ''* * * a portion of the Napa Valley's western hills between St. Helena and Calistoga''. This citation was accompanied by a map which shows the rough limits of the region: Spring Mountain to the south, the 400 foot elevation that generally parallels Highway 29 to the east, Petrified Forest Road to the north and the Napa-Sonoma County line to the west.

The petitioner chose the 400-foot contour line for the northeastern boundary to accurately reflect the lowest elevation of vineyards historically associated with the Diamond Mountain District. The use of the Napa-Sonoma County line as the southwestern boundary acknowledges the historic association of the Diamond Mountain District viticultural area with Napa County and Napa Valley, and also recognizes the differences in history and geography that distinguish Diamond Mountain from adjacent slopes of the Mayacama Mountains in Sonoma County.

Evidence Relating to the Geographical Features (Climate, Soil, Elevation, Physical Features, etc.) Which Distinguish Viticultural Features of the Area From Surrounding Areas

There is evidence in the record that the geographical features in the Diamond Mountain District viticultural area clearly distinguish it from surrounding areas. The Diamond Mountain District is situated in the Napa Valley on the eastern slope of the Mayacamas Mountains. The region consists entirely of residual upland soils derived from volcanic parent material. These soils are very different from the alluvial soils on the floor of the Napa Valley to the east and northeast and are also significantly different from the sedimentary upland soils prevalent in the Spring Mountain viticultural area to the south. These soils are significantly different from the shallow, dry soils in Sonoma County to the west and southwest. According to the petitioner, the viticultural area's topography and aspect contribute to a special microclimate. Hillside topography and valley temperature inversions combine to give the region an unusually moderate temperate regime during a growing season, with lower maximum temperatures and higher minimum temperatures than nearby locations on the floor of the Napa Valley. The

petitioner stated that the microclimate of the Diamond Mountain District is clearly distinctive when compared to the surrounding areas. The region's microclimate is slightly warmer than that of the Spring Mountain District to the south, but somewhat similar due to comparable upland locations, northeastern (eastern, in Spring Mountain's case) aspects, and cooling influence of marine breezes from the Pacific Ocean. The microclimate is significantly cooler than the floor of the Napa Valley to its northeast and north, due to various tempering influences primarily associated with its upland location. So too is it cooler than adjacent land to the west in Sonoma County, due to its predominantly northeastern aspect which provides oblique sun and shade in the afternoon, while the western aspect of the Mayacamas Mountains adjacent to the region in Sonoma County is clearly hotter and drier.

Boundaries

The viticultural area is located in Napa County, California. The approved USGS maps for determining the boundary of the Diamond Mountain District viticultural area are, ''Mark West Springs, Calif.'', 7.5 minute series, edition of 1993, and the ''Calistoga, Calif.'', 7.5 minute series, edition of 1993. The northeastern boundary follows the 400-foot contour line from Ritchey Creek northwest to the Petrified Forest Road and the northern boundary follows the Petrified Forest Road west from the 400-foot contour line to the Napa-Sonoma county line. The southwestern boundary follows the official boundary line between Napa and Sonoma counties southeast from Petrified Forest Road to the east-west boundary between Sections 18 and 19 in Township 8 North, Range 6 West, Mount Diablo Range and Meridian. The southern boundary follows the boundary between Sections 18 and 19, Sections 17 and 20 and Ritchey Creek east from the Napa-Sonoma county line to the 400-foot elevation line. It also corresponds with the Northern Boundary of the Spring Mountain District viticultural area.

3. Regulatory Analyses and Notices

Does the Paperwork Reduction Act Apply to This Rule?

The provisions of 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 rule because no requirement to collect information is imposed.

How Does the Regulatory Flexibility Act Apply to This Rule?

These regulations will not have a significant economic impact on a substantial number of small entities. The establishment of a viticultural area is neither an endorsement or approval by ATF of the quality of wine produced in the area, but rather an identification of an area that is distinct from surrounding areas. ATF believes that the establishment of viticultural areas merely allows wineries to more accurately describe the origin of their wines to consumers, and helps consumers identify the wines they purchase. Thus, 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 that area.

No new requirements are proposed. Accordingly, a regulatory flexibility analysis is not required.

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

It has been determined that this regulation is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

4. Drafting Information

The principal author of this document is Jennifer Berry, Regulations Division, Bureau of Alcohol, Tobacco, and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, 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 § 9.166 to read as follows:

§ 9.166 Diamond Mountain District

(a) Name. The name of the viticultural area described in this section is ''Diamond Mountain District.''

(b) Approved Map. The appropriate maps for determining the boundary of the Diamond Mountain District viticultural area are two 1:24,000 Scale U.S.G.S. topography maps.

They are titled:

(1) Mark West Springs, CA 1993

(2) Calistoga, CA 1993.

(c) Boundaries. The viticultural area is located in Napa County, California. The beginning point is where the boundary between Napa and Sonoma counties intersects Petrified Forest Road in Section 3 of Township 8 North, Range 7 West, Mount Diablo Base and Meridian on the Mark West Springs map;

(1) Then north and east along Petrified Forest Road approximately 1.9 miles to the point where it intersects the 400-foot contour just east of Section 35 of Township 9 North, Range 7 West, Mount Diablo Base and Meridian, in the Mallacomes land grant;

(2) Then generally east southeast along the 400-foot contour approximately 6.5 miles to the point where it intersects Ritchey Creek in Section 3 of Township 8 North, Range 6 West, Mount Diablo Base and Meridian;

(3) Then west southwest along Ritchey Creek approximately 2.2 miles to the point where it intersects the boundary between Sections 17 and 20 of Township 8 North, Range 6 West, Mount Diablo Base and Meridian;

(4) Then due west in a straight line along the section boundary approximately 0.8 miles to the point where it intersects the boundary between Napa and Sonoma Counties between Sections 18 and 19 of Township 8 North, Range 6 West, Mount Diablo Base and Meridian;

(5) Then generally northwest along the boundary between Napa and Sonoma Counties approximately 4.2 miles to the point where it intersects Petrified Forest Road, to the point of beginning.

Signed: April 13, 2001.

Bradley A. Buckles,

Director.

Approved: April 19, 2001.

Timothy E. Skud,

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

[FR Doc. 01–13821 Filed 5–31–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–030]

RIN 2115–AA97

Safety Zone: Riversplash 2001, Milwaukee River, Wisconsin

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Milwaukee River for the Riversplash 2001 fireworks display. This safety zone is necessary to protect spectators and vessels from the hazards associated with the storage, preparation, and launching of fireworks. This safety zone is intended to restrict vessel traffic from a portion of the waters of the Milwaukee River, Milwaukee, Wisconsin.

DATES: This temporary rule is effective from 8:30 p.m. (CST) until 10:40 p.m. (CST) on June 1st and 2nd, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–030] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy Sickler, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747–7155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule it effective less than 30 days after publication in the **Federal Register**. The permit application did not allow sufficient time for publication of an NPRM followed by a temporary final rule effective 30 days after publication. Any delay of the effective date of this rule would be contrary to the public interest due to the known dangers associated with fireworks displays and the possible loss of life, injury, and damage to property.

Background and Purpose

This Safety Zone is established to safeguard the public from the hazards associated with launching of fireworks on the Milwaukee River, Milwaukee, Wisconsin. The size of the zone was determined by using previous experiences with fireworks displays in the Captain of the Port Milwaukee zone and local knowledge about wind, waves, and currents in this particular area.

The safety zone will be in effect on June 1st and 2nd, from 8:30 p.m. (CST) until 10:40 p.m. (CST). The safety zone will encompass all waters bounded by the following coordinates: from the point of origin at 43° 02.601 N, 087° 54.831 W; east along the State Street Bridge to 43° 02.617 N, 087° 54.766 W; south along the east bank of the Milwaukee River to 43° 02.487 N, 087° 54.756 W; west along the Kilbourn Street Bridge to 43° 02.506 N, 087° 54.735 W; north along the west bank of the Milwaukee River next to Pere Marquette Park back to the point of origin.

All persons and vessels shall comply with the instructions of the Captain of the Port Milwaukee or his designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Milwaukee or his designate on scene representative. The Captain of the Port Milwaukee may be contacted via VHF Channel 16.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of the DOT is unnecessary. This finding is based on the following reasons: this rule will be in effect for only two hours on two days and late in the day when vessel traffic is minimal; vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Milwaukee or his designated on scene representative; and we will issue maritime advisories, widely available to users of the Milwaukee River, before the effective period.

Small Entities

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

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

This rule will affect the following entities: the owners or operators of vessels intending to transit or anchor in the vicinity of Pere Marquette Park between the Kilbourn Avenue and State Street Bridges, Milwaukee, Wisconsin from 8:30 p.m. (CST) until 10:40 p.m. (CST) on June 1st and 2nd, 2001.

This safety zone will not have significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for only two hours on two days and late in the day when vessel traffic is minimal; vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Milwaukee or his designated on scene representative; and we will issue maritime advisories, widely available to users of the Milwaukee River, before the effective period.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Milwaukee (See **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 1–800–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those 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 M16475.1C, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary section 165.T09–916 is added to read as follows:

§ 165.T09–916 Safety Zone; Milwaukee River, Milwaukee, Wisconsin.

(a) *Location:* All waters of the Milwaukee River encompassed by the following coordinates: from the point of origin at 43° 02.601 N, 087° 54.831 W; east along the State Street Bridge to 43° 02.617 N, 087° 54.766 W; south along the east bank of the Milwaukee River to 43° 02.487 N, 087° 54.756 W; west along the Kilbourn Street Bridge to 43° 02.506 N, 087° 54.735 W; north along the west bank of the Milwaukee River next to Pere Marquette Park back to the point of origin.

(b) *Effective Times and Dates.* From 8:30 p.m. until 10:40 p.m. on June 1st and 2nd, 2001.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port Milwaukee or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant or petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) This safety zone should not adversely effect shipping. However, commercial vessels may request permission from the Captain of the Port Milwaukee to enter or transit the safety zone. Approval will be made on a case-by-case basis. Requests must be in advance and approved by the Captain of the Port Milwaukee before transits will be authorized. The Captain of the Port Milwaukee may be contacted via U.S. Coast Guard Group Milwaukee on Channel 16, VHF–FM.

Dated: May 21, 2001.

M.R. DeVries,

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

[FR Doc. 01–13705 Filed 5–31–01; 8:45 am]

BILLING CODE 4910–15–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 252 and 257

[Docket No. RM 2001–3A CARP]

Cable and Satellite Statutory Licenses

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office of the Library of Congress is adopting final regulations for filing a claim to royalties collected under the cable statutory license, 17 U.S.C. 111, and the satellite statutory license, 17 U.S.C. 119. Under the new rules, a party who files a joint claim on behalf of multiple copyright owners must list the name and address of each copyright owner to the joint claim.

EFFECTIVE DATE: July 1, 2001.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel or Tanya M. Sandros, Senior Attorney for Compulsory Licenses, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

Background

Each July, persons who are entitled to statutory license fees collected under the provisions of the cable statutory license, 17 U.S.C. 111, and the satellite statutory license, 17 U.S.C. 119, must file a claim with the Copyright Office in accordance with its regulations in order to establish their claim to a share of the royalty fees. *See* 37 CFR 252.3 and 257.3. Historically, the filing requirements have been minimal, requiring only the identification of the claimant, contact information, a statement of the nature of the claimant's copyrighted work, at least one example of a secondary retransmission of the claimant's work during the previous calender year, an original signature of the claimant or a duly authorized representative of the claimant, and, in the case of a joint claim, a statement on the part of the entity filing the claim that authorization for filing the claim exists.

On April 26, 2001, the Copyright Office published a Notice of Proposed Rulemaking, seeking comment on proposed amendments which were offered to clarify that the identity of each copyright owner must be listed on each claim. 66 FR 20958 (April 26, 2001). The need for this clarification

became apparent during a recent cable royalty distribution proceeding, when a party filed a claim for cable royalties in the name of a corporate entity that held no copyrights to programming which had been secondarily transmitted by a cable system during the relevant calendar year. *See* Docket No. 2000–2 CARP CD 93–97. The disputed claim was filed under the current regulations which allow ''any party'' claiming to be entitled to cable fees to make the claim. During the course of that proceeding, the Office observed that the language ''any party'' was quite broad and could include holders of one or more exclusive rights granted by copyright, as well as agents and representatives of copyright owners. *See* Order in Docket No. 2000–2 CARP CD 93–97 (June 22, 2000).

Specifically, the Office found that this language might plausibly be interpreted by the public as allowing the filing of a ''placeholder'' claim. A ''placeholder'' claim is a claim filed by a person who is not a copyright owner, but who files a cable or satellite claim in his or her own name, and then later asserts claims to royalties on behalf of copyright owners whose works were retransmitted by a cable system or satellite carrier. Placeholder claims may be filed with the Copyright Office in the form of single claims, but in substance they are joint claims. Because the Copyright Office does not inquire as to the identity of the person or entity filing a cable or satellite claim (i.e. whether that person or entity is a copyright owner or another party), we cannot determine whether the claim is a properly filed single claim, or should be a joint claim identifying the appropriate represented copyright owners.

Placeholder claims run afoul of the distribution process for cable and satellite royalties. The law states that cable and satellite royalties may only be distributed to copyright owners whose works were retransmitted by either cable systems or satellite carriers.[1] Indeed, the purpose of filing claims is to permit identification of all copyright owners who are entitled to a distribution.[2] Placeholder claims make it impossible to identify the copyright owners entitled to distribution. Further, both section 111 and section 119 plainly state that claims for royalty fees must be filed in the month of July to be eligible for distribution. Placeholder claims can circumvent this requirement by allowing the filer to enter into representation agreements with copyright owners after the July deadline, and effectively secure a distribution for those owners who had not filed timely claims. The Office has stated previously that it will not allow joint claims to be amended to add new parties after the July deadline, because this would thwart the purpose of the July filing requirement. 59 FR 63025, 63028 (December 7, 1994). Placeholder claims can produce this result, because the identity of the copyright owners represented by the party filing the placeholder claim will not be known until Notices of Intent to Participate in a CARP proceeding are filed. Presumably, the party filing the placeholder claim could then sign representation agreements with copyright owners who had not filed their own claims up until that date.

We wish to put an end to placeholder claims. To this end, we proposed amendments to parts 252 and 257 of the rules to clarify that a claim filed with the Copyright Office must list the name of each copyright owner covered by the claim; and today, we are adopting the proposed amendments as final regulations. In addition, the amended rules will also require that a joint claim specify the name of the copyright owner for each listed copyrighted work. These rules shall govern the filing of cable and satellite claims beginning July 1, 2001.

Comments

The Copyright Office received comments to its proposed rules from seven parties: the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc. (collectively, the ''Performing Rights Organizations''); the Office of the Commissioner of Baseball, the National Basketball Association, the National Football League, and the National Hockey League (collectively, the ''Professional Sports Leagues''); the Canadian Claimants Group; the National Association of Broadcasters (''NAB''); the Motion Picture Association of America (''MPAA''); Worldwide Subsidy Group (''WSG''); and Mark J. Davis (''Davis'').

The commenters, in general, support the Office's endeavor to clarify its rules to eliminate any opportunity for a claimant to expand its claim after the July 31 filing deadline. The Performing Rights Organizations and the Professional Sports Leagues support the proposed modifications to §§ 252.3 and 257.3 of title 37 of the Code of Federal Regulations without change. The remaining five commenters agreed with the proposed amendments but each sought additional modifications to the rules and/or clarification of the nature of the problem that prompted the Office to amend its rule.

Identification of Copyright Owners

First, the purpose of the filing requirements is to establish each copyright owner's entitlement to the cable and satellite royalties in accordance with the provisions set forth in the law. A fundamental requirement is to file a claim with the Copyright Office during the month of July for royalties collected the prior calendar year. No claim can be filed without identifying the copyright owner.

Prior to the recent cable distribution proceeding, Docket No. 2000–2 CARP CD 93–97, we had thought the rules had made it clear that the identity of each copyright owner must be disclosed. Consequently, a joint claim had to include the name of each copyright owner on whose behalf the claim was made. Certain parties, *e.g.* the Professional Sports Leagues and the MPAA, who have historically participated in these proceedings, also understood this to be the law and saw no ambiguity in the wording of the rules.

But what was clear and unambiguous to these parties and the Office was not so obvious to new participants. In July of 1998, the Office received a claim from a single entity which turned out to be an agent filing on behalf of a number of copyright owners. Because the Office recognized that there were arguably ambiguities in the regulation at that time, the Office allowed the claim and further fact-finding was conducted by a Copyright Arbitration Royalty Panel (''CARP'') for the purpose of establishing which copyright owners and which programs were covered by the initial filing.

To avoid such problems in the future, the Office issued proposed rules for the purpose of clarifying that each claim must list the name of each copyright owner on whose behalf the claim is filed and it must do so during the time period established by Congress.

Only WSG makes any objection to the new rules. WSG argues that the

[1] Both section 111 and section 119 permit copyright owners to designate a common agent for payment of royalty fees. 17 U.S.C. 111(d)(4)(A) & 119(b)(4)(A). We do not interpret this language as authorizing the filing of placeholder claims. Rather, this language, ''[claimants] may designate a common agent to receive payment on their behalf,'' allows the Library to distribute royalties to someone other than the copyright owner, provided that the owner has previously informed the Copyright Office of the identity of the common agent.

[2] The one exception to this is allowing performing rights societies, who literally represent thousands of copyright owners, to file one claim on behalf of all their members and affiliates. As discussed above, the Copyright Royalty Tribunal created this exception, and the Copyright Office has adopted this practice.

proposed rules ''are little more than another obstacle that could result in the denial of valid claims.'' WSG comment at 4. WSG reaches this conclusion based upon its analysis of the United States statutory mechanism for filing claims for retransmission royalties with procedures used in Europe, Australia and Asia. It concludes that the United States system is more complex, restrictive, time consuming and expensive. To make its case, WSG highlights the statutory requirement that claims to cable and satellite royalties must be filed with the Copyright Office during the month of July each year. It cites this requirement as an example of the formalistic restrictions placed on the copyright owners and seems to urge the Office to impose fewer restrictions on the claimants, such as not requiring the identification of the copyright owner at the time the claim is filed. Moreover, WSG argues that the imposition of the requirement could result in the denial of a valid claim, especially where the agent has secured timely and proper authority to make the filing.

However, we fail to see how an agent or a copyright owner is disadvantaged because the agent is required to list the name of each copyright owner to a joint claim. First, the agent must know who his clients are when he files the claim. Second, an initial claim may be further amended to add new copyright owners at any time during the month of July. Alternatively, the agent can file the claim on the last day of the filing period provided that the claim is either hand delivered to the Copyright Office or it is sent via first class mail and bears a July date stamp from the United States Postal Service. The only requirement is that the claim be timely filed with the Copyright Office and that it meet the minimal filing requirements, including a complete list of the copyright owners who are covered by the claim, their respective addresses and an example of a secondary transmission of a work owned by one of the listed copyright owners. The copyright owner of this work must be identified.

Adherence to this fundamental filing requirement will, as MPAA points out, simplify litigation and reduce the associated costs. MPAA also contends that the simple rule change will facilitate settlement negotiations at an earlier phase in the distribution process. Even WSG agrees that the requirement to list each copyright owner to a joint claim will allow other parties a mechanism by which they can ascertain the extent of the claim and verify that the party making the claim has the necessary authority to make the filing.

The name of each copyright owner is among the most fundamental elements required to establish a claim to copyright royalties and there can be no serious challenge to a rule requiring the identification of the party who is the beneficiary of the claim. Thus, we are adopting the amended rules.[3]

Address and Contact Information

The proposed rules also require that a joint claim include the address for each listed copyright owner. WSG does not object to the additional requirement, but it does not agree that the requested contact information need be filed at the same time as the initial claim. It argues that the information may not be readily available to the party filing the claim, especially when a first time claimant decides at the last minute to pursue its entitlement. For this reason, WSG proposes that the Office require a subsequent filing with the address and contact information for each claimant. In addition, WSG suggests that this information be submitted to the Copyright Office under seal of a protective order to avoid misuse of the information.

WSG's arguments are unavailing on this point. Undoubtedly, most people could benefit from more time to meet a deadline, but the time for completing the process is limited. Thus, it is incumbent upon the claimant to begin the process early enough to gather the necessary information and submit it to the Office in a timely manner, either in his or her own claim or in a joint claim filed by the copyright owner's agent. Moreover, there is no justification for granting a copyright owner who chooses to file through an agent more time to submit the required information than that allotted to a copyright owner who submits a single claim in his or her own name. Identifying the address of a claimant is a simple matter involving information that should be readily available to the person filing the claim.

For this reason, the Copyright Office rejects WSG's suggestion that copyright owners to a joint claim receive additional time to meet the Office's filing requirements. The Office also rejects the suggestion that the addresses and contact information for each joint claimant be submitted under a protective order. The requested information is by no means confidential. Quite the contrary, it is the most mundane, ordinary variety of information that is routinely disclosed in the ordinary course of business. There is no justification for redacting such information from a public record.

Program Listings

Two commenters, WSG and Davis, seek modifications to the rules to require claimants to identify in their initial filing all programs for which they are making a claim. Davis maintains that the purpose of the claim in July is to clearly identify the claimants who are entitled to receive the royalty fees and the works upon which they base their claim. Davis argues that the identification of all programs at the initial stage of the distribution process will foster an early resolution of any outstanding controversies. He believes that an additional requirement to list all programs in the initial claim will not overburden the filer because the information is readily available from Cable Data Corporation or readily accessible from the claimant's business records.

WSG supports similar modifications of the rules because it had difficulty ascertaining the validity of a claimant's entitlement to particular programs in a recent cable distribution proceeding. It too believes that a rule requiring disclosure of the programs owned or claimed by each claimant would aid in the just resolution of outstanding controversies.

Davis and WSG, however, have formed their opinions based on a single experience in a Phase II distribution proceeding which, by its very nature, required the fact finders to sort out individual claims and determine the value of each claimant's programming. Lists of programs associated with particular claimants, however, are not needed in the early stages of the distribution process. Historically, parties have been able to negotiate settlement agreements between program categories without the aid of specific program information. Furthermore, parties have indicated that, in the case of a joint claim, it is both unnecessary and expensive to require the listing of a single specific program for each copyright owner listed in the claim. 59 FR 23964 (May 9, 1994).

The Office concludes that before making a determination on these proposals, it would be necessary to

[3] Although this rule change will resolve the identity of the claimants eligible to seek royalties, it does not identify which entity will ultimately represent the interests of the claimant in a proceeding before the Copyright Office or a CARP. This is the case because many copyright owners decide to engage independent counsel or an agent to negotiate on their behalf only after they file the initial claim. In these instances, it may not be clear who represents whom in a distribution proceeding until notices of intent to participate are filed with the Office. For example, in the 1997 cable distribution proceeding, MPAA represented the interests of over 100 copyright owners but did not identify itself as the agent of these claimants until it filed its direct case on their behalf.

explore this issue in a separate proceeding and provide an opportunity for comment from other parties.

Parent/Subsidiary Claims

NAB supports the proposed rule changes, but it seeks clarification of the rule for filing a joint claim when the claim is filed in the name of a parent company on behalf of all its subsidiaries. It notes that ''group broadcast station owners sometimes follow the practice of filing a single claim on behalf of their entire group of owned stations,'' even though the parent company may only be the beneficial owner and not the legal owner of the retransmitted works. NAB comment at 2.

However, it is clear that a claim which asserts rights to royalties on behalf of more than a single entity is a joint claim. Thus, the preceding example cited by NAB must be considered a joint claim and as such, it must list each claimant and include a concise statement of authorization. On this point, NAB asserts that the practice of reciting the relationship between the parent and the subsidiary should be sufficient to establish the parent entity's authority for filing the claim on behalf of itself and its subsidiaries and seeks to codify this understanding by including additional regulatory language. Specifically, NAB requests that the proposed regulation be amended to state that:

> A parent corporation of a copyright owner, or an entity controlling a copyright owner, may establish its authorization to file jointly on behalf of its subsidiary copyright owners by identifying the nature of the ownership or control relationship.

NAB comment at 3. The Office, however, declines to codify this practice without giving the public an opportunity to comment on the proposed changes.

Moreover, what is required under the final rule is that the person or entity filing the claim, e.g., the parent corporation, ascertain whether it has the authority to file the claim on behalf of the listed joint claimants and include a concise statement of the authorization it has for making such claim. Of course, this statement is merely a representation to the Office that the authority for filing the claim exists and its validity may be tested at a later point in the distribution process.

In the event the Office determines that a parent/subsidiary claim is a joint claim, NAB makes a second request. It asks for a liberal amendment policy under which the parent corporation can amend its claim to add additional subsidiaries not listed on the original claim. It argues that such amendments do not prejudice other parties because the original claim would provide notice to all parties of the scope and nature of the claim. While NAB suggests that the Office can offer such relief informally without a change to its rules, the Office disagrees.

The final rule requires that, with one exception, a joint claim list each copyright owner. The one express exception—a longstanding one—applies to performing rights organizations. This exception to the requirement to list all copyright owners exists because the Office has recognized that the organizations' standard membership or affiliate agreements are a proper indication of authorization. Because the proposed rule states the circumstances under which a party need not adhere to specific filing requirements, the Office concludes that NAB's proposal would require promulgation of a similar regulation specifically granting liberal amendment procedures for parent corporations. Moreover, such change is beyond the scope of the proposal made in the current rulemaking proceeding, and other parties have not had the opportunity to comment on it. Thus, at this time the Office cannot entertain the NAB proposal.

Authorization

The Canadian Claimant Group files a joint claim annually and ''supports [the Office's] efforts to insure the integrity and transparency of the claims process.'' Canadian Claimant Group comment at 2. However, it has asked the Office to amend its rules further and make written authorizations available for inspection by other copyright owners upon request. This suggestion goes beyond the scope of the Office's proposal made in the current rulemaking proceeding, and the Office is not prepared to make such a change without giving other interested parties an opportunity to comment on the efficiencies and burdens associated with the additional requirement.

Statutory Authority

The Library of Congress is adopting final regulations under its authority to establish regulations for the submission of cable statutory license claims and satellite statutory license claims. 17 U.S.C. 111(d)(4)(A) and 119(b)(4)(A).

List of Subjects

37 CFR Part 252

Copyright, cable television, claims.

37 CFR Part 257

Copyright, satellite television, claims.

For the reasons set forth in the preamble, the Library is amending parts 252 and 257 of 37 CFR Chapter II as follows:

PART 252—FILING OF CLAIMS TO CABLE ROYALTY FEES

1. The authority citation for part 252 continues to read as follows:

Authority: 17 U.S.C. 111(d)(4), 801, 803.

2. Section 252.3 is revised to read as follows:

§ 252.3 Content of Claims.

(a) *Single claim.* A claim filed on behalf of a single copyright owner of a work or works secondarily transmitted by a cable system shall include the following information:

(1) The full legal name and address of the copyright owner entitled to claim the royalty fees.

(2) A general statement of the nature of the copyright owner's work or works, and identification of at least one secondary transmission by a cable system of such work or works establishing a basis for the claim.

(3) The name, telephone number, facsimile number, if any, and full address, including a specific number and street name or rural route, of the person or entity filing the single claim.

(4) An original signature of the copyright owner or of a duly authorized representative of the copyright owner.

(b) *Joint claim.* A claim filed on behalf of more than one copyright owner whose works have been secondarily transmitted by a cable system shall include the following information:

(1) A list including the full legal name and address of each copyright owner to the joint claim entitled to claim royalty fees.

(2) A concise statement of the authorization for the person or entity filing the joint claim. For this purpose, a performing rights society shall not be required to obtain from its members or affiliates separate authorizations, apart from their standard membership affiliate agreements, or to list the name of each of its members or affiliates in the joint claim as required by paragraph (b)(1) of this section.

(3) A general statement of the nature of the copyright owners' works and identification of at least one secondary transmission of one of the copyright owners' works by a cable system establishing a basis for the joint claim and the identification of the copyright owner of each work so identified.

(4) The name, telephone number, facsimile number, if any, and full address, including a specific number

and street name or rural route, of the person filing the joint claim.

(5) Original signatures of the copyright owners to the joint claim or of a duly authorized representative or representatives of the copyright owners.

(c) In the event that the legal name and/or address of the copyright owner entitled to royalties or the person or entity filing the claim changes after the filing of the claim, the Copyright Office shall be notified of the change. If the good faith efforts of the Copyright Office to contact the copyright owner or person or entity filing the claim are frustrated because of failure to notify the Office of a name and/or address change, the claim may be subject to dismissal.

PART 257—FILING OF CLAIMS TO SATELLITE CARRIER ROYALTY FEES

3. The authority citation for part 257 continues to read as follows:

Authority: 17 U.S.C. 119(b)(4).

4. Section 257.3 is revised to read as follows:

§ 257.3 Content of Claims.

(a) *Single claim.* A claim filed on behalf of a single copyright owner of a work or works secondarily transmitted by a satellite carrier shall include the following information:

(1) The full legal name and address of the copyright owner entitled to claim the royalty fees.

(2) A general statement of the nature of the copyright owner's work or works, and identification of at least one secondary transmission by a satellite carrier of such work or works establishing a basis for the claim.

(3) The name, telephone number, facsimile number, if any, and full address, including a specific number and street name or rural route, of the person or entity filing the single claim.

(4) An original signature of the copyright owner or of a duly authorized representative of the copyright owner.

(b) *Joint claim.* A claim filed on behalf of more than one copyright owner whose works have been secondarily transmitted by a satellite carrier shall include the following information:

(1) A list including the full legal name and address of each copyright owner to the joint claim entitled to claim royalty fees.

(2) A concise statement of the authorization for the person or entity filing the joint claim. For this purpose, a performing rights society shall not be required to obtain from its members or affiliates separate authorizations, apart from their standard membership affiliate agreements, or to list the name of each of its members or affiliates in the joint claim as required by paragraph (b)(1) of this section.

(3) A general statement of the nature of the copyright owners' works, identification of at least one secondary transmission of one of the copyright owners' works by a satellite carrier establishing a basis for the joint claim, and the identification of the copyright owner of each work so identified.

(4) The name, telephone number, facsimile number, if any, and full address, including a specific number and street name or rural route, of the person filing the joint claim.

(5) Original signatures of the copyright owners to the joint claim or of a duly authorized representative or representatives of the copyright owners.

(c) In the event that the legal name and/or address of the copyright owner entitled to royalties or the person or entity filing the claim changes after the filing of the claim, the Copyright Office shall be notified of the change. If the good faith efforts of the Copyright Office to contact the copyright owner or person or entity filing the claim are frustrated because of failure to notify the Office of a name and/or address change, the claim may be subject to dismissal.

Dated: May 25, 2001.

Marybeth Peters,

Register of Copyrights.

James H. Billington,

The Librarian of Congress.

[FR Doc. 01–13787 Filed 5–31–01; 8:45 am]

BILLING CODE 1410–33–P

POSTAL SERVICE

39 CFR Part 20

International Recorded Delivery Service

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service is adopting a new fee for international recorded delivery service.

DATES: The rule is effective on July 1, 2001.

FOR FURTHER INFORMATION CONTACT: John A. Reynolds 703–292–3620.

SUPPLEMENTARY INFORMATION: On December 8, 2000, the Postal Service published a final rule in the **Federal Register** (65 FR 77075) adopting changes in international postal rates, fees, and mail classifications. The rule was effective on January 7, 2001. At that time, the Postal Service noted that certain international special service fees were based on the domestic equivalent service and were subject to change based on the Board of Governors' decision about domestic mail.

Recorded delivery service is an international special service that is equivalent to the domestic service, certified mail. Mailers using the service receive a numbered mailing receipt and the destination post office retains a record to establish proof of delivery for each mailed item. Recorded delivery items are handled as ordinary mail during transit. The fee for recorded delivery is based on the fee for the equivalent domestic service, certified mail.

The Postal Rate Commission, in its recommended decision on R2000–1, recommended a fee of $1.90 for certified mail. The Postal Service adopted this fee, under protest, for certified mail. Likewise, we set the fee for recorded delivery at $1.90.

On May 7, 2001, the Board of Governors adopted a fee of $2.10 for certified mail; the new rate is effective on July 1, 2001. Accordingly, we are changing the fee for recorded delivery service to $2.10 effective July 1, 2001.

The Postal Service adopts the following amendments to the International Mail Manual (IMM), which is incorporated by reference in the Code of Federal Regulations (CFR). (See 39 CFR 20.1.)

List of Subjects in 39 CFR Part 20

Foreign relations.

For the reasons discussed in the preamble, the Postal Service amends 39 CFR Part 20 as follows:

PART 20—[AMENDED]

1. The authority citation for part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Amend subchapter 360 of the International Mail Manual (IMM) by revising section 363 to read as follows:

International Mail Manual (IMM)

* * * * *

Chapter 3 Special Services

* * * * *

360 Recorded Delivery

* * * * *

363 Recorded Delivery Fee

The recorded delivery fee is $2.10 and is in addition to postage and other special service fees, if applicable.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–13704 Filed 5–31–01; 8:45 am]

BILLING CODE 7710–12–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 0129–1129; FRL–6989–6]

Approval and Promulgation of Air Quality Implementation Plans; Missouri; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On April 6, 2001 (66 FR 18198), EPA published a direct final approval of a revision to the Missouri State Implementation Plan (SIP) which pertained to the Missouri construction permitting rule. The direct final action was published without prior proposal because EPA anticipated no adverse comment. EPA stated in the direct final rule that if EPA received adverse comment by May 7, 2001, EPA would publish a timely withdrawal in the **Federal Register**. EPA subsequently received adverse comments on the direct final rule. Therefore, EPA is withdrawing the direct final approval. EPA will address the comments in a subsequent final action based on the parallel proposal also published on April 6, 2001 (66 FR 18223). As stated in the parallel proposal, EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule published on April 6, 2001, is withdrawn as of June 1, 2001.

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

List of Subjects in 40 CFR Part 52

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

Dated: May 23, 2001.

Nat Scurry,

Acting Regional Administrator, Region 7.

Accordingly, the revision to 40 CFR 52. 1320, published in the **Federal Register** April 6, 2001 (66 FR 18198), which was to become effective June 5, 2001, is withdrawn.

[FR Doc. 01–13775 Filed 5–31–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301128; FRL–6781–5]

RIN 2070–AB78

Prohexadione Calcium; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of prohexadione calcium (calcium 3-oxido-5-oxo-4-propionylcyclohex-3-enecarboxylate) in or on grass forage, grass hay, grass straw and grass seed screenings. K-I Chemical U.S.A. Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective June 1, 2001. Objections and requests for hearings, identified by docket control number OPP–301128, must be received by EPA on or before July 31, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301128 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker (PM 22), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7740; and e-mail address: giles-parker.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301128. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB),

Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of March 28, 2001 (66 FR 16921) (FRL–6769–9), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP) for tolerance by K-I Chemical U.S.A. Inc., Westchester Financial Center, 11 Martine Avenue, 9th Floor, White Plains, NY, 10606. This notice included a summary of the petition prepared by K-I Chemical U.S.A. Inc., the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.547 be amended by establishing a tolerance for residues of the plant growth regulator prohexadione calcium, calcium 3-oxido-5-oxo-4-propionylcyclohex-3-enecarboxylate in or on grass forage at 0.10 part per million (ppm), grass hay at 0.10 ppm, grass straw at 1.2 ppm and grass seed screenings at 3.5 ppm.

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of prohexadione calcium, calcium 3-oxido-5-oxo-4-propionylcyclohex-3-enecarboxylate in or on grass forage at 0.10 ppm, grass hay at 0.10 ppm, grass straw at 1.2 ppm and grass seed screenings at 3.5 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by prohexadione calcium are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No./ Study Type	Results
870.3100 90–Day oral toxicity rodents (rat)	NOAEL: Males: 73.1 mg/kg/day; Females: 80.4 mg/kg/day LOAEL: Males: 734 mg/kg/day; Females: 815 mg/kg/day based on squamous cell hyperplasia of the forestomach.
870.3100 90–Day oral toxicity rodents (mouse)	NOAEL: Males: ≥10,244 mg/kg/day; Females: ≥11,916 mg/kg/day (highest dose tested)LOAEL: Males: >10,244 mg/kg/day; Females: >11,916 mg/kg/day
870.3150 90–Day oral toxicity in nonrodents (dog)	NOAEL = 80 mg/kg/day LOAEL = 400 mg/kg/day based on moderate cortical areas of dilated basophilic tubules in the kidneys and decreased potassium levels.
870.3200 21/28–Day dermal toxicity	DATA GAP
870.3250 90–Day dermal toxicity	NA
870.3700a Prenatal developmental toxicity in rodents (rat)	Maternal NOAEL ≥1,000 mg/kg/day (limit dose)LOAEL = Not observed Developmental NOAEL ≥1,000 mg/kg/day (limit dose) LOAEL = Not observed
870.3700b Prenatal developmental toxicity in nonrodents (rabbit)	Maternal NOAEL = 40 mg/kg/dayLOAEL = 200 mg/kg/day based on increased mortality,abortions, and decreased maternal body weight gain.Developmental NOAEL ≥200 mg/kg/day LOAEL = Not observed(Due to severe mortality at 750 mg/kg/day, 200 mg/kg/day wasdeemed the high dose for evaluation)
870.3700b Prenatal developmentaltoxicity in nonrodents (rabbit)	Maternal NOAEL = ≥150 mg/kg/day LOAEL = Not observed Developmental NOAEL ≥150 mg/kg/day LOAEL = Not observed

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

Guideline No./ Study Type	Results
870.3700b Prenatal developmentaltoxicity in nonrodents (rabbit)	Maternal NOAEL = 100 mg/kg/dayLOAEL = 350 mg/kg/day based on premature deliveries.Developmental NOAEL ≥350 mg/kg/day LOAEL = Not observed
870.38002–Generation Reproductionand fertility effects rats	Parental/Systemic NOAEL = 35.5 mg/kg/dayLOAEL = 385 mg/kg/day based on increased mortality.Reproductive NOAEL ≥3,850 mg/kg/dayLOAEL >3,850 mg/kg/dayOffspring NOAEL = 385 mg/kg/dayLOAEL = 3850 mg/kg/day based on decreased pup body weight.
870.4100 Chronic toxicity dogs	NOAEL = 20 mg/kg/day LOAEL = 200 mg/kg/daybased on histopathological changes in thekidneys and increased urinary volumeand sodium concentrations.
870.4300 Chronictoxicity/carcinogenicity rats	NOAEL = 93.9 mg/kg/dayLOAEL = 469 mg/kg/day based on decreased WBC in males.No evidence of carcinogenicity
870.4200 Carcinogenicity mice	NOAEL = 279 mg/kg/dayLOAEL = 2847 mg/kg/day based on decreased bodyweight gain and food utilization andmicroscopic changes in the stomachs of males.No evidence of carcinogenicity
870.5100 Bacterial reversemutation assay (Ames test)	Negative with and without S–9activation up to the highest dose tested (5,000 μg/plate).
870.5300*In vitro* mammalian gene mutation assay	Negative with S–9 activationup to 475 μg/mL. Negative without S–9activation up to 500 μg/mL. Compound testedto concentrations limited by solubility.
870.5375*In vitro* mammalian chromosomeaberration (Chinese Hampster Ovary (CHO) cells)	Increase in polyploidy in theabsence of S9 activation at 500 μg/mL for6 hours at the 24–hour cell harvest time;effect not observed after treatments of 24–or 48–hours. No increase in aberrationfrequency at any concentration orharvest time with or without S9. Compound wastested up to concentrations limited by solubility.
870.5385 *In vivo*mammalian chromosome aberration (rat bone marrow cells)	Negative at 6, 24, and48–hour sacrifices. Compound testedto the limit dose.
870.5395 Mammalian erythrocytemicronucleus test	Negative at 24, 48, and 72 hour sacrifices. Noincrease in the frequency of micronucleatedpolychromatic erythrocytes in bone marrow.
870.5550 UDS in primary rat hepatocytes	Negative up to cytotoxic concentration (500 μg/mL).
870.5500 Rec assay with*Bacillus subtilis*	Negative for DNA damage when tested upto the limit dose (5,000 μg/mL) both with and without S9.
870.6200a Acute neurotoxicityscreening battery	NOAEL ≥2,000 mg/kg LOAEL = Not observed
870.6200b Subchronic neurotoxicityscreening battery	NOAEL ≥1148 (M) or 1348(F) mg/kg/day LOAEL = Not observed
870.6300 Developmental neurotoxicity	NA
870.7485 Metabolism and pharmacokinetics	Following oral treatment of rats,prohexadione calcium was rapidlyabsorbed with highest tissue/carcassconcentrations obtained within30 minutes; however, absorptionbecame saturated at the highest dose.The test material did not accumulatein the tissues. For low dose animals,renal excretion was the primary route ofelimination. At the high dose, fecalexcretion became the primary route ofelimination. The primary excreta(both feces and urine) metabolite wasidentified as the free acid.
870.7600 Dermal penetration	NA

B. Toxicological Endpoints

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

interspecies differences and 10× for intraspecies differences.

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

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

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

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF and LOC for Risk Assessment	Study and Toxicological Effects
Acute Dietary	NA	NA	no adverse effects of concern observed in oral, developmental, and neurotoxicity studies in rats and rabbits, attributable to a single exposure dose
Chronic Dietary	NOAEL= 80 mg/kg/day UF = 100 Chronic RfD = 0.80 mg/kg/day	FQPA SF = 1× cPAD = chronic RfD FQPA SF = 0.80 mg/kg/day	Subchronic & chronic toxicity-dog LOAEL = 200 mg/kg/day based on histopathological changes in the kidneys (dilated basophilic tubules) and clinical chemistry changes
Short-Term Dermal (1–7 days) (Occupational/Residential)	Oral Maternal NOAEL = 100 mg/kg/day Estimated dermal absorption rate 25%	LOC for MOE = 100 (Occupational)	Developmental toxicity- rabbit Maternal LOAEL = 350 mg/kg/day based on premature deliveries
Intermediate-Term Dermal (1 week – several months) (Occupational/Residential)	Oral NOAEL = 80 mg/kg/day Estimated absorption rate 25%	LOC for MOE =100 (Occupational)	Subchronic toxicity-dog LOAEL = 400 mg/kg/day based on moderate cortical areas of dilated basophilic tubules in the kidneys and decreased potassium levels
Long-Term Dermal (several months – lifetime) (Occupational/Residential)	Oral NOAEL = 80 mg/kg/day Estimated absorption rate 25%	LOC for MOE = 100 (Occupational)	Subchronic & chronic toxicity-dog LOAEL = 200 mg/kg/day based on histopathological changes in the kidneys (dilated basophilic tubules) and clinical chemistry changes
Short-Term Inhalation (1–7 days) (Occupational/Residential)	Oral Maternal NOAEL= 100 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Occupational)	Developmental toxicity- rabbit LOAEL = 350 mg/kg/day based on premature deliveries
Intermediate-Term Inhalation (1 week – several months) (Occupational/Residential)	Oral NOAEL= 80 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Occupational)	Subchronic toxicity-dog LOAEL = 400 mg/kg/day based on moderate cortical areas of dilated basophilic tubules in the kidneys and decreased potassium levels
Long-Term Inhalation(several months – lifetime)(Occupational/Residential)	Oral NOAEL= 80 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Occupational)	Subchronic & chronic toxicity-dog LOAEL = 200 mg/kg/day based on histopathological changes in the kidneys (dilated basophilic tubules) and clinical chemistry changes

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF and LOC for Risk Assessment	Study and Toxicological Effects
Cancer (oral, dermal, inhalation)	Not likely human carcinogen	NA	No evidence of carcinogenic potential, therefore, cancer risk assessment is not required

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. Tolerances have been established (40 CFR 180.547) for the residues of prohexadione calcium, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from prohexadione calcium in food as follows:

i. *Acute exposure*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. An acute dietary risk assessment was not performed because there were no adverse effects of concern observed in neurotoxicity studies, oral toxicology studies, including maternal toxicity in the developmental toxicity studies in rats and rabbits, that were attributable to a single exposure dose.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Tolerance level residues (pome fruit, peanuts, animal feeds) and 100% CT was assumed for all commodities. Residues were not found to concentrate in processed apples; therefore, concentration factors were not used (apple juice, cider).

iii. *Cancer*. In accordance with the EPA Draft Guidelines for Carcinogen Risk Assessment (July, 1999), prohexadione calcium is classified as not likely to be carcinogenic to humans by all routes of exposure based upon lack of evidence of carcinogenicity in rats and mice.

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

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

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

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

Based on the GENEEC and SCI-GROW models the estimated environmental concentrations (EECs) of prohexadione calcium for acute exposures are estimated to be 35.6 parts per billion (ppb) for surface water and 0.001 ppb for ground water. The EECs for chronic exposures are estimated to be 7.73 ppb for surface water and 0.001 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Prohexadione calcium is not registered for use on any sites that would result in residential exposure.

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

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

Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*. The prenatal and postnatal toxicology data base for prohexadione is adequate for FQPA considerations. The results of these studies indicated no quantitative or qualitative increase in susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to prohexadione. A developmental neurotoxicity study is not required.

3. *Conclusion*. There is a complete toxicity data base for prohexadione calcium and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The FQPA Safety Factor is 1× (reduced from 10×). In assessing the risk posed by prohexadione calcium the safety factor could be removed because: (i) The prenatal and postnatal toxicology data base is complete, there is no indication of increased susceptibility, and a developmental neurotoxicity study is not required, and (ii) the food and drinking water exposure assessments will not underestimate the potential exposures for infants and children from the use of prohexadione calcium (currently there are no proposed residential uses and, therefore, non-occupational exposure is not expected).

E. Aggregate Risks and Determination of Safety

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

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

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

1. *Acute risk*. Acute dietary risk assessment is not expected because there were no adverse effects of concern observed in neurotoxicity studies, oral toxicology studies, including maternal toxicity in the developmental toxicity studies in rats and rabbits, that were attributable to a single exposure dose.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to prohexadione calcium from food will utilize < 1 % of the cPAD for the U.S. population, 2% of the cPAD for all infants (<1 year old) and 2% of th cPAD for children 1–6 years of age. There are no residential uses for prohexadione calcium that result in chronic residential exposure to prohexadione calcium. In addition, there is potential for chronic dietary exposure to prohexadione calcium in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

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

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.80	< 1	7.73	0.001	28,000
All Infants (< 1 year old)	0.80	2	7.73	0.001	8,000
Children 1–6 years old	0.80	2	7.73	0.001	8,000
Females 13–50 years old	0.80	< 1	7.73	0.001	24,000

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Prohexadione calcium is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Prohexadione calcium is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. Prohexadione calcium is classified as not likely to be carcinogenic to humans by all routes of exposure based upon lack of evidence of carcinogenicity in rats and mice, therefore, no cancer risk is expected.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

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

B. International Residue Limits

There is neither a Codex proposal, nor Canadian or Mexican limits for residues of prohexadione calcium in/on plant or livestock commodities.

C. Conditions

A 21–day dermal toxicity study in rabbits (OPPTS 870.3200) is required.

V. Conclusion

Therefore, the tolerance is established for residues of prohexadione calcium, calcium 3-oxido-5-oxo-4-propionylcyclohex-3-enecarboxylate in or on grass forage at 0.10 ppm, grass hay at 0.10 ppm, grass straw at 1.2 ppm and grass seed screenings at 3.5 ppm.

VI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301128 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 31, 2001.

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

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

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

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

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

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301128, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Regulatory Assessment Requirements

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

VIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: May 16, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.547 is amended by alphabetically adding commodities to the table in paragraph (a) to read as follows:

§ 180.547 Prohexadione calcium; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * *	* *
Grass, forage[1]	0.10 ppm
Grass, hay[1]	0.10 ppm
Grass, seed screenings[1]	3.5 ppm
Grass, straw[1]	1.2 ppm
* * *	* *

[1]Registration is limited to grasses grown for seed.

* * * * *

[FR Doc. 01–13774 Filed 5–31–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6938–8]

Maryland: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of Maryland (State) has applied to EPA for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we view this as a routine program change and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize

Maryland's changes to its hazardous waste program will take effect as provided below. If we get comments that oppose this action, or portions thereof, we will publish a document in the **Federal Register** withdrawing this rule, or portions thereof, before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on July 31, 2001, unless EPA receives adverse written comment by July 2, 2001. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Carol Johnson, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–3378. We must receive your comments by July 2, 2001. You can view and copy Maryland's application from 8:30 a.m. to 4:30 p.m., Monday through Friday at the following addresses: Maryland Department of the Environment, Waste Management Administration, Hazardous Waste Program, 2500 Broening Highway, Baltimore, Maryland 21224, Phone number (410) 631–3345; and EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–5254.

FOR FURTHER INFORMATION CONTACT: Carol Johnson, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–3378.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received Final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

EPA concludes that Maryland's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Maryland Final authorization to operate its hazardous waste program with the changes described in the authorization application. Maryland has responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Maryland, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Maryland subject to RCRA will have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Maryland has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Maryland is being authorized by today's action are already effective, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes. If EPA receives comments which oppose this authorization, or portion(s) thereof, that document will serve as a proposal to authorize such changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State's program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If EPA receives comments that oppose only the authorization of a particular change to the State hazardous waste program, we may withdraw that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Maryland Previously Been Authorized for?

Title 7, Subtitle 2 of the Health-Environmental Article of the Annotated Code of Maryland, as amended through 1984, authorized the Department of Health and Mental Hygiene (DHMH) to ''adopt rules and regulations to carry out the provisions of this subtitle'' and to ''administer and enforce this subtitle and the rules, regulations, and orders adopted or issued under this subtitle.'' The DHMH promulgated regulations to implement Subtitle 2 in Chapters 10.51.01 through 10.51.07 of the Code of Maryland Regulations. The State received Final authorization from EPA to implement its base hazardous waste program effective February 11, 1985 (50 *FR* 3511; January 25, 1985).

The statutory provisions concerning hazardous waste management were shifted without renumbering to the newly created Environment Article of the Annotated Code of Maryland in 1987. At that time, the responsibilities for adopting rules and regulations, and for administering and enforcing Subtitle 2, were transferred to the newly created Maryland Department of the Environment (MDE). Since Maryland's base program authorization, the State

has made numerous changes to its regulations. Most notably, in 1989 the regulations were recodified in Chapters 26.13.01 through 26.13.10 of the Code of Maryland Regulations with conforming changes to internal references and some renumbering of provisions in Chapters 26.13.02 and 26.13.05. MDE's latest regulatory revisions took effect on October 16, 2000.

G. What Changes Are We Authorizing With Today's Action?

On December 21, 2000, Maryland submitted a final, complete program revision application seeking authorization of its changes in accordance with 40 CFR 271.21. EPA Region III worked closely with the State to develop the authorization package. Therefore, EPA's comments relative to the State's legal authority to carry out aspects of the Federal program for which the State is seeking authorization, the scope and coverage of activities regulated, and the State's procedures, including the criteria for permit reviews, public participation and enforcement capabilities, were addressed before the submission of the final application by the State. Maryland also solicited public comments on its proposed regulations before they were adopted.

Maryland's program revision application includes statutory and regulatory changes to the State's authorized hazardous waste program, including the adoption of interim status regulations, the adoption of changes to the Federal hazardous waste regulations addressed by selected Revision Checklists listed in the following table, and the adoption of State-initiated changes. The State's statutory references are to the Environment Article, Title 7, Subtitle 2 of the Annotated Code of Maryland (1996 Repl. Vol., 1999 Cumul. Supp.). The regulatory references are to Title 26, Subtitle 13 of the Code of Maryland Regulations (COMAR), Chapters 01 through 07, and Chapter 10, as amended effective October 16, 2000.

We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Maryland's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Maryland Final authorization for the following program changes:

1. Program Revision Changes

Description of Federal requirement	Analogous State Authority
	Interim Status Standards
40 CFR Part 265	MD. Code Ann., Envir. §§ 7–208(a), (d)(4), (e)(6) and (e)(7); and 7–232(a) COMAR 26.13.06 (except 26.13.06.01A(4)(h)(iv), .01A(6), .01B, .02G, .05B(4), .23C, .24B(1), .26); and 26.13.05.02B, C(1)–(3), D(1), D(2) (except (c)(vi)), E–I; 26.13.05.03C–H; 26.13.05.04B–G; 26.13.05.05A–C, D(1), D(2)(a)–(b), D(2)(d)–(g), E–G, H (except H(4)); 26.13.05.09B–F, G(1)–(3), H–I; 26.13.05.10A–C, D(2)–(5), E; 26.13.05.10–1; 26.13.05.10–2B(1)–(5); 26.13.05.10–3B(1) and (2), B(4)–(8), B(10)–(12); 26.13.05.10–4A–F, G(5)&(6); 26.13.05.10–5; 26.13.05.10–6A–C; 26.13.05.11C(2), D(1), D(4)–(8), E, G(1) (except (e)), G(2) (except (b)), I–J; 26.13.05.12B(1)–(6), C, E–I; 26.13.05.14B(3)–(9), I–J, L (except (2)), M, O; 26.13.05.20; and 26.13.05.24. (**Note:** Provisions in COMAR 26.13.05 (permitting standards) are cited to the extent that they are applicable to interim status facilities pursuant to 26.13.06.) (More stringent provisions: 26.13.06.01A(4)(g); .16B(3) and (4), .20B(3), .20E, .21B(5), .22B(3), .22F(1), .22F(3)(a), and .27; 26.13.05.02C(3), .02I, .03G, .05B(1)(e), .05D(2)(f), .09H–I, .10D(2)(b), .10D(4), .10E, .12E–F, and .14J(2)(b) to the extent that these permitting standards apply to interim status facilities pursuant to 26.13.06).
40 CFR 264.3, 270.10(e)(1)–(5), 270.10(g)(1)–(2) and 270 Subpart G).	COMAR 26.13.01.03B (42–2), (59–1), (59–2); 26.13.05.01B; 26.13.06.01B; and 26.13.07.23
Related Conforming Changes (e.g., addition of internal references to new standards in COMAR Chapter 26.13.06 or removal of now obsolete requirements in other COMAR chapters).	COMAR 26.13.01.01B(4), .03B(25), .03B(60), .03B(62), .04A(1), .04B(1), .04B(2)(c); 26.13.02.05B, .05D(2)(b)(ii), .06A(2)(a)(i)–(ii), .06A(2)(b), 06A(2)(b)(ii), .15D; 26.13.03.01D, .01E, .05E(1)(h)(i), .05E(2), .06B(2), .07–4; 26.13.05.01A(2), .02D(2)(c)(vi), .02F(2)(d)(iv), .05D(2)(c), .06A(4)(a), .07B, .07C(1)(b), .11D(2), .14B(1) [Repeal of .15, .17, .18]; 26.13.07.01A, .02D(19), .02D(29), .13–1A(3), .13–1A(5); and 26.13.10.01C, .01D(1), .02A(2)(b).

Description of Federal requirement	Federal Register date and page	Analogous State authority
Non-HSWA Requirements Prior to Non-HSWA Cluster I		
Biennial Report (Revision Checklist 1)	1/28/83, 48 FR 3977	MD. Code Ann., Envir. §§ 7–208(a), (e)(5), & (e)(6); 7–209(c); and 7–253(5). COMAR 26.13.03.06A(2), .06B(1)–(3); 26.13.05.05F–H; 26.13.06.05A, .05B, .06; 26.13.07.15E(3).
Permit Rule; Settlement Agreement (Revision Checklist 2).	9/1/83, 48 FR 39611	MD. Code Ann., Envir. §§ 7–208(a) and (e)(5)–(7); COMAR 26.13.07.03A(1), .03A(3), .03D, and .04D.
Interim Status Standards; Applicability (Revision Checklist 3).	11/22/83, 48 FR 52718	MD. Code Ann., Envir. §§ 7–208(a), (d)(4), (e)(6) & (e)(7) and 7–232(a); COMAR 26.13.06.01A(2) & (3).
Chlorinated Aliphatic Hydrocarbon Listing (Revision Checklist 4).	2/10/84, 49 FR 5308	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.16A, .23, and .24.
National Uniform Manifest (Revision Checklist 5)	3/20/84, 49 FR 10490	MD. Code Ann., Envir. §§ 7–208(a) & (e)(5); 7–209(b); and 7–253(2); COMAR 26.13.01.03B(50) & (51); 26.13.03.04A(1), .04B(1)–(4).
Permit Rule; Settlement Agreement (Revision Checklist 6).	4/24/84, 49 FR 17716	MD. Code Ann., Envir. §§ 7–208(a), (d)(4) and (e)(7); COMAR 26.13.07.23A(2).
Warfarin and Zinc Phosphide Listing (Revision Checklist 7).	5/10/84, 49 FR 19922	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.19E and .19G.
Lime Stabilized Pickle Liquor Sludge (Revision Checklist 8).	6/5/84, 49 FR 23284	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a), (d)(4) & (e)(1); COMAR 26.13.02.03C(2) & (3).
Non-HSWA Cluster I		
Household Waste (Revision Checklist 9)	11/13/84, 49 FR 44978	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.04–1A(1), .04–1B, and .04–1C intro.
Interim Status Standards; Applicability (Revision Checklist 10).	11/21/84, 49 FR 46094	MD. Code Ann., Envir. §§ 7–208(a), (d)(4), (e)(6) & (e)(7); and 7–232(a); COMAR 26.13.06.01A(1)–(3).
Corrections to Test Methods Manual (Revision Checklist 11).	12/4/84, 49 FR 47390	MD. Code Ann., Envir. §§ 7–208(a), (e)(1) and (e)(2); COMAR 26.13.01.04B and .05A(4).
Satellite Accumulation (Revision Checklist 12)	12/20/84, 49 FR 49568	MD. Code Ann., Envir. §§ 7–208(a) & (e)(5); and 7–209(c); COMAR 26.13.03.05E(3). (More Stringent Provision: 26.13.03.05E(3)).
Definition of Solid Waste (Revision Checklist 13)	1/4/85, 50 FR 614; 4/11/85, 50 FR 14216; 8/20/85, 50 FR 33541.	MD. Code Ann., Envir. §§ 7–201(t); and 7–208(a), (d)(3)(i), (d)(4), (e)(1) & (e)(4)–(6); COMAR 26.13.01.03B(5), .03B(12), .03B(33), .03B(40), .04D–I; 26.13.02.01C, .02A–G .03C(2)–(3), .04A(5)–(6), .05A(2), .06A(1), .06A(2)(b), .06A(3)(a), .06A(3)(b)(i)–(iii), .06B–C, .16A, .91 intro; 26.13.05.01A(3)(c), .16B()1); 26.13.06.01A(4)(c), .23A, .24A, .24B(2); 26.13.10.01A–C. .01D(1) .02A(1)–(2), .02C–E, .02F(4), .03, .04B–C. (More Stringent Provisions: 26. 13.01.04G(2), 26.13.10.02A(2), 26.13.10.03B, and 26.13.10.03C).
Interim Status Standards for Treatment, Storage, and Disposal Facilities (Revision Checklist 15).	4/23/85, 50 FR 16044	MD. Code Ann., Envir, §§ 7–208(a) and (e)(4)–(6); COMAR 26.13.05.11C(2), .11I, .14J, .14O; 26.13.06.19B intro, .19B(1), .19B(5), .19C, .21A, .21B(1)–(2), .21B(5), .22B(3) & (6). (More Stringent Provision: 26.13.06.21B(5)).
Non-HSWA Cluster II		
Financial Responsibility; Settlement Agreement (Revision Checklist 24–Amended).	5/2/86, 51 FR 16422; 3/10/88, 53 FR 7740; 6/26/90, 55 FR 25976.	MD. Code Ann., Envir. §§ 7–208(a) & (e)(6)–(7); 7–236(a); and 7–242(a)(1); COMAR 26.13.01.03B(1–1), (25), (34) & (60); 26.13.05.07A(1) &(2), .07B, .07C(1)(a), .07C(2)–(5), .07D(1)–(5), .07E, .07F, .07G, .07H, .01I(1)–(3), .07J, .08; 26.13.06.07, .08, .09, .10, .11, .12, .13, .14, 15, .16; 26.13.07.02D(30)–(32), .13–2A(1)(d), .13–2B, 23C(1)(d).

Description of Federal requirement	Federal Register date and page	Analogous State authority
		(More Stringent Provisions: 26.13.04.08B (3) & (4) and 26.13.06.16B(3) &(4)).
Listing of Spent Pickle Liquor (Revision Checklist 26)	5/28/86, 51 FR 19320; 9/22/86, 51 FR 33612; 8/3/87, 52 FR 28697.	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.17.
Non-HSWA Cluster III		
Radioactive Mixed Waste (Non-Checklist Item MW)	7/3/86, 51 FR 24504	MD. Code Ann., Envir. §§ 7–201(b), (m), and (t).
Liability Coverage Corporate Guarantee (Revision Checklist 27).	7/11/86, 51 FR 25350	MD. Code Ann., Envir. §§ 7–208(a) & (e)(7)–(7); 7–236(a); and 7–242(a)(1); COMAR 26.13.05.08 and 26.13.06.16.
Standards for Hazardous Waste Storage and Treatment Tank Systems (Revision Checklist 28).	7/14/86, 51 FR 25422; 8/15/86, 51 FR 29430.	MD. Code Ann., Envir. §§ 7–208(a), (e)(3), (e)(5) and (e)(6); COMAR 26.13.01.03B(1), (2–1), (6–1), (10–1), (22–1), (40–1), (42–1), (47–1), (55–1), (55–2), (76–1), (78–1), (87–1), (87–2) & (96), .04A(7); 26.13.03.05E(1)–(2); 26.13.05.02F(2)(d), .05D(2)(h), .07A(2)(c), .08, .10A(1)–(3), .10B–D, .10–1, .10–2B, .10–3, .10–4A, .10–4B intro, .10–4B(3)–(7), .10–4C–G, .10–5, .10–6., .10–7; 26.13.06.02B–E, .05A, .05B(1), .05B(3), .07A, .12A(2), .16, .18; 26.13.07.02D(19), .02D(29), .02–3(B)(3)–(12), .23C(3)(a). (More Stringent Provisions: 26.13.03.05E(1)–(2); 26.13.05.10B, .10D(1), .10D(2), .10D(4), .10D(5), .10–6A(6), .10–6A(8), .10–6A(9), .10–6B, .10–6C; and 26.13.06.18C(1)).
Correction to Listing of Commercial Chemical Products and Appendix VIII Constituents (Revision Checklist 29).	8/6/86, 51 FR 28296	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.19E, .19G and .24.
Revised Manual SW-846; Amended Incorporation by Reference (Revision Checklist 35).	3/16/87, 52 FR 8072	MD. Code Ann., Envir. §§ 7–208(a), (e)(1) and (e)(2); COMAR 26.13.01.05A(4).
Closure/Post-Closure Care for Interim Status Surface Impoundments (Revision Checklist 36).	3/19/87, 52 FR 8704	MD. Code Ann., Envir. §§ 7–208(a) & (e)(6)–(7); 7–236(a); and 7–242(a)(1); COMAR 26.13.05.11G(1) intro, .11G(1)(a)–(d)(v), .11G(2) intro, .11G(2)(a), .11G(2)(c)–(d); 26.13.06.19B(4) intro, .19B(4)(a).
Definition of Solid Waste; Technical Corrections (Revision Checklist 37).	6/5/87, 52 FR 21306	MD. Code Ann., Envir. §§ 7–201(t); and 7–208(a), (d)(3)(i), (d)(4), (e)(1) & (e)(4)–(6); COMAR 26.13.02.19 intro; 26.13.10.01A(1)(b)&(2).
Amendments to Part B Information Requirements for Land Disposal Facilities (Revision Checklist 38).	6/22/87, 52 FR 23447; 9/9/87, 52 FR 33936.	MD. Code Ann., Envir. §§ 7–207(a)(4); and 7–208(a), (e)(3), (e)(6), (e)(7) & (e)(9)(iii); COMAR 26.13.07.02–1B(7) & .02–1D.
Non-HSWA Cluster IV		
List (Phase 1) of Hazardous Constituents for Ground-water Monitoring (Revision Checklist 40).	7/9/87, 52 FR 25942	MD. Code Ann., Envir. §§ 7–208(a), (e)(2), (e)(5)–(7) and (e)(9)(iii); COMAR 26.13.02.25C; 26.13.05.06–4H(2)&(3), .06–4H(4)(a), .06–5A(9) & (10); 26.13.07.02–1B(4)(b). (More Stringent Provisions: 26.13.05.06–5A(9)&(10)).
Identification and Listing of Hazardous Waste (Revision Checklist 41).	7/10/87, 52 FR 26012	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.19C.
Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee (Revision Checklist 43).	11/18/87, 52 FR 44314	MD. Code Ann., Envir. §§ 7–208(a) & (e)(6)–(7); 7–236(a); and 7–242(a)(1); COMAR 26.13.05.08 and 26.13.06.16.
Hazardous Waste Miscellaneous Units (Revision Checklist 45).	12/10/87, 52 FR 46946	MD. Code Ann., Envir. §§ 7–208(a), (e)(3), & (e)(5)–(7); 7–236(a); and 7–242(a)(1); COMAR 26.13.01.03B(44)&(53); 26.13.05.02F(2)(d), .05D(2)(h), .06A(5), .07B, .07C(1)(b), .07E, .07G(1)(a)–(b), .07H(2)(a), .07H(2)(b)(i)–(ii), .08, .16–1; 26.13.07.02D(19), .02D(29), .02–9B. (More Stringent Provision: 26.13.01.03B(53)).
Technical Correction; Identification and Listing of Hazardous Waste (Revision Checklist 46).	4/22/88, 53 FR 13382	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.19E, .19G and .24.

Description of Federal requirement	Federal Register date and page	Analogous State authority
Non-HSWA Cluster V		
Identification and Listing of Hazardous Waste; Treatability Studies Sample Exemption (Revision Checklist 49).	7/19/88, 53 FR 27290	MD. Code Ann., Envir. §§ 7–208(a), (d)(4) and (e)(1); COMAR 26.13.01.03B(85); 26.13.02.04–4 and .04–5.
Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems (Revision Checklist 52).	9/2/88, 53 FR 34079	MD. Code Ann., Envir. §§ 7–208(a), (e)(3), (e)(5) and (e)(6); COMAR 26.13.01.03B(17)&(92); 26.13.05.07E, .10A(2), .10A(3), .10–4F(3), .10–6A(1), .10–6B(3); 26.13.06.07A, .10, .12A(2), .18A.
Identification and Listing of Hazardous Waste; Designation, Reportable Quantities, and Notification (Revision Checklist 53).	9/13/88, 53 FR 35412	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a), (d)(4) & (e)(1); COMAR 26.13.02.17 and .23.
Permit Modifications for Hazardous Waste Management Facilities (Revision Checklist 54).	9/28/88, 53 FR 37912; 10/24/88, 53 FR 41649.	MD. Code Ann, Envir. §§ 7–208(a), (d)(4) and (e)(7); COMAR 26.13.01.03B(6–1); 26.13.05.04E(5), 07C(3)(a)(–(c), 07H(4)(a)–(c); 26.13.06.08D(7)–(10), .13F(5)–(8);' 26.13.07.04L(2), .10, .11A, 11B(3), 13–1, .13–2, 13–3, .15C, .17A(1), .17B(11), .18D(2)–(4), .20B(3), 20B(5). (More Stringent Provisions: 26.13.07.13–2 and .20B(5)).
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Statistical Methods for Evaluating Ground-water Monitoring Data from Hazardous Waste Facilities (Revision Checklist 55).	10/11/88, 53 FR 39720	MD. Code Ann., Envir. §§ 7–208(a), (e)(2) and (e)(5)–(7); COMAR 26.13.05.06B(1)(a), 06B(1)(b)(i), .06–1A, .06–2B, .06–2C(2), .06–2J–M, .06–3, .06–4C–E, .06–4G, .06–4H (except (H)(6)), .06–4I–L, .06–5A(4)–(5), .06–5A(7)(11), .06–5B(1), .06–5C. (More Stringent Provisions: 26.13.06–5A(9) and (10)).
Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Wastes (Revisions Checklist 56).	10/31/88, 53 FR 43878	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.19G and .24.
Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Wastes (Revision Checklist 57).	10/31/88, 53 FR 43881	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.19E and .24.
Standards for Generators of Hazardous Waste; Manifest Renewal (Revision Checklist 58).	11/8/88, 53 FR 45089	MD. Code Ann., Envir. §§ 7–208(a) & (e)(5); 7–209(b) & (c); and 7–253(2); COMAR 26.13.03.04A(1).
Hazardous Waste Miscellaneous Units; Standards Applicable to Owners and Operators (Revision Checklist 59).	1/9/89; 54 FR 615	MD. Code Ann., Envir. §§ 7–208(a) and (e)(7); COMAR 26.13.07.02D(19) and (29).
Amendments to Requirements for Hazardous Waste Incinerator Permits (Revision Checklist 60).	1/30/89, 54 FR 4286	MD. Code Ann., Envir. §§ 7–207(a)(4); and 7–208(a) & (e)(7); COMAR 26.13.07.17D.
Changes to Interim Status Facilities for Hazardous Waste Management Permits; Modifications of Hazardous Waste Management Permits; Procedures for Post-Closure Permitting (Revision Checklist 61).	3/7/89, 54 FR 9596	MD. Code Ann., Envir. §§ 7–208(a), (d)(4) & (e)(7); and 7–240; COMAR 26.13.07.01A, .02C, .03–1, .13–2, .20L, .23C (except (1)(f) and (3)(g)); .23D(2)(c)–(e). (More Stringent Provision: 26.13.07.13.2).
Non-HSWA Cluster VI		
Delay of Closure Period for Hazardous Waste Management Facilities (Revision Checklist 64).	8/14/89, 54 FR 33376	MD. Code Ann., Envir. §§ 7–208(a), (d)(4) and (e)(6); COMAR 26.13.02D(1)(a), .02D(1)(c)(i), .02D(2)(c)(i), .07C(4)(b)–(e), .07D(1), .07D(2)(b)(i), .07D(3), .07D(4)(b)(ii), .07D(5), .07D(6) (except (6)(h)), .07D(7), .07D(8), .08; 26.13.06.02A, .08E(3)–(6), .09A, .09B intro, .09B(2)(a), .09D, 09E intro, .09E(2)(a), .09G, .09H intro. 09H(1)–(7), .09I–O, .16.
Mining Waste Exclusion I (Revision Checklist 65)	9/1/89, 54 FR 36592	MD. Code Ann., Envir. §§ 7–208(a), (d)(4) and (e)(1); COMAR 26.13.02.03A(2)(a) & (c); .03A–1, .04–1A(7), .04–1E and .04–1F.
Testing and Monitoring Activities (Revision Checklist 67)	9/29/89, 54 FR 40260	MD. Code Ann., Envir. §§ 7–208(a) and (e)(2); COMAR 26.13.01.05A(4) and 26.13.02.22.
Changes to Part 124 Not Accounted for by Present Checklists (Revision Checklist 70).	4/1/83, 48 FR 14146; 6/30/83, 48 30113, 7/26/88, 53 FR 28118, 9/26/88, 53 FR 37396, 1/4/89, 54 FR 246.	MD. Code Ann., Envir. §§ 7–208(a) and (e)(7); COMAR 26.13.07.20A intro, .20A(1)–(3), .20B(1), .20B(3), .20B(5)–(6), .20C(3), .20G(5)(a)(iii)–(iv), .20I(1). More Stringent Provisions: 26.13.07.20B(3) and (5)).

Description of Federal requirement	Federal Register date and page	Analogous State authority
Mining Waste Exclusion II (Revision Checklist 71)	1/23/90, 55 FR 2322	MD. Code Ann., Envir. §§ 7–208(a), (d)(4), (e)(1) & (e)(5); and 7–209(b)(2) & (c); COMAR 26.13.01.03B(1); 26.13.02.04–1A(7), .04–1E, .04–1F; 26.13.03.04E(6).
Modifications of F019 Listing (Revision Checklist 72)	2/14/90, 55 FR 5340	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.16A.
Testing and Monitoring Activities; Technical Corrections (Revision Checklist 73).	3/9/90, 55 FR 8948	MD. Cod. Ann., Envir. §§ 7–208(a) and (e)(2); COMAR 26.13.01.05A(4) and 26.13.02.022.
Criteria for Listing Toxic Wastes; Technical Amendment (Revision Checklist 76).	5/4/90, 55 FR 18726	MD. Code Ann., Envir. §§ 7–208(a), (e)(1) and (e)(2); COMAR 26.13.02.09A(3).
HSWA Cluster I		
Paint Filter Test (Revision Checklist 16)	4/30/85, 50 FR 18370	MD. Code Ann., Envir. §§ 7–208(a), (e)(2), (e)(4) and (3)(6); COMAR 26.13.05.02D(2)(a)(vi), .02D(2)(c), .14N(2); 26.13.06.02B, .02C, .05B(1), .22F(2).
Small Quantity Generators (Revisions Checklist 17A)	7/15/85, 50 FR 28702	MD. Code. Ann., Envir. §§ 7–205(b); 7–208(a) & (e)(5); and 7–209(c); COMAR 26.13.02.05A, .05D and .05E.
Household Waste (Revision Checklist 17C)	7/15/85, 50 FR 28702	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.04–1A(1), .04–1B and 04–1C intro.
Waste Minimization (Revision Checklist 17D)	7/15/85, 50 FR 28702	MD. Code Ann., Envir. §§ 7–205(b); 7–208(a) & (e)(5)–(7); and 7–209(b) & (c); COMAR 26.13.03.06B(1)(d)(vi)–(viii); 26.13.05.05A(1)–(3), .05D(2)(i); 26.13.07.04J(2), .23A(1) & (3).
Liquids in Landfills (Revision Checklist 17F)	7/15/85, 50 FR 28702	MD. Code Ann., Envir. §§ 7–208(a), (e)(2), (e)(4) and (e)(6); COMAR 26.13.05.14N(1) and 26.13.06.22F(1). (More Stringent Provisions: 26.13.05.14N(1) and 26.13.0622F(1)).
Dust Suppression (Revision Checklist 17G)	7/15/85, 50 FR 28702	MD. Code Ann., Envir. §§ 7–208(a) & (e)(4); and 7–224(a); COMAR 26.13.10.01D(1)–(2) (More Stringent Provisions: 26.13.10.01D(2)).
Double Liners (Revision Checklist 17H)	7/15/85, 50 FR 28702	MD. Code Ann., Envir. §§ 7–208(a), (d)(4), (e)(3) and (e)(6); COMAR 26.13.05.11B(4), .11C(1)–(2), .11D(2), .11D(4)–(6), .12B, .14B(1), .14B(3)–(9); 26.13.06.19D–F, .20D, .22C–E. (More Stringent Provisions: 26.13.05.11D(2)).
Cement Kilns (Revision Checklist 17J)	7/15/85, 50 FR 28702	MD. Code Ann., Envir. §§ 7–201(t) & (v); 7–208(a), (d)(3)(i), (d)(4), (e)(1) & (e)(4)–(6); and 7–224(a); COMAR 26.13.02.06A(2)(b), .19 intro; 26.13.10.02B(3).
Omnibus Provision (Revision Checklist 17O)	7/15/85, 50 FR 28702	MD. Code Ann., Envir. §§ 7–208(a), (e)(6) & (3)(8); and 7–242(a)(3); COMAR 26.13.07.05B.
Interim Status (Revision Checklist 17P)	7/15/85, 50 FR 28702	MD. Code Ann., Envir. §§ 7–208(a), (d)(4), (e)(6) & (e)(7); and 7–232(a); COMAR 26.13.06.01B(1) & (4); 26.13.07.02A, 02C, .04J(2), .23A(1), .23A(3), 23D(2)(a)(i)–(ii), .23D(2)(b), .23D(2)(d), .23D(2)(e).
Hazardous Waste Exports (Revision Checklist 17R)	7/15/85, 50 FR 28702	MD. Code Ann., Envir. §§ 7–208(a) & (e)(5); and 7–209(c); COMAR 26.13.03.07A(1)–(3).
Listing of TDI, TDA, DNT (Revision Checklist 18)	10/23/85, 50 FR 42936	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.17, .19G, .22, .23, and .24.
Listing of Spent Solvents (Revision Checklist 20)	12/31/85, 50 FR 53315; 1/21/86, 51 FR 2702.	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.16A.
Listing of EDB Waste (Revision Checklist 21)	2/13/86, 51 FR 5327	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.17, .22 and .23.
Listing of Four Spent Solvents (Revision Checklist 22)	2/25/86, 51 FR 6537	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.16A, .19G, .22, .23 and .24.

Description of Federal requirement	Federal Register date and page	Analogous State authority
Generators of 100 to 1000 kg Hazardous Waste (Revision Checklist 23).	3/24/86, 51 FR 10146	MD. Code Ann., Envir. §§ 7–205(b); and 7–208(a) & (e)(5); and 7–209(c); COMAR 26.13.02.01B(1), .05A(1)–(3), .05C–E, .19G; 26.13.05.01A(3)(d); 26.13.06.01A(4)(d); 26.13.07.01A; (More Stringent Provisions: 26.13.02.05A(1), .05C, .05D, .05E(2); 26.13.05.01A(3)(d); 26.13.06.01A(4)(d); and 26.13.07.01(A).
Codification Rule; Technical Correction (Revision Checklist 25).	5/28/86, 51 FR 19176	MD. Code Ann., Envir. §§ 7–208(a), (e)(2), (e)(4) and (e)(6); COMAR 26.13.06.22F(2)
Standards for Hazardous Waste Storage and Treatment Tank Systems (Revision Checklist 28).	7/14/86, 51 FR 25422; 8/15/86, 51 FR 29430.	See the entry for Revision Checklist 28 in Non-HSWA Cluster III.
Biennial Report; Correction (Revision Checklist 30)	8/8/86, 51 FR 28556	MD. Code Ann., Envir. §§ 7–205(b); 7–208(a), (e)(5) & (e)(6); 7–209(b) & (c); and 7–253(5); COMAR 26.13.05.05F(4)(h), .05F(4)(j)–(k), .05F(5); 26.13.06.05A.
Exports of Hazardous Waste (Revision Checklist 31)	8/8/86, 51 FR 28664	MD. Code Ann., Envir. §§ 7–208(a) & (e)(5); and 7–209(c); COMAR 26.13.01.03B(7–1), (17–1), (64–1), (66–1) & (81–1); 26.13.02.05D(2), .06A(3)(a)(i), .06A(3)(b)(i), .06D; 26.13.03.06B(1)(a)–(d) intro, .06B(1)(d)(iii)–(v), .06B(2) & (3), .07A (1)–(3), .07B (2)(a)–(f), .07B(3)(a)–(b), .07–1A(1)–(4), .07–1A(5) intro, .07–1A(5)(a)–(b)(vii), .07–1A(6)–(7), .07–1B, .07–2, .07–3, .07–4; 26.13.04.02A(1), .02A(3), .02A(5)(b), .02A(6)(b), .02A(7)(d)–(e). (More Stringent Provisions: 26.13.03.07–1A(1)–(5)(b)(vii), .07–1B, .07–2B, .07–2C(1)–(3) and .07–2D(2)).
Standards for Generators; Waste Minimization Certifications (Revision Checklist 32).	10/1/86, 51 FR 35190	MD. Code Ann., Envir. §§ 7–205(b); 7–208(a) & (e)(5)–(7); 7–209(b) & (c); and 7–253(2).
Listing of EDBC (Revision Checklist 33)	10/24/86, 51 FR 37725	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.17, .22 and .23.
HSWA Cluster II		
Exception Reporting for Small Quantity Generators of Hazardous Waste (Revision Checklist 42).	9/23/87, 52 FR 35984	MD. Code Ann., Envir. §§ 7–208(a) & (e)(5); and 7–209(c); COMAR 26.13.03.06C(1)–(2). (More Stringent Provisions: 26.13.03.06C(1)–(2)).
Identification and Listing of Hazardous Waste; Technical Correction (Revision Checklist 47).	7/19/88, 53 FR 27162	MD. Code Ann., Envir. §§ 7–205(b); 7–208(a) & (e)(5); and 7–209(c); COMAR 26.13.02.05C and .05D(3)(a). (More Stringent Provision: 26.13.02.05C(3)&(4).
Farmer Exemption; Technical Corrections (Revision Checklist 48).	7/19/88, 53 FR 27164	MD. Code Ann., Envir. §§ 7–208(a) & (e)(5); and 7–209(c); COMAR 26.13.03.01B(1)–(6) & .01D; 26.13.05.01A(3)(e); 26.13.06.01A(4)(e); and 26.13.07.01A.
Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems (Revision Checklist 52).	9/2/88, 53 FR 34079	See the entry for Revision Checklist 52 in Non-HSWA Cluster V.
Reportable Quantity Adjustment Methyl Bromide Production Wastes (Revision Checklist 68).	10/6/89, 54 FR 41402	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.17, .22 and .23.
Reportable Quantity Adjustment (Revision Checklist 69)	12/11/89, 54 FR 50968	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.16A, .23 and .24.
Toxicity Characteristic Revisions (Revision Checklist 74)	3/29/90, 55 FR 11798; 6/29/90, 55 FR 26986..	MD. Code Ann., Envir. §§ 7–208(a), (e)(1) and (e)(2); COMAR 26.13.02.04–1A(9), .04–1A(10)(a), .04–1A(12), .14A–B, .15B–C, .21; 26.13.05.11D(6), .14B(5)(a); 26.13.06.19D(1)–(2), .21A, .21B(1)–(2).
Listing of 1,1–Dimethylhydrazine Production Wastes (Revision Checklist 75).	5/2/90, 55 FR 18496	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.17, .22 and .23.

Description of Federal requirement	Federal Register date and page	Analogous State authority
RCRA Cluster I		
Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (Revision 55 FR Checklist 81).	11/2/90, 55 FR 46354; 12/17/90, 51707.	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a), (e)(1) & (e)(2); COMAR 26.13.02.16A, .16B and .23.
Toxicity Characteristic; Chlorofluorocarbon Refrigerants (Revision Checklist 84).	2/13/91, 56 FR 5910	MD. Code Ann., Envir. §§ 7–208(a), (d)(4) and (e)(1); COMAR 26.13.02.04–1A(13).
Removal of Strontium Sulfide From the List of Hazardous Waste; Technical Amendment (Revision Checklist 86).	2/25/91, 56 FR 7567	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.19E and .24.
Revision to F037 and F038 Listings (Revision Checklist 89).	5/13/91, 56 FR 21955	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.16A.
Mining Exclusion III (Revision Checklist 90)	6/13/91, 56 FR 27300	MD. Code Ann., Envir. §§ 7–208(a), (d)(4) and (e)(1); COMAR 26.13.02.04–1A(7), .04–1E–F.
RCRA Cluster II		
Exports of Hazardous Waste; Technical Correction (Revision Checklist 97).	9/4/91, 56 FR 43704	MD. Code Ann., Envir. §§ 7–208(a) & (e)(5); and 7–209(c); COMAR 26.13.03.07–1A(6) and .07–2C(4). (More Stringent Provisions: 26.13.03.07–1A(6) and .07–2C(4)).
Amendments to Interim Status Standards for Downgradient Ground-Water Monitoring Well Locations (Revision Checklist 99).	12/23/91, 56 FR 66365	MD. Code Ann., Envir. §§ 7–208(a), (d)(4), (e)(2), (e)(5)–(7) and (e)(9)(iii); COMAR 26.13.01.03B(65–1) and 26.13.06.06.
Oil Filter Exclusion (Revision Checklist 104)	5/20/92, 57 FR 21524	MD. Code Ann., Envir. §§ 7–208(a), (d)(4) and (e)(1); COMAR 26.13.02.04–1A(14)(a)–(c).
Recycled Coke By-Product Exclusion (Revision Checklist 105).	6/22/92, 57 FR 27880	MD. Code Ann., Envir. §§ 7–201(t); and 7–208(a), (d)(4) & (e)(1); COMAR 26.13.02.04A(8).
RCRA Cluster III		
Used Oil Filter Exclusion Corrections (Revision Checklist 107).	7/1/92, 57 FR 29220	MD. Code Ann., Envir. §§ 7–208(a), (d)(4) and (e)(1); COMAR 26.13.02.04–1A(14)(a)–(c).
Toxicity Characteristic Revisions (Revision Checklist 108).	7/10/92, 57 FR 30657	MD. Code Ann., Envir. §§ 7–208(a), (e)(1) and (e)(2); COMAR 26.13.02.04–1A(9), (10)(b); 26.13.05.14B(5)(a); and 26.13.06.22C(2).
Coke By-Product Listings (Revision Checklist 110)	8/18/92, 57 FR 37284	MD. Code Ann., Envir. §§ 7–201(b) & (t); and 7–208(a), (d)(4) & (e)(1); COMAR 26.13.02.04A(8), .17 and .23.
Consolidated Liability Requirements (Revision Checklist 113).	9/1/88, 53 FR 33938; 7/1/91, 56 FR 30200; 9/16/92, 57 FR 42832.	MD. Code Ann., Envir. §§ 7–208(a), (e)(6) & (e)(8); 7–236(a); and 7–242(a)(1); COMAR 26.13.05.08 and 26.13.06.16. (More Stringent Provisions: 26.13.05.08B(3)–(4) and 26.13.06.16B(3)–(4)).
Chlorinated Toluenes Production Waste Listing (Revision Checklist 115).	10/15/92, 57 FR 47376	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.17 and .23.
Toxicity Characteristic Revision; TCLP Correction (Revision Checklist 119).	11/24/92, 57 FR 55114; 2/2/93 58 FR 6854.	MD. Code Ann., Envir. §§ 7–208(a) and (e)(2); COMAR 26.13.02.21.
RCRA Cluster IV		
Testing and Monitoring Activities (Revision Checklist 126).	8/31/93, 58 FR 46040; 9/14/94, 59 FR 47980.	MD. Code Ann., Envir. §§ 7–208(a) and (e)(2); COMAR 26.13.01 .04C(4)(a)(i), .05A(4); 26.13.02.12A(1)–(2), .14A, .21, .22, .25A (Repealed); 26.13.05.10A(2), .14N(2); 26.13.06.18A & .22F(2); 26.13.07.02–6C(1)(c)–(e), .17B(3)(a)(iii)–(vi).
Wastes From the Use of Chlorophenolic Formulations in Wood Surface Protection (Revision Checklist 128).	1/4/94, 59 FR 458	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a), (e)(1) & (e)(2); COMAR 26.13.01.05A(4) and 26.13.02.24.
Recordkeeping Instructions; Technical Amendment (Revision Checklist 131).	3/24/94, 59 FR 13891	MD. Code Ann., Envir. §§ 7–208(a), (e)(5) and (e)(6); COMAR 26.13.05.20B(3).
Wood Surface Protection; Correction (Revision Checklist 132).	6/2/94, 59 FR 28484	MD. Code Ann., Envir. §§ 7–208(a) and (e)(2); COMAR 26.13.01.05A(4).
Letter of Credit and Revision (Revision Checklist 133) ...	6/10/94, 59 FR 29958	MD. Code Ann., Envir. §§ 7–208(a), (e)(6) & (e)(8); 7–236(a); 7–242(a)(1); COMAR 26.13.05.08.

Description of Federal requirement	Federal Register date and page	Analogous State authority
Correction of Beryllium Powder Listing (Revision Checklist 134).	6/20/94, 59 FR 31551	MD. Code Ann., Envir. §§ 7–201(b); and 7–208(a) & (e)(1); COMAR 26.13.02.19E and .24.
RCRA Cluster V		
Testing and Monitoring Activities Amendment I (Revision Checklist 139).	1/13/95, 60 FR 3089	MD. Code Ann., Envir. §§ 7–208(a) and (e)(2); COMAR 26.13.01.05A(4).
Testing and Monitoring Activities Amendment II (Revision Checklist 141).	4/4/95, 60 FR 17001	MD. Code Ann., Envir. §§ 7–208(a) and (e)(2); COMAR 26.13.01.05A(4).

2. State-Initiated Changes

Maryland's program revision application includes State-initiated changes that are not directly related to any of the Revision Checklists in the previous table. All the State-initiated changes are either (1) related to the adoption of a provision at 26.13.01.05 that makes conforming and clarification changes to the State's adoption by reference of Federal regulations and statutes, (2) related to general renumbering with conforming changes that do not impact equivalency, or (3) related to the extension of the maximum duration of a permit from three to five years. The State-initiated changes include the following provisions of the State's program: COMAR 26.13.01.05B, 26.13.01.05C, 26.13.07.02E, 26.13.07.02–1 through 26.13.07.02–10, and 26.13.07.06A.

H. Where Are the Revised State Rules Different From the Federal Rules?

EPA considers several Maryland requirements to be more stringent than the Federal requirements. These requirements are part of the State's authorized program and are Federally enforceable. The specific more stringent provisions are noted in the above table and in Maryland's authorization application and include, but are not limited to, the following:

1. Unlike the Federal program, Maryland does not have reduced requirements for generators who generate 100 kg to 1000 kg of hazardous waste in a calendar month. In addition, the State has more stringent requirements for generators using tanks for accumulation.

2. Maryland subjects transporters of recyclable materials utilized for precious metal recovery to full regulation as transporters under COMAR 26.13.04.

3. Maryland does not allow the financial test or corporate guarantee in 40 CFR 264.143(f), 264.145(f), 265.143(e), or 265.145(e) to be used to establish financial assurance for closure or post-closure care.

4. Maryland does not allow materials contaminated with a waste identified solely on the basis of ignitability to be used for road treatment or dust suppression unlike the Federal program.

5. Maryland has a complete ban on the disposal of bulk or non-containerized waste containing free liquids in landfills.

6. Maryland prohibits underground injection of hazardous waste at COMAR 26.13.05.19 and 26.13.06.27.

7. Maryland provides for two classifications of permit modifications rather than the three categories in the Federal regulations. For similar levels of permit modifications, the State requires a higher degree of public involvement and agency approval.

A number of Maryland's regulations are not being authorized by today's actions. A full description of the State's provisions that MDE is not being authorized for can be found in the State's application. Some of these provisions include, but are not limited to, the following:

1. Maryland has adopted rules addressing the wood preserving listings (F032, F034, and F035) at COMAR 26.13.02.04A(9), .16A, .16C, .23, and .24, as well as the requirements for drip pads at COMAR 26.13.01.03B(16–1); 26.13.03.05E(1)(b)(iii) & .05E(1)(l); 26.13.05.10A(5) & .17–1 through 17–4; 26.13.06.26; and 26.13.07.02–11. However, Maryland is not seeking authorization at this time for these regulations.

2. Maryland has adopted rules addressing the dioxin listings (F020, F021, F022, F023, F026, F027, and F028) at COMAR 26.13.02.05E(6)(a), .15E(1), .16A, .19, .23, and .24, as well as special requirements for facilities handling these wastes at COMAR 26.13.05.09H(5), .11K, .12J, .13N, .14P & .16F(1)(b); COMAR 26.13.06.01A(6), .23C & .24B(1); and COMAR 26.13.07.02–4B(17), .02–5B(10), .02–7B(7) & .02–8B(8). Again, Maryland is not seeking authorization at this time for these regulations.

Maryland's regulations contain several requirements that go beyond the scope of the Federal program, and thus are not part of the program being authorized by today's action. EPA cannot enforce these requirements which are broader in scope, although compliance with these provisions is required by Maryland law. Such provisions include, but are not limited to the following:

1. Maryland has chosen to specifically list as hazardous waste materials that are not listed in the Federal regulations. These wastes are identified with the following waste codes: K067, K068, K122, K133, K134, K991, K992, K993, K994, K995, K996, K997, K998, K999, M001, MT01, MX01, MD01, and MD02.

2. Maryland does not have an analog to the Federal provision at 40 CFR 261.6(a)(3)(vii) which exempts from regulation coke and coal tar waste (K087) from the iron and steel industries when it is recycled.

3. The State operates a certification program for hazardous waste haulers, drivers domiciled in Maryland, and vehicles.

I. Who Handles Permits After the Authorization Takes Effect?

After authorization, Maryland will issue permits covering all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until the timing and process for effective transfer to the State are mutually agreed upon. Until such time as formal transfer of EPA permit responsibility to the State occurs and EPA terminates its permit, EPA and the State agree to coordinate the administration of permits in order to maintain consistency. We will not issue any more new permits or new portions of permits for the provisions listed in the Chart above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Maryland is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Maryland?

Maryland is not seeking authority to operate the program on Indian lands, since there are no Federally-recognized Indian Lands in the State.

K. What Is Codification and Is EPA Codifying Maryland's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR 272, subpart V, for this authorization of Maryland's program changes until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and, therefore, this action is not subject to review by OMB. This action authorizes state requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by state law. Accordingly, I certify that this action 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 action authorizes pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes state requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. 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 F.R. 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 F.R. 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the Attorney General's ''Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective July 31, 2001.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: January 17, 2001.

Bradley M. Campbell,

Regional Administrator, EPA Region III.

[FR Doc. 01–13778 Filed 5–31–01; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 87, and 101

[WT Docket No. 99–327, FCC 01–151]

24 GHz Service; Licensing and Operation

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: This document responds to two petitions for reconsideration of a previous decision to license the 24 GHz band by Economic Area (EA). Both petitions asked us to consider licensing the 24.25–24.45 GHz and 25.05–25.25 GHz band (24 GHz band) by smaller geographic areas, such as Metropolitan Statistical Areas (MSA) and Rural Statistical Areas (RSA). In this document we deny these petitions because we believe that licensing the 24 GHz band by EA not only offers economies of scale, but also serves a wider range of entities, including both large and small service providers. We further believe that our adoption of a three-tiered approach to bidding credits will enable small entities to participate in the auction. Also, we believe that our partitioning and disaggregation rules will further assist small and rural entities. This document terminates this proceeding.

FOR FURTHER INFORMATION CONTACT: Nancy M. Zaczek, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, at (202) 418–7590.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in WT Docket 99–327, FCC 01–151, adopted May 2, 2001 and released May 17, 2001. The full text is also available for inspection and copying during normal business hours in the FCC Reference Information Center (Courtyard level), 445 12th Street, SW., Washington DC 20554, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS Inc.), (202) 857–3800, 445 12th Street, SW., CY–B400, Washington DC 20054. The full text of the Order on Reconsideration may also be

downloaded at *http://www.fcc.gov/Bureaus/Wireless/Orders/2001/FCC–01–151A1.doc.*

Synopsis of Order on Reconsideration

1. This Order on Reconsideration (Order) denies two petitions for reconsideration of the Report and Order in this proceeding (65 FR 59350, October 5, 2000) regarding licensing the 24 GHz band by 176 EAs. In the Report and Order, the Commission decided to license the 24 GHz band by EAs because EAs not only offer economies of scale, but also serve the needs of a wider range of entities, including both large and small service providers. Also, the Commission decided to adopt a three-tiered approach to bidding credits, under which very small businesses receive a 35 percent bidding credit, small businesses a 25 percent bidding credit, and entrepreneurs a 15 percent bidding credit.

2. The Rural Telecommunications Group (RTG) and the Office of Advocacy of the Small Business Administration (SBA) filed petitions for reconsideration objecting to licensing the 24 GHz band by EA. SBA and RTG maintained that EAs are too large and, therefore unaffordable, for either small businesses or rural telephone companies to participate at auction. Both RTG and SBA recommend that the Commission instead license the 24 GHz band by MSA and RSA, which are smaller than EAs and would result in licensing rural areas separately from urban areas. In contrast, EAs encompass both urban and rural areas.

3. Contrary to the position of RTG and SBA on this issue, the Commission believes, based on its experience with the 39 GHz auction, that licensing the 24 GHz band by EAs will not discourage small businesses from participating at the 24 GHz auction. The 39 GHz auction used EA-based service areas. In that auction, small and very small businesses successfully bid for 849 licenses, or almost 40 percent of the licenses sold. In the 24 GHz auction, bidding credits will be made available to small businesses. Moreover, rural telephone companies were successful at the 39 GHz auction. All six qualified bidders that identified themselves in their short-form applications as rural telephone companies were successful in winning licenses, for a total of 52 licenses. We conclude that licensing the 24 GHz band by EA will not discourage either small businesses or rural telephone companies from participating in the 24 GHz auction.

4. RTG and SBA maintain that the Commission's reliance on post-auction partitioning and disaggregation is misplaced and unworkable because of the costs involved and the reluctance of license holders to carve out portions of their licenses for rural carriers. The Commission notes that none of their comments specifically relate to the 24 GHz band. Thus, the Commission concludes that it is more appropriate to address SBA's and RTG's concerns in the context of the Secondary Markets proceeding, initiated by our Notice of Proposed Rulemaking (65 FR 81475, December 26, 2000) seeking comment on possible changes to our rules and policies allowing greater flexibility through ''spectrum leasing.''

5. RTG maintains that licensing by EA would guarantee that rural areas of the country would not see the benefits of 24 GHz service because licensees would be able to meet the substantial service standard by serving the urban area within the EA. Instead of the substantial service standard, RTG recommends that the Commission require licensees to provide service to one-third of the population within five years and two-thirds of the population within ten years. In the alternative, RTG recommends the Commission adopt a fill-in policy in which, at the time of renewal, any party can apply for and provide service to any area in which the original licensee is not providing service. The Commission has already considered and rejected using minimum coverage requirements to establish substantial service, and RTG has reiterated the position it took earlier in the proceeding at the Notice of Proposed Rulemaking stage without presenting any new information on this issue. Consequently, the Commission affirms its prior decision in the Report and Order that the substantial service standard, in lieu of specific service requirements, best serves the public interest. The Commission concludes that this approach is consistent with the approach used in other wireless services and is sufficiently flexible to foster expeditious development and deployment of systems.

6. With regard to providing service to rural areas, the Commission recognizes that section 309(j)(4)(B) of the Telecommunications Act of 1934, as amended, stresses the need for the Commission to encourage the rapid deployment of services to rural areas and to promulgate performance requirements that ensure prompt delivery of service to rural areas. In addition, the Commission notes that the statute includes ''rural telephone companies'' among the wide variety of applicants to which the Commission is to disseminate licenses. The Commission continues to believe, however, that licensing the 24 GHz band by EAs strikes the best balance among its various policy objectives for the 24 GHz band. The Commission believes that by adopting EA licenses for the 24 GHz band, it has achieved a means of providing service to rural areas while ensuring that the 24 GHz spectrum is put to the highest and best use.

Ordering Clauses

7. Accordingly, *It is Ordered* that pursuant to section 4(i) and 405 of the Communications Act of 1934, 47 U.S.C. 154(i), 405, and § 1.429 of the Commission's rules, 47 CFR 1.429, the Petitions for Reconsideration filed by the Office of Advocacy of the Small Business Administration and the Rural Telecommunications Group *are denied.*

8. *It is Further Ordered,* pursuant to section 4(i) of the Communications Act of 1934, 47 U.S.C. 154(i), that the Commission's Consumer Information Bureau, Reference Information Center, *Shall Send* a copy of the *Order on Reconsideration* to the Chief Counsel for Advocacy of the Small Business Administration.

9. *It is Further Ordered* that this proceeding *Is Terminated.*

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–13717 Filed 5–31–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1271, MM Docket No. 01–53, RM–10040]

Television Broadcast Service; Galesburg, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Northwest Television, Inc., substitutes TV channel 53 for TV channel 67 at Galesburg, Illinois. *See* 66 FR 12922, March 1, 2001. TV channel 53 can be allotted to Galesburg with a zero offset in compliance with the principle community coverage requirements of Section 73.610 and with the criteria set forth in the Commission's Public Notice released on November 22, 1999, DA 99–2605. The coordinates for channel 53 at Galesburg are (41–18–45 N and 90–22–45 W.

With this action, this proceeding is terminated.

DATES: Effective July 9, 2001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–53, adopted May 24, 2001, and released May 25, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Illinois, is amended by removing TV channel 67 and adding TV channel 53 at Galesburg.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–13713 Filed 5–31–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1262, MM Docket No. 01–51, RM–10007]

Digital Television Broadcast Service; Lima, OH

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Lima Communications Corporation, licensee of station WLIO(TV), substitutes DTV channel 8 for DTV channel 20 at Lima, Ohio. *See* 66 FR 12749, February 28, 2001. DTV channel 8 can be allotted to Lima in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates (40–44–54 N. and 84–07–55 W.) with a power of 30.0, HAAT of 165 meters and with a DTV service population of 958 thousand. Since the community of Lima is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government has been obtained for this allotment. With this action, this proceeding is terminated.

DATES: Effective July 9, 2001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–51, adopted May 23, 2001, and released May 25, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Ohio, is amended by removing DTV channel 20 and adding DTV channel 8 at Lima.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–13712 Filed 5–31–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1261, MM Docket No. 01–50, RM–10059]

Digital Television Broadcast Service; Little Rock, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Arkansas Educational Television Commission, licensee of noncommercial educational station KETS(TV), substitutes DTV channel *5 for DTV channel *47 at Little Rock, Arkansas. *See* 66 FR 12750, February 28, 2001. DTV channel *5 can be allotted to Little Rock in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (34–28–23 N. and 92–12–11 W.) with a power of 2.1, HAAT of 540.1 meters and with a DTV service population of 848 thousand.

With this action, this proceeding is terminated.

DATES: Effective July 9, 2001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–50, adopted May 23, 2001, and released May 25, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Arkansas, is amended by removing DTV channel *47 and adding DTV channel *5 at Little Rock.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–13711 Filed 5–31–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1260, MM Docket No. 01–49, RM–10032]

Digital Television Broadcast Service; Atlantic City, NJ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Lenfest Broadcasting, LLC, licensee of station WWAC–TV, substitutes DTV channel 44 for DTV channel 50 at Atlantic City, New Jersey. *See* 66 FR 12750, February 28, 2001. DTV channel 44 can be allotted to Atlantic City in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (39–55–06 N. and 75–02–44 W.) with a power of 200, HAAT of 208 meters and with a DTV service population of 4890 thousand.

With this action, this proceeding is terminated.

DATES: Effective July 9, 2001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–49, adopted May 23, 2001, and released May 25, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under New Jersey, is amended by removing DTV channel 50 and adding DTV channel 44 at Atlantic City.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–13710 Filed 5–31–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1259, MM Docket No. 01–46, RM–10046]

Digital Television Broadcast Service; Temple, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Channel 6, Inc., licensee of station KCEN–TV, substitutes DTV channel 9 for DTV channel 50 at Temple, Texas. *See* 66 FR 12747, February 28, 2001. DTV channel 9 can be allotted to Temple in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (31–16–24 N. and 97–13–14 W.) with a power of 7.5, HAAT of 573 meters and with a DTV service population of 693 thousand. With this action, this proceeding is terminated.

DATES: Effective July 9, 2001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–46, adopted May 23, 2001, and released May 25, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Texas, is amended by removing DTV channel 50 and adding DTV channel 9 at Temple.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–13709 Filed 5–31–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1272, MM Docket No. 99–269, RM–9698]

Digital Television Broadcast Service; Salinas, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Hearst-Argyle Stations, Inc., licensee of station KSBW(TV), substitutes DTV channel 10 for DTV channel 43 at Salinas, California. *See* 64 FR 45500, August 20, 1999. DTV channel 10 can be allotted to Salinas in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (36–45–23 N. and 121–30–05 W.) with a power of 24.2, HAAT of 692 meters and with a DTV service population of 1848 thousand.

With this action, this proceeding is terminated.

DATES: Effective July 9, 2001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–269, adopted May 24, 2001, and released May 25, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under California, is amended by removing DTV channel 43 and adding DTV channel 10 at Salinas.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–13708 Filed 5–31–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1200; MM Docket No. 98–159, RM–9290]

FM Broadcasting Services; Wallace, ID and Bigfork, MT

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: The Commission, at the request of Alpine Broadcasting Limited Partnership, substitutes Channel 264C (100.7 MHz) for Channel 264C2 at Wallace, Idaho, reallots Channel 264C from Wallace to Bigfork, Montana, and modifies Station KSIL(FM)'s license to specify Bigfork as the new community of license. *See Notice of Proposed Rulemaking,* 63 FR 49,323, published September 15, 1998. Channel 264C can be reallotted to Bigfork in compliance with the Commission's minimum distance separation requirements at a site located at North Latitude 48°02′45″ and West Longitude 114°22′00″ and restricted to 26.8 kilometers (16.7 miles) east of Bigfork.

DATES: Effective June 25, 2001.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket 98–159, adopted May 2, 2001, and released May 11, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room CY–A257), 445 12th Street, S.W., Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W., Washington, DC 20036,

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, under Montana, is amended by adding Bigfork, Channel 264C.

3. Section 73.202(b), the Table of FM Allotments, under Idaho, is amended by removing Channel 264C at Wallace.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–13714 Filed 5–31–01; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1803 and 1852

NASA Inspector General Hotline Posters

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule that amends the NASA FAR Supplement (NFS) to require NASA contractors to display ''hotline posters'' on contracts exceeding $5,000,000 and performed at contractor facilities in the United States.

EFFECTIVE DATE: June 1, 2001.

FOR FURTHER INFORMATION CONTACT: Paul Brundage, NASA Headquarters, Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546–0001, (202) 358-0481, e-mail: paul.brundage@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

NASA's Office of Inspector General (IG) requested that NASA contractors be required to display ''hotline posters'' in contractor facilities performing work on some NASA contracts. Foreign contracts and contracts less than $5,000,000 are exempt. This final rule requires contractors to obtain from the NASA IG ''hotline posters'' and to post them in facilities where and when work is performed on an applicable NASA contract. By waiver from Part 12, NASA might also impose this requirement on a case-by-case basis in contracts for commercial items when unusual circumstances warrant. An example of such circumstances might include procurements involving extraordinary concerns about the safety of human life.

A proposed rule was published in the **Federal Register** on May 22, 2000, (65 FR 32069—32070). NASA received one comment. The commenter recommended that NASA conform to DoD by exempting contractors having an established internal reporting mechanism and program. NASA's IG believes employees of NASA contractors should have an independent avenue to report violations. In its view, the existence of an internal reporting mechanism does not assure employees would report illegal activities seen on the job. Therefore, no changes are being made as a result of this comment. The proposed rule is being adopted as final with a change to section 1803.7001 to change the word ''provision'' to ''clause''.

B. Regulatory Flexibility Act

NASA certifies that this rule will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it only affects small business entities with contracts exceeding $5,000,000 and the NASA Office of Inspector General will provide the posters at no direct cost to contractors.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose any recordkeeping or information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

Lists of Subjects in 48 CFR Parts 1803 and 1852

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1803 and 1852 are amended as follows:

1. The authority citation for 48 CFR Parts 1803 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

2. Add Subpart 1803.70 to read as follows:

Subpart 1803.70—IG Hotline Posters

1803.7000 Policy.
1803.7001 Contract clause.

Subpart 1803.70—IG Hotline Posters

1803.7000 Policy.

NASA requires contractors to display NASA hotline posters prepared by the NASA Office of Inspector General on those contracts specified in 1803.7001, so that employees of the contractor having knowledge of waste, fraud, or abuse, can readily identify a means to contact NASA's IG.

1803.7001 Contract clause.

Contracting officers must insert the clause at 1852.203–70, Display of Inspector General Hotline Posters, in solicitations and contracts expected to exceed $5,000,000 and performed at contractor facilities in the United States.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Add section 1852.203–70 to read as follows:

1852.203–70 Display of Inspector General Hotline Posters.

As prescribed in 1803.7001, insert the following clause:

Display of Inspector General Hotline Posters June 2001

(a) The Contractor shall display prominently in common work areas within business segments performing work under this contract, Inspector General Hotline Posters available under paragraph (b) of this clause.

(b) Inspector General Hotline Posters may be obtained from NASA Office of Inspector General, Code W, Washington, DC, 20546–0001, (202) 358–1220.

[FR Doc. 01–13812 Filed 5–31–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1811

Priorities and Allocations

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This final rule amends the NASA FAR Supplement (NFS) to specify that use of a priority rating under the Defense Priorities and Allocations System (DPAS) regulation is not required unless the acquisition is in support of one of the Schedule I approved programs of the DPAS.

EFFECTIVE DATE: June 1, 2001.

FOR FURTHER INFORMATION CONTACT: Jeff Cullen, NASA Headquarters, Office of Procurement, Contract Management Division (Code HK), (202) 358–1784, e-mail: jcullen@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

Currently, most NASA contracts receive DPAS ratings. This final rule provides that contracts will receive ratings only if they are in support of one of the approved programs in DPAS Schedule I. This change was published as a proposed rule in the Federal Register on September 20, 2000 (65 FR 56859–56860). Comments were received from the Office of Strategic Industries and Economic Security, U.S. Department of Commerce. These comments were considered in the development of the final rule. In response to comments, section 1811.603(e) was changed to provide statutory references covering exceptions to the rating system rather than a detailed listing of these exceptions. Additionally, the proposed rule unintentionally indicated that section 1811.602 was proposed for deletion. This error is corrected in this final rule and an editorial change is made to an organizational code within this section.

B. Regulatory Flexibility Act

NASA certifies that this rule will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 USC 601, *et. seq.*), because it does not impose any new requirements on offerors or contractors.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 USC 3501, *et. seq.*

List of Subjects in 48 CFR Parts 1811

Government Procurement.

Tom Luedtke,

Associate Administrator for Procurement.

1. The authority citation for 48 CFR Part 1811 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1811—DESCRIBING AGENCY NEEDS

2. In section 1811.602, amend paragraph (c) by deleting ''(Code HS)'' and adding ''(Code HK)'' in its place.

3. Revise section 1811.603 to read as follows:

1811.603 Procedures.

(NASA supplements paragraphs (e) and (g).)

(e)(i) Rated orders may be used by NASA only as provided in Section 700.17 of the DPAS (15 CFR 700.17) and subject to the limitations provided in Section 700.18 of the DPAS (15 CFR 700.18). Priority ratings are assigned on individual contracts and purchase orders by the contracting officer.

(ii) NASA rated orders may only be assigned a DO rating, unless NASA has obtained a DX rating from the Department of Defense.

(iii) The following program identification symbols may be used on NASA rated contracts and purchase orders for equipment and services that support authorized programs (see Schedule I of the DPAS):

A1—Aircraft
A2—Missiles
A3—Ships
A5—Weapons
A6—Ammunition
A7—Electronic and Communications Equipment
B1—Military Building Supplies
B8—Production Equipment (For Contractor's Account)
B9—Production Equipment (Government-Owned)
C2—Construction
C3—Maintenance, Repair, and Operating Supplies for Facilities
C9—Miscellaneous/Other

(g) Installation requests for assistance shall be directed to the Headquarters Office of Procurement (Code HK).

[FR Doc. 01–13809 Filed 5–31–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1830

Cost Accounting Standards Waivers

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final without changes.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NFS) to identify who within NASA has the authority to approve Cost Accounting Standards waivers.

EFFECTIVE DATE: June 1, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Louis Becker, NASA Headquarters, Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546, telephone: (202) 358–4593, email: lbecker@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

NASA is adopting as final, without change, the interim rule published in the August 11, 2000 **Federal Register** (65 FR 49205–49206). The interim rule identified the Associate Administrator for Procurement as the senior policymaking official delegated the authority to approve Cost Accounting Standards (CAS) waivers for NASA. The NASA interim rule was issued in response to a FAR interim rule published in the June 6, 2000 **Federal Register** (65 FR 36028–36030) that authorized the heads of executive agencies to approve CAS waivers and allowed for this authority to be delegated to an official not below the senior policymaking level in the agency. The FAR interim rule resulted from Section 802 of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106–65) which made several changes to CAS, including waivers. The FAR interim rule was adopted as a final rule without change (66 FR 2136–2137, January 10, 2001). No comments were received in response to the NASA interim rule.

B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because this rule pertains to Cost Accounting Standards from which small businesses are exempt.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 30

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Interim Rule Adopted as Final Without Changes

Accordingly, NASA adopts the interim rule amending 48 CFR part 1830, which was published in the **Federal Register** at 65 FR 49205–49206, August 11, 2000, as a final rule without change.

Authority: 42 U.S.C. 2473(c)(1).

[FR Doc. 01–13810 Filed 5–31–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1832

Extension of Class Deviations for SBIR Contracts

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NFS) to extend the advance payments and incremental funding class deviations for Small Business Innovation Research (SBIR) program contracts.

EFFECTIVE DATE: June 1, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Lentz, NASA Headquarters, Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546, telephone: (202) 358–1064, e-mail: *ronald.lentz@hq.nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

NFS 1832.402(e)(1)(B)(a) provides a class deviation authorizing the use of advance payments for Phase I contracts awarded under the SBIR program. NFS 1832.702–70(a), (b), and (c) set forth conditions when incremental funding is permitted. NFS 1832.702–70(e) provides a class deviation from those conditions, permitting the use of incremental funding of contracts under Phase II of the SBIR program. These two class deviations expired September 30, 2000, the date set forth in the Congressional authorization for the SBIR program. Public Law 106–554, extended the SBIR program through September 30, 2008. This final rule will extend the advance payments and incremental funding class deviations for the life of the SBIR program.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98–577, and publication for public comment is not required. However, comments from small entities concerning the affected NFS subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.*

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 32

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR Part 32 is amended as follows:

1. The authority citation for 48 CFR part 1832 continues to read as follows:

Authority: 42 U.S.C. 2473 (c)(1).

PART 1832—CONTRACT FINANCING

2. In section 1832.402, revise paragraph (e)(1)(B)(a) to read as follows:

1832.402 General.

(NASA supplements paragraph (e))

(e)(1) * * *

(B) * * *

(a) Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Phase I contracts. A class deviation has been signed authorizing use of advance payments on these contracts. The contracting officer shall annotate the contract file that the deviation is on file at the NASA Headquarters Office of Procurement (Code HK).

* * * * *

3. In section 1832.702–70, revise paragraph (e) to read as follows:

1832.702–70 NASA policy.

* * * * *

(e) A class deviation from the conditions set forth in paragraphs 1832.702–70(a), (b), and (c) exists to permit incremental funding of contracts under Phase II of the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs. This deviation exists with the understanding that the contracts will be

fully funded when funds become available.

[FR Doc. 01–13811 Filed 5–31–01; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001121328–1041–02; I.D. 052501E]

Fisheries of the Northeastern United States; Scup Fishery; Commercial Quota Harvested for Summer Period

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

ACTION: Commercial quota harvest.

SUMMARY: NMFS announces that the scup commercial quota available in the Summer period to the coastal states from Maine to North Carolina has been harvested. Federally permitted commercial vessels may not land scup in these states for the remainder of the 2001 Summer quota period (through October 31, 2001). Regulations governing the scup fishery require publication of this notification to advise the coastal states from Maine through North Carolina that the quota has been harvested and to advise Federal vessel permit holders and Federal dealer permit holders.

DATES: Effective 0001 hrs local time, June 1, 2001, through 2400 hrs local time, October 31, 2001.

FOR FURTHER INFORMATION CONTACT: Jennifer L. Anderson, Fishery Management Specialist, (978) 281–9226.

SUPPLEMENTARY INFORMATION: Regulations governing the scup fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is allocated into three quota periods. The Summer commercial quota (May through October) is distributed to the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the seasonal allocation is described in § 648.120.

The total commercial quota for scup for the 2001 calendar year was set at 4,444,600 lb (2,016,037 kg)(66 FR 12902; March 1, 2001). The Summer period quota was initially set at 1,731,172 lb (785,246 kg). As specified in § 648.120, landings in excess of the commercial quota in the 2000 Summer period were deducted from the Summer period allocation this year, resulting in a final Summer quota allocation of 1,147,861 lb (520,661 kg).

Section 648.121 requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the commercial scup quota for each quota period and, based upon dealer reports, state data, and other available information, to determine when the commercial quota has been harvested. NMFS is required to publish notification in the **Federal Register** advising and notifying federally permitted commercial vessels and federally permitted dealers that, effective upon a specific date, the scup commercial quota has been harvested. The Regional Administrator has determined, based upon dealer reports and other available information, that the scup commercial quota for the 2001 Summer period has been harvested.

The regulations at § 648.4(b) provide that Federal scup moratorium permit holders agree as a condition of the permit not to land scup in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for the period has been harvested and that no commercial quota for scup is available. Therefore, effective 0001 hours, June 1, 2001, further landings of scup by vessels holding Federal scup moratorium permits are prohibited through October 31, 2001. The Winter II period for commercial scup harvest will open on November 1, 2001. Effective 0001 hours, June 1, 2001, federally permitted dealers are also advised that they may not purchase scup from federally permitted vessels that land in coastal states from Maine through North Carolina for the remainder of the Summer period (through October 31, 2001).

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: May 25, 2001.

Richard W. Surdi,

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

[FR Doc. 01–13832 Filed 5–29–01; 4:36 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 001030303–1127–02; I.D. 091800E]

RIN 0648–AO41

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 13

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

ACTION: Final rule; announcement of approval of an amendment to a fishery management plan.

SUMMARY: NMFS issues this final rule to implement Amendment 13 to the Pacific Coast Groundfish Fishery Management Plan (FMP). This final rule implements Amendment 13 by establishing an increased utilization program for catcher/processor and mother ships in the at-sea whiting fisheries which carry multiple observers for at least 90 percent of the fishing days during a cumulative trip limit period, by revising the regulatory provisions for the routine management measures process, and by removing regulatory references to limited entry permit endorsements other than the ''A'' endorsement.

DATES: This rule is effective July 2, 2001, except for § 660.323 (a)(3)(vi) which is effective June 1, 2001.

ADDRESSES: Copies of Amendment 13 to the Pacific Coast Groundfish FMP and the environmental assessment/regulatory impact review (EA/RIR) are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201. Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in this final rule, including suggestions for reducing the burden, to the Office of Management and Budget (OMB), Washington, D.C. 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier or Becky Renko at: phone, 206–526–6140; fax, 206–526–6736, and e-mail, *yvonne.dereynier@noaa.gov* or *becky.renko@noaa.gov*; or Svein Fougner at: phone, 562–980–4000; fax, 562–980–4047; and e-mail, *svein.fougner@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the Internet at the website of the Office of the Federal Register: *http://www.access.gpo.gov/su-docs/aces/aces140.html.*

Background

The Pacific Fishery Management Council (Council) prepared Amendment 13 to address the bycatch requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Act). Amendment 13 establishes an observer program and other standardized reporting methodologies and by providing bycatch reduction measures. The bycatch requirements of the Magnuson-Stevens Act were initially included in Amendment 11 to the FMP, but NMFS rejected those as inadequate. Amendment 13 is intended to address that rejection. Amendment 13 also provides increased flexibility in the groundfish annual specifications and management measures process to allow the Council to more easily craft measures that protect overfished and depleted species. Finally, Amendment 13 revises the limited entry permit provisions to remove unused and outdated limited entry permit endorsements. A more complete description of Amendment 13 can be found in the preamble to the proposed rule for this action at 65 FR 69898 (November 21, 2000). The notice of availability for Amendment 13 was published on September 22, 2000 (65 FR 57308), and NMFS requested public comments on Amendment 13 through November 21, 2000. A proposed rule to implement Amendment 13 was published on November 21, 2000 (65 FR 69898). NMFS requested comments on the proposed rule through January 5, 2001. During the comment period on the notice of availability, NMFS received two letters of comment, which are addressed later in this preamble. NMFS received no letters of comment on the proposed rule itself.

Approval and Implementation of Amendment 13

NMFS approved Amendment 13 on December 21, 2000. Thisfinal rule to implement Amendment 13 establishes an increased utilization program for catcher/processors and mother ships in the at-sea whiting fisheries which carry multiple observers for at least 90 percent of the fishing days during a cumulative trip limit period, and revises the annual specifications and management measures framework to better equip the Council to meet some of the overfishing and bycatch requirements of its FMP during the annual specifications and management measures process. Overfished species protection measures for 2001, which were included in the Pacific Coast groundfish annual specifications and management measures (January 11, 2001, 66 FR 2338), include: time/area closures to protect canary rockfish and cowcod, differential management measures for different gear types to reduce opportunities for vessels to incidentally intercept overfished species, and changes to discard rates for longspine and shortspine thornyhead and to sablefish based on updated discard information for those species.

This final rule also removes regulatory provisions for limited entry permits with provisional ''A'' endorsements, ''B'' endorsements, and designated species ''B'' endorsements, which have either expired or are no longer used. The removal of these endorsements from the FMP's limited entry provisions and from the groundfish regulations is essentially a ''housekeeping'' measure.

Concurrent with the proposed and final rule process for Amendment 13, NMFS and the Council have developed proposed regulations for a comprehensive observer program. The final rule implementing the coastwide observer program framework was published on April 24, 2001 (66 FR 20609). This program is consistent with Amendment 13 provisions on standardized reporting methodologies.

Comments and Responses

During the comment period for Amendment 13, NMFS received two letters of comment. Both letters of comment were written by environmental advocacy organizations. Writers of the comment letters asked for the disapproval of Amendment 13 based on their judgments that Amendment 13 did not meet requirements of the Magnuson-Stevens Act on minimizing bycatch and on standardized reporting methodologies. NMFS received no comments on the proposed regulations to implement Amendment 13. Comments within the two letters are categorized and responded to as follows.

Comment 1: Amendment 13 violates the Magnuson-Stevens Act because it makes implementation of an observer program contingent on funding. The Magnuson-Stevens Act requires that FMP's include standardized reporting methodologies.

Response: NMFS agrees that the Magnuson-Stevens Act requires the establishment of standardized reporting methodologies, but disagrees that Amendment 13 violates the Magnuson-Stevens Act. Observers are but one of several standardized reporting methodologies supported by Amendment 13. While Amendment 13 itself does not require implementation of an observer program, the Council has decided to implement an observer program either as soon as funding becomes available or with a requirement that vessels pay for observers. Amendment 13 leaves open the issue of whether the observer program will be funded by the industry or through government or private sources. For 2001, NMFS has secured over $2 million to implement a West Coast groundfish observer program. NMFS expects that this funding will begin a period of cooperative government/private efforts to improve West Coast groundfish fisheries observer data.

In addition to providing guidance for observer program coverage development, Amendment 13 supports technological supplements to an observer program, including electronic/paper logbooks with bycatch reporting, catch monitoring by camera, and VMS monitoring. Current standardized reporting methodologies would remain in place: a voluntary observer program and a voluntary logbook in the at-sea whiting fisheries; incidental groundfish landings reported in a marine mammal directed observer program for the California halibut setnet fishery, and; dockside observer coverage in the shoreside whiting fishery associated with exempted fishing permits. NMFS will soon publish a proposed rule for mandatory observer coverage in the at-sea whiting fisheries.

Comment 2: Amendment 13 states that ''The Regional Administrator may implement an observer program through a Council-recommended Federal regulatory framework.'' This implies that the Regional Administrator has the option of not implementing an observer program, which is a violation of the Magnuson-Stevens Act.

Response: This language gives the Regional Administrator the authority to implement an observer program, consistent with a Council-recommended Federal regulatory framework. The Council has already recommended a regulatory framework for a comprehensive observer program for the West Coast groundfish fishery. As mentioned earlier, NMFS published a proposed rule to implement that framework on September 14, 2000 (65 FR 55495). NMFS, the States of Washington, Oregon, and California, and the Pacific States Marine Fisheries Commission (PSMFC) have been developing an observer coverage plan

over the past several months. An observer coverage plan describes how many vessels in which sectors of the fisheries will be covered by observers, based on the goals of the observer program. The coverage plan under development is intended to provide total catch (landed catch plus discard) information for the groundfish trip limit fisheries. Amendment 13 states that ''NMFS will publish an announcement of the authorization of the observer program and description of the observer coverage program in the **Federal Register**.''

Comment 3: The EA/RIR for Amendment 13 states that ''there are not enough individual fishers participating in the West Coast groundfish fisheries who can afford to carry observers to provide statistically sound sampling of fleet behavior.'' We cannot find support for this assertion.

Response: The RIR portion of the EA/RIR contains a discussion of the estimated cost to a vessel in carrying an observer under a government funded program. Most recently, this information has been summarized in the draft Final Regulatory Flexibility Analysis (FRFA) for the final rule for an observer program regulatory framework. In summary, the FRFA states that the impacts of the rule on individual vessels will depend on what portion of the observer costs the vessel pays for, and on the nature and size of the program and the coverage approach that is chosen - all vessels in the groundfish fleet or a small portion of the vessels. Vessel costs depend on the observer coverage strategy, particularly on how often each vessel is expected to carry an observer or multiple observers within a cumulative limit period. Observer costs to a vessel could include: the observer's or observers' salary, liability insurance to cover the observer or observers, food and living accommodations on the vessel, outfitting the vessel to meet observer safety requirements, and providing adequate sample space and time for the observer. Many of the vessels at the higher end of the revenue range have already carried and paid for observers, either as at-sea vessels in the whiting fleet, or as voluntary participants in the Experimental Data Collection Program, described in the EA/RIR. These observer programs have provided valuable information on the pelagic whiting fisheries, and on the deepwater bottom trawl fisheries for Dover sole, longspine and shortspine thornyheads, and sablefish (DTS complex). The largest number of groundfish vessels are in fishery sectors where there is the greatest information need. These vessels tend to be smaller, lower-income (less than $25,000 annually) vessels that would have difficulty absorbing the cost of carrying an observer. The FRFA indicates that the costs to the individual vessel are expected to range between $157 and $3,334 per year, depending on whether NMFS pays the salary of the observers and on the coverage strategy and the number of days fished per year. An upper value of $11,044 per vessel is an extreme that would only occur if a vessel fished every day of the year and carried an observer at all times. If a vessel had to pay observer salaries, the cost could be approximately $300 per observer per day. This sum would include salary, payroll taxes, employment insurance, medical insurance, and travel costs. This would result in a substantially higher observer cost per vessel than under a government-funded program.

Comment 4: The EA/RIR for Amendment 13 describes a vessel incentive program with higher landings limits for vessels with lower bycatch rates as impracticable without an observer program. An observer program is practicable; therefore, this option is practicable.

Response: NMFS disagrees. While a limited observer program is practicable at current funding levels, the type of observer program that would be needed to implement a vessel incentive program is not practicable. NMFS, the states, and PSMFC are developing an observer coverage plan for the groundfish fleet that would focus on total catch (landings + discard) information. This observer program will collect this kind of information by sampling only a portion of the fleet, possibly as low as 10 percent. An observer coverage plan for a vessel incentive program would require 100-percent observer coverage, and would focus on compliance as much as on scientific sampling. For the foreseeable future, NMFS anticipates that the West Coast groundfish observer program will be a scientific sampling program, not a compliance program.

Comment 5: Amendment 13 does not fully analyze discard caps as a bycatch reduction measure, and refers to discard caps as impracticable without an observer program. An observer program is practicable, therefore this option is practicable.

Response: NMFS disagrees. A fishery managed with discard caps would be one in which a fleet's total catch is monitored and all fishing operations shut down when the fleet is estimated to have caught a set amount of a protected, incidentally caught species, regardless of the amount of directed species taken. An observer program designed for scientific sampling could be used for a discard cap program, wherein an entire fishery would close upon achievement of a discard limit for a particular species. Observer information from sampled vessels could be expanded to draw a picture of overall fleet discard levels. However, a discard cap program with only limited observer coverage tends to exaggerate the ''observer effect'' in information about vessels sampled, meaning that the vessels carrying observers have a significant incentive to change their fishing behavior to lower their bycatch rates and keep the entire fishery open. Unobserved vessels do not have this same incentive to reduce discards; thus, there is a strong chance that the whole fleet would reach the discard cap before the observed fleet's expanded data indicated that the cap has been reached. Stronger observer effect under incentives like discard cap management leads to less scientific accuracy from the observer program.

Comment 6: Amendment 13 does not fully analyze marine protected areas (MPAs) as a bycatch reduction measure, and states that implementation of MPAs is beyond the scope of Amendment 13. This argument is circular and MPAs should not have been rejected as a bycatch reduction measure.

Response: NMFS disagrees. No-take MPAs generally eliminate all fishing within a certain geographic area, which means that all catch (directed and incidental) is eliminated. Bycatch would not necessarily be eliminated through MPAs, although the fishing area for vessels that may discard catch would be smaller. Amendment 13 does not state that the Council will not implement MPAs. On the contrary, the EA/RIR describes the efforts of the Council's Marine Reserves Committee (MRC) outside of the Amendment 13 process. The Council approved Amendment 13 at its June 2000 meeting. In its September 2000 meeting, the Council gave its support to the conclusions of the MRC that the Council should proceed with designing and siting MPAs as part of its overall groundfish management scheme. According to the recommendations of the MRC and the Council, MPAs for West Coast groundfish would be designed to provide some protection for overfished species and their habitats. The MRC and the Council are now designing a process for bringing scientists and the public together to discuss West Coast MPA site selection.

Comment 7: A bycatch reduction option that is not discussed is to use catch ratios for co-occurring species to set landings limits for relatively

abundant species to prevent exceeding the landings limits of species with more restrictive limits.

Response: The practice the commenter advocates has been used by the Council for several years and has recently been an important part of the Council's overfished species protection strategy. These measures were discussed in the sections of Amendment 13 addressing protection of overfished species through the annual specifications and management measures process. For example, past cumulative landings limits for the ''DTS complex'' have been based on catch ratios between the four species in the complex—Dover sole, thornyheads (shortspine and longspine), and sablefish. Often, harvest of the more abundant species in the DTS complex (e.g., longspine thornyhead, Dover sole) i.e., is? curtailed to prevent overharvest of the less abundant species (shortspine thornyhead). Management measures to protect bocaccio, an overfished species, have included significant reductions in the chilipepper rockfish limits, an abundant species that co-occurs with bocaccio. Similarly, 2001 shelf rockfish fisheries have been severely curtailed to protect overfished species in the shelf rockfish complex, such as canary rockfish, bocaccio, and cowcod.

Comment 8: Amendment 13 fails to analyze measures to avoid bycatch in the whiting fishery and instead opts for full retention, which does not minimize bycatch.

Response: NMFS disagrees. Bycatch is defined in the Magnuson-Stevens Act and in Amendment 13 as, ''fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards * * *.'' The full utilization program would allow whiting vessels to use incidentally caught non-whiting groundfish that they would otherwise discard. As discussed in the EA/RIR for Amendment 13, non-whiting groundfish annually account for less than 5 percent of the at-sea whiting fleet's total catch. Whiting at-sea vessels already work to reduce incidental interception of non-target species, both to comply with Endangered Species Act (ESA) requirements on salmon protection and with Magnuson-Stevens Act requirements on overfished species protection. Inseason, the fleet communicates through radio and satellite to move vessels away from waters where species other than whiting are concentrated. The Amendment 13 full utilization program would allow the vessels to use their incidentally caught non-whiting groundfish either by processing that groundfish into meal, mince, or oil products to be sold, or by donating the groundfish to a hunger relief organization. Under the Magnuson-Stevens definition of bycatch, incidentally caught fish that is retained and used is not bycatch.

Comment 9: Amendment 13 fails to assess existing bycatch in the groundfish fishery.

Response: NMFS disagrees. Amendment 13 summarizes the limited amount of current knowledge on bycatch in the groundfish fishery. The EA/RIR for Amendment 13 provides background on the Council's efforts to account for and minimize bycatch from 1982 through 2000. This background information includes a discussion of the current state of scientific information on bycatch in the fisheries and how that information is used to shape groundfish management measures. Analyses of data collection methods discuss current knowledge of bycatch in the groundfish fishery and where more information is needed on bycatch. The EA/RIR also references the Council's Stock Assessment and Fishery Evaluation Report, which annually provides information on bycatch and discards in the fishery as a whole, and on species-specific bycatch issues.

Comment 10: The EA/RIR should be rejected because it fails to evaluate the potential that the Council will not implement an observer program.

Response: NMFS disagrees. Four alternatives are analyzed under the ''Standardized Reporting Methodology'' portion of Amendment 13, including status quo (no new observer programs beyond those already in place), and mandatory logbook reporting with no new observer programs already in place. In addition, as already mentioned, NMFS and the states are now implementing a largely government-funded observer program.

Comment 11: The EA/RIR should be rejected because it does not analyze short-and long-term impacts of bycatch on benthic life and on species relationships within the marine ecosystem.

Response: NMFS disagrees. Four alternatives are analyzed under the ''Bycatch Reduction Provisions'' portion of Amendment 13, including status quo, which would not introduce any new bycatch reduction or management measures to the groundfish fishery. Three alternatives are analyzed under the ''Annual Management Measures Framework Provisions'' portion of Amendment 13, which addresses, among other things, reducing overfished species discard. The status quo alternative for this issue discusses the effects of not implementing bycatch reduction measures to protect overfished species. The analysis of these various alternatives for the different issues discusses the effects of bycatch on the environment and the potential effects of the alternative management options on the environment.

Classification

The Administrator, Northwest Region, NMFS, determined that Amendment 13 to the FMP is necessary for the conservation and management of the West Coast groundfish fishery, and that it is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed, that this rule, if adopted as proposed, would not have a significant economic impact on a substantial number of small entities. No comments were received on the economic impacts of this rule on small entities and the basis for this certification has not changed. Accordingly, a regulatory flexibility analysis was not prepared.

Because the portion of this rule that implements an increased utilization program for the at-sea whiting fishery, by allowing fishery participants to use their incidentally caught non-whiting groundfish either by processing that groundfish into meal, mince, or oil products to be sold, or by donating the groundfish to hunger relief organizations, relieves a restriction, under 5 U.S.C. 553(d)(1) it is not subject to a 30-day delay in effectiveness.

NMFS issued Biological Opinions (BO) under the Endangered Species Act (ESA) on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the groundfish fishery on chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal, Oregon coastal), chum salmon (Hood Canal, Columbia River), sockeye salmon (Snake River, Ozette Lake), steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south-central California, southern California),

and cutthroat trout (Umpqua River, southwest Washington/Columbia River)). NMFS has concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. NMFS has re-initiated consultation on the Pacific whiting fishery associated with the BO issued on December 15, 1999. During the 2000 whiting season, the whiting fisheries exceeded the chinook bycatch amount specified in the BO's incidental take estimates of 11,000 fish, by approximately 500 fish. The re-initiation will focus primarily on additional actions that the whiting fisheries would take to reduce chinook interception, such as time/area management. NMFS expects that the re-initiated BO will be completed by May 2001. During the reinitiation, fishing under the FMP is within the scope of the December 15, 1999, BO, so long as the annual incidental take of chinook stays under the 11,000-fish bycatch limit. NMFS has concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. This action is within the scope of these consultations.

This final rule clarifies entries for a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). The Product Transfer/Offloading Log has been approved under OMB control number 0648–0271 with an estimated response time of 20 minutes. Furthermore, this final rule reduces a collection-of-information requirement (approved under OMB control number 0648–0203) associated with the ''designated species B'' permit endorsement program.

This final rule also contains new collection-of-information requirements subject to review and approval by OMB under the PRA. This requirement is for vessels participating in the voluntary increased utilization program to notify authorized officers of their intent to offload retained overages as a donation to a tax-exempt hunger relief organization. The public reporting burden for this collection of information is estimated to average 5 minutes to make a telephone call to NMFS enforcement to indicate an intent to offload fish in excess of cumulative limits for the purpose of donating that fish to a hunger relief organization. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This collection of information requirement has been approved by OMB under OMB control number 0648–0427. Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in this final rule, including suggestions for reducing the burden, to one of the NMFS addresses and to OMB, Washington, D.C. 20503 (ATTN: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 660

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

Dated: May 25, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

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

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

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

2. In § 660.302, new definitions for ''Overage'' and ''Tax-exempt organization'' are added in alphabetical order to read as follows:

§ 660.302 Definitions.

Overage means the amount of fish harvested by a vessel in excess of the applicable trip limit.

* * * * *

Tax-exempt organization means an organization that received a determination letter from the Internal Revenue Service recognizing tax exemption under 26 CFR part 1(§§ 1.501 to 1.640).

* * * * *

3. In § 660.321, paragraph (b) is revised to read as follows:

§ 660.321 Specifications and management measures.

* * * * *

(b) *Annual actions.* The Pacific Coast Groundfish fishery is managed on a calendar year basis. Even though specifications and management measures are announced annually, they may apply for more than 1 year. In general, management measures are designed to achieve, but not exceed, the specifications, particularly optimum yields (harvest guidelines and quotas), commercial harvest guidelines and quotas, limited entry and open access allocations, or other approved fishery allocations, and to protect overfished and depleted stocks.

* * * * *

4. In § 660.323, paragraph (a)(3)(vi) is added and paragraph (b) is revised to read as follows:

§ 660.323 Catch restrictions.

(a) * * *

(3) * * *

(vi) *Bycatch reduction and full utilization program for at-sea processors (optional).* If a catcher/processor or mothership in the whiting fishery carries more than one NMFS-approved observer for at least 90 percent of the fishing days during a cumulative trip limit period, then groundfish trip limits may be exceeded without penalty for that cumulative trip limit period, if the conditions in paragraph (a)(3)(vi)(A) of this section are met. For purposes of this program, ''fishing day'' means a 24-hour period, from 0001 hours through 2400 hours, local time, in which fishing gear is retrieved or catch is received by the vessel, and will be determined from the vessel's observer data, if available. Changes to the number of observers required for a vessel to participate in the program will be announced prior to the start of the fishery, generally concurrent with the annual specifications and management measures. Groundfish consumed on board the vessel must be within any applicable trip limit and recorded as retained catch in any applicable logbook or report. [**Note**: For a mothership, non-whiting groundfish landings are limited by the cumulative landings limits of the catcher vessels delivering to that mothership.]

(A) *Conditions.* Conditions for participating in the voluntary full utilization program are as follows:

(*1*) All catch must be made available to the observers for sampling before it is sorted by the crew.

(*2*) Any retained catch in excess of cumulative trip limits must either be:

(*i*) Converted to meal, mince, or oil products, which may then be sold; or

(*ii*) Donated to a bona fide tax-exempt hunger relief organization (including food banks, food bank networks or food bank distributors), and the vessel operator must be able to provide a receipt for the donation of groundfish landed under this program from a tax-exempt hunger relief organization immediately upon the request of an authorized officer.

(*3*) No processor or catcher vessel may receive compensation or otherwise benefit from any amount in excess of a cumulative trip limit unless the overage is converted to meal, mince, or oil products. Amounts of fish in excess of cumulative trip limits may only be sold as meal, mince, or oil products.

(*4*) The vessel operator must contact the NMFS enforcement office nearest to the place of landing at least 24 hours before landing groundfish in excess of cumulative trip limits for distribution to a hunger relief agency. Cumulative trip limits and a list of NMFS enforcement offices are found on the NMFS, Northwest Region homepage at *http://www.nwr.noaa.gov.*

(*5*) If the meal plant on board the whiting processing vessel breaks down, then no further overages may be retained for the rest of the cumulative trip limit period unless the overage is donated to a hunger relief organization.

(*6*) Prohibited species may not be retained.

(*7*) Donation of fish to a hunger relief organization must be noted in the transfer log (Product Transfer/Offloading Log (PTOL)), in the column for total value, by entering a value of ''0'' or ''donation,'' followed by the name of the hunger relief organization receiving the fish. Any fish or fish product that is retained in excess of trip limits under this rule, whether donated to a hunger relief organization or converted to meal, must be entered separately on the PTOL so that it is distinguishable from fish or fish products that are retained under trip limits. The information on the Mate's Receipt for any fish or fish product in excess of trip limits must be consistent with the information on the PTOL. The Mate's Receipt is an official document that states who takes possession of offloaded fish, and may be a Bill of Lading, Warehouse Receipt, or other official document that tracks the transfer of offloaded fish or fish product. The Mate's Receipt and PTOL must be made available for inspection upon request of an authorized officer throughout the cumulative limit period during which such landings occurred and for 15 days thereafter.

* * * * *

(b) *Routine management measures.* In addition to the catch restrictions in this section, other catch restrictions that are likely to be adjusted on an annual or more frequent basis may be imposed and announced by a single notification in the **Federal Register** if they have been designated as routine through the two-meeting process described in PCGFMP. Management measures that have been designated as routine will be listed annually in the Council's Stock Assessment and Fishery Evaluation (SAFE) document.

(1) *Commercial limited entry and open access fisheries*—(i) *Trip landing and frequency limits, size limits, all gear.* Trip landing and frequency limits and size limits for species with those limits designated as routine may be imposed or adjusted on an annual or more frequent basis for the purpose of keeping landings within the harvest levels announced by NMFS, and for the other purposes given in paragraph (b)(1)(ii) of this section.

(A) *Trip landing and frequency limits.* To extend the fishing season; to minimize disruption of traditional fishing and marketing patterns; to reduce discards; to discourage target fishing while allowing small incidental catches to be landed; to allow small fisheries to operate outside the normal season; and, for the open access fishery only, to maintain landings at the historical proportions during the 1984-88 window period.

(B) *Size limits.* To protect juvenile fish; to extend the fishing season.

(ii) *Differential trip landing and frequency limits based on gear type, closed seasons.* Trip landing and frequency limits that differ by gear type and closed seasons may be imposed or adjusted on an annual or more frequent basis for the purpose of rebuilding and protecting overfished or depleted stocks.

(2) *Recreational fisheries—all gear types.* Routine management measures for all groundfish species, separately or in any combination, include bag limits, size limits, time/area closures, boat limits, hook limits, and dressing requirements. All routine management measures on recreational fisheries are intended to keep landings within the harvest levels announced by NMFS, to rebuild and protect overfished or depleted species, and to maintain consistency with state regulations, and for the other purposes set forth in this section.

(i) *Bag limits.* To spread the available catch over a large number of anglers; to avoid waste.

(ii) *Size limits.* To protect juvenile fish; to enhance the quality of the recreational fishing experience.

* * * * *

5. In § 660.333, paragraph (a) is revised, and paragraphs (h)(1)(i) and (ii) are removed, and paragraphs (h)(1)(iii) and (iv) are redesignated as (h)(1)(i) and (ii), respectively, to read as follows:

§ 660.333 Limited entry fishery— general.

(a) *General.* Participation in the limited entry fishery requires that the owner of a vessel hold (by ownership or otherwise) a limited entry permit affixed with a gear endorsement registered for use with that vessel for the gear being fished. A sablefish endorsement is also required for a vessel to participate in the regular and/or mop-up seasons for the nontrawl, limited entry sablefish fishery, north of 36° N. lat. There are three types of gear endorsements: trawl, longline, and pot (or trap). More than one type of gear endorsement may be affixed to a limited entry permit. While the limited entry fishery is open, vessels fishing under limited entry permits may also fish with open access gear; except that during a period when the limited entry fixed gear sablefish fishery is limited to those vessels with sablefish endorsements, a longline or pot (or trap) limited entry permit holder without a sablefish endorsement may not fish for sablefish with open access gear.

* * * * *

§§ 660.335 and 660.337 [Removed and Reserved]

6. Sections 660.335 and 660.337 are removed and reserved.

§ 660.338 [Amended]

7. In § 660.338, paragraph (b) is removed, and paragraph (c) is redesignated as paragraph (b).

[FR Doc. 01–13835 Filed 5–31–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 106
Friday, June 1, 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

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 00–068–1]

Cold Treatment for Fresh Fruits; Port of Corpus Christi, TX

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow, under certain conditions, the cold treatment of imported fruit upon arrival at the port of Corpus Christi, TX. We have determined that there are biological barriers at this port that, along with certain safeguards, would prevent the introduction of fruit flies and other insect pests into the United States in the unlikely event that they escape from shipments of fruit before the fruit undergoes cold treatment. This action would facilitate the importation of fruit requiring cold treatment while continuing to provide protection against the introduction of fruit flies and other insect pests into the United States.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by July 31, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 00–068–1, 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. 00–068–1.

You may read any comments that we receive on this docket 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: Donna L. West, Import Specialist, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–5007.

SUPPLEMENTARY INFORMATION:

Background

The fruits and vegetables regulations, contained in 7 CFR 319.56 through 319.56–8 (referred to below as the regulations), prohibit or restrict the importation of fruits and vegetables to prevent the introduction or dissemination of injurious insects, including fruit flies, that are new to or not widely distributed in the United States. The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture administers these regulations.

Under the regulations, APHIS allows certain fruits to be imported into the United States if they undergo sustained refrigeration (cold treatment) sufficient to kill certain insect pests. Cold treatment temperatures and the duration of treatment vary according to the type of fruit and the pests involved. Detailed cold treatment procedures may be found in the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference into the regulations at 7 CFR 300.1.

Most imported fruit that requires cold treatment undergoes cold treatment while in transit to the United States. However, APHIS also allows imported fruit to undergo cold treatment at an approved cold treatment facility in either the country of origin or after arrival in the United States at certain ports designated by APHIS in § 319.56–2d(b)(1) of the regulations.

Currently, cold treatment in the United States is limited to the following ports: Atlantic ports north of, and including, Baltimore, MD; ports on the Great Lakes and St. Lawrence Seaway; Canadian border ports on the North Dakota border and east of North Dakota; the maritime ports of Wilmington, NC, Seattle, WA, and Gulfport, MS; Seattle-Tacoma International Airport, Seattle, WA; Hartsfield-Atlanta International Airport, Atlanta, GA; Baltimore-Washington International Airport, Baltimore, MD; and Dulles International Airport, Chantilly, VA.

Proposal of Additional Port

Recently, we received a formal request from the Port of Corpus Christi Authority of Nueces County, TX, to designate the maritime port of Corpus Christi, TX, as an approved location for the cold treatment of imported fruit. In response to that request, we are proposing to add the maritime port of Corpus Christi, TX, to the list of ports that are designated as approved locations for cold treatment of imported fruit. This proposal is based on our determination that there are biological barriers in the area of this port that, along with certain safeguards, would prevent the introduction of fruit flies and other insect pests in the unlikely event that they escape from shipments of fruit before the fruit undergoes cold treatment.

Our determination is based, in part, on a 1994 document prepared by APHIS assessing the pest risks associated with allowing cold treatment of tropical fruit fly host materials at certain U.S. ports. The applicable risk mitigation measures discussed in that risk assessment document are included in this proposal as requirements for the port of Corpus Christi, TX. (Copies of the risk assessment document may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**)

Risk Groups

The risk assessment document establishes risk groups for many ports in the United States; these risk groups characterize the relative risk, without consideration for mitigating factors, associated with the movement of tropical fruit fly host material for cold treatment in the United States. The ports have been assigned to one of five risk groups based on a number of criteria, including the individual port's latitude, microclimate, immediate host availability, and past fruit fly infestations; the risk groups are assigned numbers I through V, with these numbers representing an ascending level of risk based on those criteria. The ports that were considered have been categorized as follows:

• *Group I ports*— Atlantic ports north of and including Baltimore, MD.

• *Group II ports*— Wilmington, NC; Seattle, WA; Portland, OR; Atlanta, GA; and Norfolk, VA.

• *Group III ports*— Charleston, SC; Savannah, GA; Port Arthur and Galveston/Houston, TX.

• *Group IV ports*— Gulfport, MS; Mobile, AL; New Orleans, LA; Corpus Christi, TX; and Pensacola, FL.

• *Group V ports*— San Diego, San Pedro/Long Beach, San Francisco, and Oakland, CA; Tampa, Miami, West Palm Beach/Fort Lauderdale, Cape Canaveral, Jacksonville, Fort Myers, and Fort Pierce, FL; Brownsville, TX; and all Hawaiian ports.

The general requirements for cold treatment found in § 319.56–2d are designed to mitigate the risk of infestation due to fruit fly escape from shipments arriving in Group I ports. These requirements, contained in § 319.56–2d(b)(5)(i) through (b)(5)(iii), include delivering, under the supervision of a PPQ inspector, shipments of fruit that require cold treatment to an approved cold storage warehouse where the shipments will be cold treated; precooling and refrigerating the shipments of fruit intended for cold treatment promptly upon arrival at the cold treatment facility; allowing shipments of fruit that require cold treatment to leave U.S. Customs Service (Customs) custody only under a redelivery bond for cold treatment; and allowing final release by Customs of shipments of fruit that require cold treatment only after the Customs officer has received official notification that the required cold treatment has been completed.

Those Group II and IV ports that are currently listed in the regulations as ports where cold treatment of imported fruit may occur must meet other requirements, in addition to the general requirements discussed in the previous paragraph, to prevent the introduction of fruit flies and other insect pests into the United States.

The port of Corpus Christi, TX, which we are proposing as an approved location for cold treatment in this document, has been designated as a Group IV port; consequently, additional mitigating measures would need to be in place before cold treatment could occur at this port.

The conditions that would be assigned to the port of Corpus Christi, TX, are, with one difference, the same as those currently found in § 319.56–2d(b)(5)(vii) regarding cold treatment at the port of Gulfport, MS, which is also a Group IV port. These proposed conditions are listed and explained below.

Special Conditions for the Maritime Port of Corpus Christi, TX

The maritime port of Corpus Christi, TX, is not in a commercial citrus-producing area. This reduces the likelihood that a fruit fly escaping from a shipment of fruit intended for cold treatment would find adequate host material for propagation. However, the port of Corpus Christi, TX, is less than 150 miles away from commercial citrus growing areas. Additionally, the port of Corpus Christi, TX, is located in a part of the country with a longer growing season and a wider variety and greater quantity of backyard hosts available compared to ports in Groups I through III. Therefore, in addition to the general requirements in § 319.56–2d(b)(5)(i) through (b)(5)(iii) of the regulations concerning cold treatment, the following requirements would apply to cold treatment conducted at the maritime port of Corpus Christi, TX.

1. All fruit entering the port for cold treatment must move in maritime containers. No bulk shipments (i.e., those shipments that are stowed and unloaded by the case or bin) are permitted.

This condition would ensure that imported fruit arriving for cold treatment at the port of Corpus Christi, TX, would not be exposed to the outdoors. The shipping container would insulate the fruit, thereby helping to keep the fruit chilled during unloading, prevent leakage of the shipments, and serve as a barrier to fruit fly escape from shipments of untreated fruit.

2. Within the container, the fruit intended for cold treatment must be enclosed in fruit fly-proof packaging that prevents the escape of adult, larval, or pupal fruit flies.

This condition would ensure that shipments that arrive at the port of Corpus Christi, TX, would be packaged in such a manner as to prevent fruit flies or other insect pests from escaping from the shipment when the container is opened. Additionally, this condition would provide an extra barrier to fruit fly escape from a shipment of untreated fruit.

3. Containerized shipments of fruit arriving at the port for cold treatment must be cold treated within the area over which Customs is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

This condition would restrict the movement from the immediate vicinity of the port of untreated shipments of fruit intended for cold treatment, further minimizing the risk that any fruit flies or other insect pests in the shipments would come into contact with host material that may be in the area.

4. The cold treatment facility and PPQ must agree in advance on the route by which shipments are allowed to move between the vessel on which they arrived at the port and the cold treatment facility. The movement of shipments from vessel to cold treatment facility will not be allowed until an acceptable route has been agreed upon.

In most instances, the route would be determined by establishing the shortest route between the vessel and the cold storage facility that does not include an area that contains host material for fruit flies during the time of year when the region experiences its most abundant amount of host material for fruit flies. Then, that route would be used throughout the year to convey shipments from vessel to cold treatment facility. This predetermined route would reduce the amount of time that a shipment would have to wait before undergoing cold treatment and would reduce the risk that any fruit flies in the shipments would come into contact with host material en route to cold storage.

5. Advance reservations for cold treatment space at the port must be made prior to the departure of a shipment from its port of origin.

This condition would ensure that untreated shipments of fruit arriving at the port would not have to wait for an extended period of time for cold treatment. Ensuring the expeditious cold treatment of the fruit would minimize the risk of fruit flies maturing in ripening fruit.

6. Devanning, the unloading of fruit from containers into the cold treatment facility, must be conducted in accordance with the following requirements:

(1) All containers must be unloaded within the cold treatment facility; and

(2) Untreated fruit may not be exposed to the outdoors under any circumstances.

Because of the southern location of the port of Corpus Christi, TX, we believe that this condition would be a necessary mitigating factor at this port. This condition would eliminate the possibility of untreated fruit being unloaded and waiting for cold treatment outside the cold treatment facility.

If fruit intended for cold treatment was removed from its shipping container outside the cold treatment facility, there would be an increased risk of fruit fly escape due to untreated fruit warming up to temperatures that

would allow the insect pests that may be in the fruit to become more active and possibly to escape when the fly-proof packaging is removed from the shipment. Our proposal to require devanning inside the cold treatment facility would ensure that all fruit that requires cold treatment remains in a cool environment.

7. The cold treatment facility must remain locked during nonworking hours.

This condition would help ensure that unauthorized persons would not have access to untreated fruit and, therefore, could not remove untreated fruit from the cold treatment facility.

8. Blacklights or sticky paper must be used within the cold treatment facility, and other trapping methods, including Jackson/methyl eugenol and McPhail traps, must be used within the 5 square miles surrounding the cold treatment facility.

This condition is intended to serve as an extra layer of defense by providing a means to detect fruit flies within the facility or within the facility's environs in the unlikely event that any fruit flies survive past the stage of pupation in the cold treatment facility. Although the regulations require a 4-square-mile trapping zone around the port of Gulfport, MS, APHIS has determined that a 5-square-mile trapping zone around the port of Corpus Christi, TX, is necessary to further mitigate the risks associated with the variety of fruit fly host material that is within 5 miles of the port.

9. During cold treatment, a backup system must be available to cold treat the shipments of fruit should the primary system malfunction. The facility must also have one or more reefers (cold holding rooms) and methods of identifying lots of treated and untreated fruits.

This condition would ensure that, in the event that the primary cold treatment system fails, additional equipment is on hand at the cold treatment facility to perform cold treatment. Cold holding rooms would be necessary to ensure that shipments of fruit remain cool during any waiting period that may ensue from a malfunction of the primary cold room. The identification of shipments to determine which lots have been treated and which lots need to be treated would eliminate the possibility of comingling treated and untreated fruit and further reduce the possibility of fruit flies or other insect pests escaping from the cold treatment facility.

10. The cold treatment facility must have the ability to conduct methyl bromide fumigation on site. Therefore, the cold treatment facility must have fumigation equipment approved by the Deputy Administrator of PPQ and a site for conducting fumigation on the premises.

This condition would act as an additional contingency measure to ensure that fruit entering the port of Corpus Christi, TX, receives the necessary treatments. As the risk of fruit fly infestation is greater at Corpus Christi, TX, than at ports included in Groups I through III, we have determined that extra protection should be provided by requiring methyl bromide fumigation capabilities as an alternative means of eliminating pests from shipments of fruit. The criteria for the approval of fumigation equipment are provided in the PPQ Treatment Manual.

With respect to methyl bromide fumigation, the Environmental Protection Agency (EPA) published a notice of final rulemaking in the **Federal Register** on December 10, 1993 (58 FR 65018–65082), that froze the production of methyl bromide in the United States at 1991 levels and required the phasing out of domestic use of methyl bromide by 2001. Subsequently, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Act of 1999 (Act) amended the Clean Air Act (CAA) and directed the EPA to promulgate new rules to reduce and terminate the production, importation, and consumption of methyl bromide in accordance with the phaseout schedule of the Montreal Protocol. Consistent with the Protocol, the Act also amended the CAA by providing a quarantine-use exemption for the production, importation, and use of methyl bromide to fumigate commodities entering or leaving the United States to comply with APHIS regulations and for other legitimate quarantine uses.

To ensure that the United States fulfills its obligations under the CAA and the Protocol, EPA is nearing completion on amendments to its regulations that would revise the accelerated phaseout regulations and conform the U.S. methyl bromide phasedown schedule with the Protocol's schedule for industrialized nations. EPA anticipates that a final rule on this issue will be published in the **Federal Register** in the near future. EPA has also indicated that it is preparing to publish a proposed rule regarding the process for handling and documenting exemptions for the production and importation of quantities of methyl bromide to be used for quarantine and preshipment purposes.

Because the Montreal Protocol exempts quarantine uses of methyl bromide, our proposal assumes the continued availability of methyl bromide for use as a fumigant for the foreseeable future. Nevertheless, USDA takes very seriously its commitment to work toward the development of commodity treatment alternatives to methyl bromide. Accordingly, APHIS is actively assessing the effectiveness and environmental acceptability of other tools—such as hot water treatment, thermal treatments (hot air, vapor heat, and cold treatment), and irradiation—that may economically manage the pests currently controlled with methyl bromide.

11. The cold treatment facility must have contingency plans, approved by the Deputy Administrator of PPQ, for safely destroying or disposing of fruit.

This condition would ensure that, in the event a shipment cannot be cold treated or fumigated promptly or properly, the contents of the shipment could be safely destroyed or disposed of so that fruit flies and other plant pests would not have the opportunity to escape. Examples of adequate contingency plans include the ability to incinerate fruit, to bury fruit, or to reexport fruit.

We believe that the mitigation measures described above, which have proved successful in mitigating fruit fly risks associated with cold treatment at the port of Gulfport, MS, would prevent the introduction of fruit flies and other plant pests that may be in shipments of fruit arriving at the port of Corpus Christi, TX, for cold treatment.

Miscellaneous Changes

The regulations in § 319.56–2d contain outdated references to the Bureau of Customs, which is now the U.S. Customs Service. We are proposing to correct these references in this document. Also, another outdated term, ''Collector of Customs,'' appears in paragraph (b)(5)(iii) of § 319.56–2d; we are also proposing to update that term.

Our regulations also misidentify the locations of both Baltimore-Washington International and Dulles International Airports as Washington, DC. Baltimore-Washington International Airport is located in Baltimore, MD, and Dulles International Airport is located in Chantilly, VA. We are proposing to correct these location descriptions for accuracy.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. This rule has been determined to be not significant for the purposes of Executive Order 12866, and, therefore, has not

been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the effects of this proposed rule on small entities. We do not currently have all the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments concerning potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to regulate the importation of fruits and vegetables to prevent the introduction of plant pests.

This proposed rule would amend the regulations governing the importation of fruits and vegetables by allowing, under certain conditions, the cold treatment of imported fruits at the port of Corpus Christi, TX. A new cold treatment facility has been constructed at this port.

The port of Corpus Christi, located along the Texas coast on the Gulf of Mexico, is connected to both U.S. and Mexican markets through several State and interstate highways as well as by rail service from three rail carriers, which all have access to the docks. The facility at the port of Corpus Christi that would be used for cold treatment has 295,500 square feet of covered dockside storage and a state-of-the-art refrigerated warehouse with a 100,000 square-foot capacity. This cold storage and treatment facility, completed in August 2000, includes three rooms with freezing and chilling capacities, and temperature-controlled rail and truck docks. A study conducted by the port authority of Corpus Christi predicts that by the year 2010, national container traffic will top 2.75 million transit and exit units (TEU's) and that the port of Corpus Christi could capture a throughput of 820,000 TEU's.

The port authority expects that it would receive commodity imports from several countries throughout Central and South America in addition to New Zealand and South Africa. The annual collective estimated value of commodities expected to be cold treated at the facility is nearly $131.7 million.

According to the Small Business Administration, a small entity involved in the wholesale trade of fresh fruits is one that employs no more than 100 people. While small entities would likely benefit from being able to cold treat commodities at the port of Corpus Christi, the number of these entities and the extent to which they might benefit is unknown. Additionally, import and transport companies in the region could be expected to handle increased traffic in fruits and vegetables, as indicated by the projected figures provided by exporters in Latin America and South Africa; consequently, local employment opportunities could be expected to increase.

The alternative to this proposed rule was to make no changes to the regulations. After consideration, we rejected this alternative because it appears that, with the safeguards proposed, the cold treatment of fruit may be conducted at the port of Corpus Christi, TX, without significant risk of introducing fruit flies or other plant pests.

Executive Order 12988

This proposed rule would allow fresh fruit to be imported into the United States for cold treatment at the maritime port of Corpus Christi, TX. If this proposed rule is adopted, State and local laws and regulations regarding fruit imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruit is generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Section 319.56–2d would be amended as follows:

a. In paragraph (b)(1), the words ''Corpus Christi, TX,'' would be added immediately before the words ''and Gulfport, MS;'' the words ''Airport, Baltimore, MD,'' would be added after the words ''Baltimore-Washington International''; and the words ''airports, Washington, DC'' would be removed and the words ''Airport, Chantilly, VA'' added in their place.

b. In paragraph (b)(5)(iii), the words ''Collector of Customs'' would be removed and the words ''Customs Service'' added in their place.

c. In paragraphs (b)(5)(iv)(B), (b)(5)(v)(B), and (b)(5)(vi)(B), the words ''Bureau of Customs'' would be removed each time they occur and the words ''U.S. Customs Service'' added in their place.

d. The introductory text of paragraph (b)(5)(vii) would be revised.

e. In paragraph (b)(5)(vii)(A), the words ''at the port of Gulfport, MS'' would be removed.

f. In paragraph (b)(5)(vii)(C), the words ''Bureau of Customs'' would be removed and the words ''U.S. Customs Service'' added in their place.

g. Paragraph (b)(5)(vii)(H) would be revised.

§ 319.56–2d Administrative instructions for cold treatments of certain imported fruits.

* * * * *

(b) * * *

(5) * * *

(vii) *Special requirements for the maritime ports of Gulfport, MS, and Corpus Christi, TX.* Shipments of fruit arriving at the ports of Gulfport, MS, and Corpus Christi, TX, for cold treatment, in addition to meeting all of the requirements in paragraphs (b)(5)(i) through (b)(5)(iii) of this section, must meet the following special conditions:

* * * * *

(H) Blacklights or sticky paper must be used within the cold treatment facility, and other trapping methods, including Jackson/methyl eugenol and McPhail traps, must be used within the 4 square miles surrounding the cold treatment facility at the maritime port of Gulfport, MS, and within the 5 square miles surrounding the cold treatment facility at the maritime port of Corpus Christi, TX.

* * * * *

Done in Washington, DC, this 25th day of May 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–13758 Filed 5–31–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 1944

RIN 0575–AC25

Farm Labor Housing Technical Assistance

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS) proposes to amend its regulations for the Farm Labor Housing (FLH) program. The Housing Act of 1949 authorizes the RHS to provide financial assistance to private and public nonprofit agencies to encourage the development of domestic and migrant farm labor housing projects. The nonprofit agencies that receive this financial assistance, in turn, provide ''technical assistance'' to other organizations to assist them in obtaining loans and grants for the construction of farm labor housing. The RHS has provided this assistance in prior years by awarding technical assistance contracts. In fiscal year 2000 a Request for Proposals was published in the **Federal Register** requesting grant proposals from private and public nonprofit agencies. The intended effect of this action is to amend the regulations to establish the eligibility requirements that nonprofit agencies must meet to receive technical assistance grants and how the financial assistance will be made available by the RHS.

DATES: Written or E-mail comments must be received on or before July 31, 2001.

ADDRESSES: Written comments may be submitted, in duplicate, to the Branch Chief, Regulations and Paperwork Management Branch, Rural Development, U.S. Department of Agriculture, Stop 0742, 1400 Independence Avenue SW, Washington, DC 20250–0742. Comments may be submitted via the Internet by addressing them to *comments@rus.usda.gov* and must contain ''Technical'' in the subject. All written comments will be available for public inspection at 300 E Street SW, Washington, DC 20546, during normal working hours.

FOR FURTHER INFORMATION CONTACT: Douglas MacDowell, Senior Loan Specialist, Multi-Family Housing Processing Division, Rural Housing Service, U.S. Department of Agriculture, STOP 0781, 1400 Independence Avenue SW., Washington, DC 20250–0781, Telephone (202) 720–1604.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be not significant for purposes of Executive Order 12886 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act

The information collection requirements contained in this regulation have been previously approved by OMB under the provisions of 44 U.S.C. chapter 35 and this regulation has been assigned OMB control number 0575–0181, in accordance with the Paperwork Reduction Act of 1995. This rule does not impose any new information collection requirements from those approved by OMB.

Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All state and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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, RHS 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, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of section 202 and 205 of the UMRA.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Programs Affected

The affected program is listed in the Catalog of Federal Domestic Assistance under Number 10.405, Farm Labor Housing Loans and Grants.

Intergovernmental Consultation

For the reasons contained in the Final Rule related Notice to 7 CFR part 3015, subpart V, this program is subject to Executive Order 12372 which requires intergovernmental consultation with State and local officials. RHS has conducted intergovernmental consultation in the manner delineated in RD Instruction 1940–J.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It is the determination of RHS that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

Background

Farmworkers are among the lowest paid workers in the United States and

often lack decent, safe, sanitary, and affordable housing. RHS's FLH program provides loans and grants for farmworker housing and related facilities.

The FLH program is authorized by title V of the Housing Act of 1949 under section 514 (42 U.S.C. 1484) for loans and section 516 (42 U.S.C. 1486) for grants. Section 516 also authorizes the RHS to provide financial assistance (not more than 10 percent of the section 516 funds) to encourage the development of domestic and migrant farm labor housing projects.

RHS's FLH program provides funding for both ''on-farm'' and ''off-farm'' housing. The housing may also be for either seasonal or year-round occupancy. Off-farm housing, typically apartment complexes, is open to farmworkers who work at any farming operation. On-farm housing provides housing for the workers of only one farm and is typically designed as single family dwellings. Occupancy of both types of housing is restricted to United States citizens or permanent resident aliens.

Off-farm migrant housing serves farmworkers who perform agricultural work at one or more locations away from their home base throughout the year for periods ranging from a few weeks to several months. Rental assistance is available to many tenants of off-farm housing to make rents affordable. Off-farm housing is financed with section 514 loans and section 516 grants to nonprofit organizations and public agencies such as local housing authorities, and with section 514 loans to limited partnerships in which the general partner is a nonprofit entity.

On-farm housing loans are made to farmers or farm entities to provide housing for farmworker families employed by the farm. On-farm housing is financed with section 514 loans and is not eligible for 516 grants. The tenants (farmworkers) who live in on-farm housing are not eligible for rental assistance.

RHS also provides financial assistance to private and public nonprofit agencies to encourage the development of domestic and migrant farm labor housing projects. The services that are provided by these non-profit agencies is commonly referred to as ''technical assistance''.

Most section 514 and section 516 funds are leveraged with funds from other sources. Likewise, RHS has taken steps to ensure that technical assistance funds are effectively used.

Prior to Fiscal Year 2000, RHS awarded technical assistance ''contracts''. These contracts were awarded for one year periods with four option periods that could be exercised at the discretion of the Government. In FY 2000, RHS changed the way that FLH technical assistance funds were awarded. During FY 2000, RHS awarded technical assistance ''grants'' rather than ''contracts''.

On June 21, 2000, a Request for Proposals (RFP) was published in the **Federal Register** requesting ''grant'' proposals from private and public nonprofit agencies. The RFP outlined the application requirements and the criteria that would be used to select proposals for funding. The RFP also established three FLH technical assistance grant regions (the Eastern, Central, and Western grant regions) and contained the terms of the grants.

On September 27, 2000, three technical assistance grants were awarded. Two of the grants were awarded for the Western grant region and the other was awarded for the Central grant region. No grant proposals were received for the Eastern grant region. Each of the grants has a three year grant period.

When the RFP was published, comments and suggestions were received from interested parties. Some suggested that more than one FY's funding should be made available during the three year grant period. Another issue was that the Central grant region received less funding than the Eastern and Western grant regions. Lastly, one commented it was unfair to consider an applicant's experience if such experience was gained outside of the grant region, or to give equal weight to an applicant's experience in developing non-farmworker multifamily housing to an applicant's experience in developing farmworker housing.

In the future, RHS intends to periodically publish RFPs that are similar to the one that was published on June 21, 2000. When published, RHS will have the opportunity to make changes to the way funds are distributed, to the minimum performance requirements that must be met, or to other terms of the grants. RHS will at that time consider the suggestions that have been made. However, this revision to the regulation only implements the statutory authority for awarding grants. It does not establish the application requirements, the selection criteria, the performance standards that must be met, or how funds will be distributed when grants are awarded.

List of Subjects in 7 CFR Part 1944

Farm labor housing, Grant programs—Housing and community development, Loan programs—Housing and community development, Migrant labor, Nonprofit organizations, Public housing, Rent subsidies, Rural housing.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended to read as follows:

PART 1944—HOUSING

1. The authority citation for part 1944 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1480.

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations

2. Section 1944.151 is revised to read as follows:

§ 1944.151 Purpose.

This subpart contains the policies and procedures and delegates authority for making initial and subsequent insured loans under section 514 and grants under section 516 of the Housing Act of 1949, to provide housing and related facilities for domestic farm labor. This subpart also contains the policies and procedures for making grants under section 516 to encourage the development of farm labor housing. Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to Rural Housing Service (RHS) employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this chapter. Applicants for this assistance are required to identify any known relationship or association with an RHS employee.

3. Section 1944.157 is amended by redesignating paragraph (c) as (d) and by adding a new paragraph (c) to read as follows:

§ 1944.157 Eligibility Requirements.

* * * * *

(c) *Eligibility of applicant for an LH technical assistance grant.* To be eligible for an LH technical assistance grant the applicant must:

(1) Be a private or public nonprofit agency;

(2) Have the knowledge, ability, technical expertise, or practical experience necessary to develop and package loan and grant applications for LH under the section 514 and 516 programs; and,

(3) Possess the ability to exercise leadership, organize work, and prioritize assignments to meet work demands in a timely and cost efficient manner. The grantee may arrange for other nonprofit agencies to provide

services on its behalf; however, RHS will expect the grantee to provide the overall management necessary to ensure the objectives of the grant are met. Nonprofit agencies acting on behalf of the grantee must also meet the above stated eligibility requirements.

* * * * *

4. Section 1944.158 is amended by adding a new paragraph (o) to read as follows:

§ 1944.158 Loan and grant purposes.

* * * * *

(o) Encourage the development of farm labor housing. RHS may award ''technical assistance'' grants to eligible private and public nonprofit agencies. These grant recipients will, in turn, assist other organizations obtain loans and grants for the construction of farm labor housing. Technical assistance services may not be funded under both this paragraph and paragraph (i) of this section. In addition, technical assistance may not be funded by RHS when an identity of interest exists between the technical assistance provider and the loan or grant applicant. Requests for Proposals (RFP) may be periodically published in the **Federal Register** by RHS inviting eligible nonprofit organizations to submit LH technical assistance grant proposals. RFPs will contain the amount of available funding, the method of allocating or distributing funds, where to submit proposals, proposal requirements, the deadline for the submission of proposals, the selection criteria, and the grant agreement to be entered into between RHS and the grantee.

Dated: May 22, 2001.

Dawn Riley,

Acting Deputy Under Secretary.

[FR Doc. 01–13801 Filed 5–31–01; 8:45 am]

BILLING CODE 3410–XV–U

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

[Docket No. PRM–2–12]

Michael Stein; Withdrawal of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; withdrawal.

SUMMARY: The Nuclear Regulatory Commission (NRC) is withdrawing, at the petitioner's request, a petition for rulemaking (PRM–2–12) (64 FR 59669; November 3, 1999) filed by Michael Stein. In PRM–2–12, the petitioner requested that the Commission amend its regulations pertaining to deliberate misconduct and employee protection to ensure that all individuals are afforded the right to respond to an NRC determination that the individual has violated these regulations.

ADDRESSES: A copy of the petitioner's email submittal, dated May 15, 2001, requesting the withdrawal of the petition is available for public inspection, or copying for a fee, at the NRC's Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

Single copies of the petitioner's email submission may be obtained free of charge by writing to the Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* For the petitioner's email, the accession number is ML011360325. From this site, the public can gain entry into the NRC's Agency wide Document Access and Management System (ADAMS) that provides text and image files of NRC's public documents. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, (301) 415–4737, or by email to pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–415–7163 or Toll Free: 800–368–5642.

Dated at Rockville, Maryland this 25th day of May, 2001.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting, Secretary of the Commission.

[FR Doc. 01–13739 Filed 5–31–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SPATS No. MT–003–FOR]

Montana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening and extension of public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of revisions and additional explanatory information pertaining to a previously proposed amendment to the Montana regulatory program (hereinafter, the ''Montana program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Montana proposes revisions to Title 26, Chapter 4, of the Administrative Rules of Montana (ARM) and additional explanatory information about surface water baseline monitoring requirements, conditions of the permit, temporary waste impoundments, dam spillway specifications, and alternate underdrain systems. Montana intends to revise its program to be consistent with the corresponding Federal regulations, incorporate the additional flexibility afforded by the revised Federal regulations, clarify ambiguities, and improve operational efficiency.

DATES: We will accept written comments on this amendment until 4 p.m., m.d.t. July 2, 2001. If requested, we will hold a public hearing on the amendment on June 26, 2001. We will accept requests to speak until 4 p.m., m.d.t. on June 18, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Guy Padgett at the address listed below. You may review copies of the Montana program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendments by contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Room 2128, Casper, WY 82601–1918, Telephone: (307) 261–6550

Neil Harrington, Acting Chief, Industrial and Energy Minerals Bureau, Montana Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, MT 59620–0901, Telephone: (307) 444–4973

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261–6550, Internet address: gpadgett@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Montana Program
II. Description of the Proposed Amendment

III. Public Comment Procedures
IV. 10 Procedural Determinations

I. Background on the Montana Program

On April 1, 1980, the Secretary of the Interior conditionally approved the Montana program. You can find background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program in the April 1, 1980, **Federal Register** (45 FR 21560). You can also find later actions concerning Montana's program and program amendments can be found at 30 CFR 926.15, 926.16, and 926.30.

II. Proposed Amendment

By letters dated February 1, 1995, and February 28, 1995, Montana sent us a proposed amendment to its program (Administrative Record Nos. MT–12–01 and MT–12–05) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the proposed amendment in response to letters dated July 2, 1985; May 11, 1989; and March 29, 1990 (Administrative Record Nos. MT–60–01, MT–60–04, and MT–60–07) that OSM sent to Montana in accordance with 30 CFR 732.17(c); in response to the required program amendments at 30 CFR 926.16(b), (c), (d), (e)(2), (e)(3), (e)(4), (e)(5), (e)(6), (e)(7), (e)(8), (f), (h), (i), and (j); and at its own initiative.

Montana originally proposed to revise: ARM 26.4.301, definitions; ARM 26.4.303, legal, financial, compliance, and related information; ARM 26.4.304, baseline information: environmental resources; ARM 26.4.308, operations plan; ARM 26.4.314, plan for protection of the hydrologic balance; ARM 26.4.321, transportation facilities plan; ARM 26.4.404, review of application; ARM 26.4.405, findings and notice of decision; ARM 26.4.405A, improvidently issued permits: general requirements; ARM 26.4.405B, improvidently issued permits: revocation; ARM 26.4.407, conditions of permit; ARM 26.4.410, permit renewal; ARM 26.4.501A, final grading requirements; ARM 26.4.505, burial and treatment of waste materials; ARM 26.4.519A, thick overburden and excess spoil; ARM 26.4.524, signs and markers; ARM 26.4.601, general requirements for road and railroad loop construction; ARM 26.4.602, location of roads and railroad loops; ARM 26.4.603, embankments; ARM 26.4.604, hydrologic impacts of roads and railroad loops; ARM 26.4.623, blasting schedule; ARM 26.4.633, water quality performance standards; ARM 26.4.634, reclamation of drainages; ARM 26.4.638, sediment control measures; ARM 26.4.639, sedimentation ponds and other treatment facilities; ARM 26.4.642, permanent and temporary impoundments; ARM 26.4.645, groundwater monitoring; ARM 26.4.646, surface water monitoring; ARM 26.4.702, redistribution and stockpiling of soil; ARM 26.4.711, establishment of vegetation; ARM 26.4.721, eradication of rills and gullies; ARM 26.4.724, use of revegetation comparison success standards; ARM 26.4.726, vegetation production, cover, diversity, density, and utility requirements; ARM 26.4.821, alternate reclamation: submission of plan; ARM 26.4.825, alternate reclamation: alternate revegetation; ARM 26.4.924, disposal of underground development waste: general requirements; ARM 26.4.927, disposal of underground development waste: durable rock fills; ARM 26.4.930, placement and disposal of coal processing waste: special application requirements; ARM 26.4.932, disposal of coal processing waste; ARM 26.4.1001, application requirements; ARM 26.4.1001A, notice of intent to prospect; ARM 26.4.1002, information and monthly reports; ARM 26.4.1005, drill holes; ARM 26.4.1006, roads and other transportation facilities; ARM 26.4.1007, grading, soil salvage, storage, and redistribution; ARM 26.4.1009, diversions; ARM 26.4.1011, hydrologic balance; ARM 26.4.1014, test pits: application requirements, review procedures, bonding, and additional performance standards; ARM 26.4.1116, bonding: criteria and schedule for release of bond; ARM 26.4.1116A, reassertion of jurisdiction; ARM 26.4.1141, designation of lands unsuitable: definition; ARM 26.4.1206, notices, orders of abatement and cessation orders: issuance and service; and ARM 26.4.1212, point system for civil penalties and waivers.

We announced receipt of the proposed amendment in the March 15, 1995, **Federal Register** (60 FR 13932; Administrative Record No. MT–12–12). In that **Federal Register**, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on April 14, 1995.

During our review of the amendment, we identified rules requiring clarification prior to making an evaluation of the proposed revisions. Those rules requiring clarification were: ARM 26.4.301(78), the definition of ''owned or controlled;'' ARM 26.4.303, legal, financial, compliance, and related information; ARM 26.4.304, baseline information: environmental resources; ARM 26.4.314, plan for the protection of the hydrologic balance; ARM 26.4.404, review of application; ARM 26.4.407, conditions of a permit; ARM 26.4.410, permit renewal; ARM 26.4.505 and 26.4.510, burial and treatment of waste materials and disposal of offsite-generated waste and fly ash; ARM 26.4.519A, thick overburden and excess spoil; ARM 26.4.603 and 26.4.639, sedimentation ponds and other treatment facilities; ARM 26.4.645 and 26.4.646, groundwater and surface water monitoring; ARM 26.4.721, eradication of rills and gullies; ARM 26.4.821, alternate reclamation: submission of plan; ARM 26.4.924, disposal of underground development waste: general requirements; ARM 26.4.927, disposal of underground development waste: durable rock fills; and ARM 26.4.1001 through 26.4.1007 and 26.4.1014, prospecting.

We notified Montana of those rules requiring clarification by letter dated October 17, 1995 (Administrative Record No. 12–16). Montana responded with further explanation in a letter dated February 6, 1996 (Administrative Record No. MT–12–19). Following receipt of Montana's February 6, 1996, letter, we identified concerns with ARM 26.4.304, baseline information: environmental resources; ARM 26.4.404, review of application; ARM 26.4.505 and 26.4.510, burial and treatment of waste materials and disposal of off-site generated waste and fly ash; ARM 26.4.519A, thick overburden and excess spoil; ARM 26.4.639, sediment ponds and other treatment facilities; ARM 26.4.821, alternate reclamation; ARM 26.4.924 and 26.4.927, disposal of underground development waste; and ARM 26.4.1014, prospecting. We notified Montana of these concerns by letter dated July 10, 1997 (Administrative Record No. MT–12–20).

Meanwhile, at the same time we were reviewing this amendment, Montana made subsequent changes to some of the rules contained in this amendment and submitted them in another amendment dated March 5, 1996 (SPATS No. MT–018–FOR; Administrative Record No. MT–15–01). Those rules were: ARM 26.4.410, permit renewal, ARM 26.4.1001, prospecting permit requirement; and ARM 26.4.1001A, notice of intent to prospect. OSM and Montana subsequently decided to withdraw the prospecting and permit renewal rules from SPATS No. MT–003–FOR and consider them in SPATS No. MT–018–FOR (Administrative Record Nos. MT–12–21 and MT–15–14). These withdrawn rules addressed the

required program amendments at 30 CFR 926.16(f), (h), (i), and (j).

Montana responded by letter dated July 17, 2000 (Administrative Record No. MT–12–23), that it would not submit further revisions to SPATS No. MT–003–FOR. Montana requested that OSM proceed with the final rule **Federal Register** notice. Montana stated that it would address the existing deficiencies in this amendment in a new submission.

Following receipt of the July 17, 2000, letter, OSM proceeded writing the final rule **Federal Register** notice on MT–003–FOR. However, during the process, OSM decided to request a meeting with Montana to discuss the unresolved issues in MT–003–FOR. The meeting was held at the Montana Department of Environmental Quality (DEQ), Helena, MT, on February 27, 2001. Because the public was not notified of the meeting beforehand, OSM is making available the meeting minutes (Administrative Record No. MT–12–24) from that meeting by this **Federal Register** notice. During the February 27, 2001, meeting, OSM and the Montana DEQ decided that some issues were, in fact, resolvable due to a re-interpretation of Montana's responses and/or a subsequent revision of Montana's rules.

In response to discussions at the February 27, 2001, meeting, Montana has now submitted subsequent rule revisions and/or explanatory information by letter dated May 15, 2001 (Administrative Record No. MT–12–25). Montana proposes additional explanatory information concerning the lack of acid-forming materials in the Montana coal fields to address the issue with ARM 26.4.304(6)(b)(ii)(B). Montana proposes editorial changes to ARM 26.4.407(4). Montana proposes new language at ARM 26.4.505(5) to prohibit acid, acid-forming, toxic, or toxic-forming wastes from being used in an impoundment. Montana proposes new language at ARM 26.4.505(7) to provide that the same notification requirements concerning potential hazards at waste disposal sites also pertain to temporary waste impoundments. Montana proposes new language at ARM 26.4.639 address the construction of a single spillway and to state that an excavation requires no spillway. Montana proposes to delete subsection at ARM 26.4.924(15) which OSM disapproved in the August 19, 1992, **Federal Register** notice, and to delete cross-reference to it at ARM 26.4.927(3)(a).

III. Public Comment Procedures

Written Comments

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. In the final rulemaking, we will not necessarily consider or include in the Administrative Record any comments received after the time indicated under **DATES** or at locations other than the Casper Field Office.

Electronic Comments

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS No. MT–003–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Casper Field Office at (307) 261–6550.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their 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 review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.d.t. on June 18, 2001. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing. To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the

roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined 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.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State or local governmental agencies; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 23, 2001.

James Fulton,

Acting Regional Director, Western Regional Coordinating Center.

[FR Doc. 01–13786 Filed 5–31–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SPATS No. MT–021–FOR]

Montana Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening and extension of public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of revisions and additional explanatory information pertaining to a previously proposed amendment to the Montana abandoned mine land reclamation (AMLR) plan (hereinafter, the ''Montana plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Montana proposes revisions and additional explanatory information about the Department of Environmental Quality, its authority, organization, personnel staffing policies, and purchasing and procurement policies. Montana also provides information about the AMLR plan, the goals and objectives of the emergency program, reclamation project ranking and selection, the coordination among agencies, policies and procedures for land acquisition, reclamation of private land, consent for entry, the accounting system, and a new appendix concerning the abandoned inactive mines scoring system (AIMSS). Montana intends to revise its plan to meet the requirements of the corresponding Federal regulations and to be consistent with SMCRA, to clarify ambiguities, and to improve operational efficiency.

DATES: We will accept written comments on this amendment until 4 p.m., [m.d.t.], on July 2, 2001. If requested, we will hold a public hearing on the amendment on June 26, 2001. We will accept requests to speak until 4 p.m., [m.d.t.], on June 18, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Guy Padgett at the address listed below. You may review copies of the Montana plan, this amendment, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East ''B'' Street, Federal Building, Room 2128, Casper, Wyoming 82601–1918

Vic Anderson, Chief, Mine Waste Cleanup Bureau, Remediation Division, Montana Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620–0901, Telephone: (406) 444–2544

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261–6550, Internet address: gpadgett@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Montana Plan
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Montana Plan

On November 24, 1980, the Secretary of the Interior approved the Montana plan. You can find general background information on the Montana plan, including the Secretary's findings and the disposition of comments, in the October 24, 1980, **Federal Register** (45 FR 70445). You can also find later

actions concerning Montana's plan and plan amendments at 30 CFR 926.21 and 926.25.

II. Description of the Proposed Amendment

By letter dated August 15, 2000, Montana sent to us a proposed amendment to its plan (SPATS No. MT–021–FOR, Administrative Record No. MT–18–01) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the amendment in response to the required plan amendment at 30 CFR 926.21(a) and at its own initiative. The full text of the plan amendment is available for you to read at the locations listed above under **ADDRESSES.**

Montana proposed to delete its AMLR rule definitions of ''abandoned mine land reclamation fund,'' ''emergency,'' and ''extreme danger,'' at ARM 26.4.301 and its definitions of ''abandoned mine land reclamation fund,'' ''emergency,'' ''expended,'' ''extreme danger,'' ''fund,'' ''left or abandoned in either an unreclaimed or inadequately reclaimed condition,'' ''Montana abandoned mine reclamation program,'' and ''reclamation activities'' at ARM 26.4.1231. Montana also proposed to delete the AMLR rules at ARM 26.4.1232 through 26.4.1242 and to rely instead on its AMLR plan and on the statutory provisions at MCA 82–4–239, 82–4–371, and 82–4–445. Montana proposed revisions to MCA 82–4–239 to reflect the reorganized duties of the Board of Environmental Review and the Department of Environmental Quality. Lastly, Montana presented its 1995 reorganization plan abolishing the Department of State Lands and creating the Department of Environmental Quality.

We announced receipt of the proposed amendment in the September 25, 2000, **Federal Register** (65 FR 57581), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (Administrative Record No. MT–18–06). Because no one requested a public hearing or meeting, none was held. The public comment period ended on October 25,2000.

During our review of the amendment, we identified concerns relating to the deletion of Montana's rules concerning non-emergency AML reclamation, the deletion of Montana's rules concerning emergency reclamation, the statutes relating to Montana's AMLR plan, cross-references and quotes in the Montana plan which cited the deleted rules, and the reference to the former Department of State Lands, now the Department of Environmental Quality. We notified Montana of our concerns by letter dated January 24, 2001 (Administrative Record No. MT–18–08). Montana responded in a letter dated April 30, 2001, by submitting additional explanatory information to OSM's concerns and a revised 2001 plan amendment (Administrative Record No. MT–18–11).

Specifically, Montana proposes explanatory information in a letter dated April 30, 2001 to address each of OSM's concerns, in particular to explain where Montana believes it retains authority to implement its approved AMLR program (both emergency and non-emergency reclamation activities) for each deleted rule, where Montana intends to rely upon Federal authority, that the 2001 plan amendment supercedes anything contained in earlier plans which may conflict with subsequent revisions, and to list additional statutes which provide AMLR authority. Montana has also revised the AMLR plan to provide 2001 updated information, delete obsolete cites, change the State agency name to the Department of Environmental Quality, provide missing pages, provide an organization chart for the Department of Environmental Quality, and make other editorial changes.

III. Public Comment Procedures

Written Comments

Send your written comments to us at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. In the final rulemaking, we will not consider or include in the Administrative Record any comments received after the time indicated under **DATES** or at locations other than the Casper Field Office.

Electronic Comments

Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include Attn: SPATS No. MT–021–FOR, your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Casper Field Office at (307) 261–6550.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their 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 review in their entirety.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific State, not by OSM. Decisions on proposed State AMLR plans and revisions thereof submitted by a State are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR Part 884.

Executive Order 13132—Federalism

This rule does not have Federalism implications within the meaning of Executive Order 13132. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations. Section 405 of SMCRA authorized the creation of State abandoned mine reclamation programs for the purpose of reclaiming and restoring land and water resources adversely affected by past coal mining operations. Section 405(d) of SMCRA specifies the criteria for the approval and disapproval of these State abandoned mine reclamation programs

which are funded at 100% by grants from the Federal government.

National Environmental Policy Act

No environmental impact statement is required for this rule because agency decisions on proposed State AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, Appendix 8, paragraph 8.4B(29)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined 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.*). The State submittal which is the subject of this rule is based on Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect on a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied on the data and assumptions in the analyses for the corresponding Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State or local governmental agencies; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on the fact that the State submittal which is the subject of this rule is based on counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 926

Abandoned mine reclamation programs, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 21, 2001.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 01–13802 Filed 5–31–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR 210

Federal Government Participation in the Automated Clearing House—Extension of Public Comment Period

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice of extension of public comment period.

SUMMARY: On April 12, 2001, the Financial Management Service (FMS) published a Notice of Proposed Rulemaking (NPRM) proposing to revise the regulation, 31 CFR part 210, governing the use of the Automated Clearing House (ACH) system by Federal agencies (66 FR 18888). The proposed revisions address the conversion of checks to ACH debit entries at Federal agency points-of-purchase and at lockbox locations where payments to Federal agencies are sent. The proposed revisions also address the origination by agencies of ACH debit entries authorized over the Internet. FMS requested that public comments on the proposed revisions be submitted by July 11, 2001. In response to requests by several parties for an extension of the comment deadline, FMS is extending the comment period to July 31, 2001.

DATES: Comments will be accepted through July 31, 2001.

ADDRESSES: Comments may be sent electronically to *210comments@fms.treas.gov.* Comments may also be mailed to Donna Kotelnicki, Acting Director, Cash Management Policy and Planning Division, Financial Management Service, U.S. Department of the Treasury, Room 420, 410 14th Street, SW., Washington, DC 20227. The NPRM can be downloaded at the following World Wide Web address: *http://www.fms.treas.gov/ach.*

FOR FURTHER INFORMATION CONTACT: Walt Henderson, Senior Financial Program Specialist, at (202) 874–6705 or *walt.henderson@fms.treas.gov*; Matthew Helfrich, Financial Program Specialist, at (202) 874–6754 or *matthew.helfrich@fms.treas.gov*; Natalie H. Diana, Senior Attorney, at (202) 874–6680 or *natalie.diana@fms.treas.gov*; or Donna Kotelnicki, Acting Director, Cash Management Policy and Planning Division, at (202) 874–6590 or *donna.kotelnicki@fms.treas.gov*.

Dated: May 25, 2001.

Kenneth R. Papaj,

Deputy Commissioner.

[FR Doc. 01–13789 Filed 5–31–01; 8:45 am]

BILLING CODE 4810–35–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6938–9]

Maryland: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Maryland has applied to EPA for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant such Final authorization to Maryland. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and we do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule, and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by July 2, 2001.

ADDRESSES: Send written comments to Carol Johnson, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–3378. You can examine copies of the materials submitted by Maryland during normal business hours at the following locations: EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–5254; or Maryland Department of the Environment, Waste Management Administration, Hazardous Waste Program, 2500 Broening Highway, Baltimore, Maryland 21224, Phone number (410) 631–3345. If you are interested in examining copies at the Maryland Department of the Environment, please contact Mr. Edward Hammerberg.

FOR FURTHER INFORMATION CONTACT: Carol Johnson, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, Phone number (215) 814–3378.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: January 17, 2001.

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 01–13777 Filed 5–31–01; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1198; MM Docket No. 01–110, RM–9927]

Radio Broadcasting Services; Newberry and Simpsonville, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Upstate-Carolina Broadasting Company, LLC, proposing the downgrade of Channel 292C3 to Channel 292A at Newberry, the reallotment of Channel 292A from Newberry to Simpsonville, South Carolina, and the modification of Station WGVC(FM)'s construction permit accordingly. Channel 292A can be reallotted to Simpsonville in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 292A at Simpsonville are 34–44–13 North Latitude and 82–15–16 West Longitude. In accordance with Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest for the use of Channel 292A at Simpsonville, South Carolina.

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

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert Lewis Thompson, Esq., Thiemann, Aitken, et al., L.C., 908 King Street, Suite 300, Alexandria, Virginia 22314 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–110, adopted May 2, 2001, and released May 11, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

Section 73.202(b), the Table of FM Allotments under South Carolina is amended by removing Newberry, Channel 292C3, and adding Simpsonville, Channel 292A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–13715 Filed 5–31–01; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[DOT Docket No. NHTSA–01–9765]

RIN 2127–AE59

Federal Motor Vehicle Safety Standards; Radiator and Coolant Reservoir Caps, Venting of Motor Vehicle Coolant Systems

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In this document, we (NHTSA) propose a new Federal motor vehicle safety standard regulating new radiator caps and coolant reservoir caps, and new passenger cars, multipurpose passenger vehicles and light trucks with such caps. We believe that this new standard, if implemented, would result in fewer scald injuries that occur when people attempt to remove caps from motor vehicle radiators or coolant reservoirs that are under high pressure and contain hot fluids. However, this rulemaking would not require that radiator caps or coolant reservoir caps be provided on any motor vehicle.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than July 31, 2001.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590.

You may call the Docket at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

For non-legal issues, you may call Mr. Kenneth O. Hardie, Office of Crash

Avoidance Standards at (202) 366–6987. His FAX number is (202) 493–2739.

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

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

SUPPLEMENTARY INFORMATION:

I. Background—What Safety Need Does This Proposed Rule Address?
II. Has NHTSA Previously Addressed the Issue of Regulating Radiator Caps?
III. Why is NHTSA Proposing Rulemaking Now?
A. The Petition from Mr. John Giordano
B. Mr. Giordano's Radiator Cap Scald Incidence Data
C. NHTSA's Analysis of Injury Data from Mr. Giordano
IV. June 1993 Request for Comment and Public Comments in Response
V. July 1993 Agreement with Consumer Product Safety Commission for More Research
A. Using CPSC Data to Determine a Need for Safety
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A. CPSC and Other Data Show a Safety Need to Regulate Caps
B. Major Provisions of the Proposed Standard
1. The New Standard Would Apply to New Vehicles 4,536 Kg (10,000 Pounds) GVWR or Less
2. The New Standard Would Apply to Original Caps and Replacement Caps
3. Performance Requirements for Caps
4. Manually Operated Pressure Release Mechanism on the Vehicle
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C. Why We Propose Applying the Rule to Vehicles 4,536 Kg (10,000 Pounds GVWR) or Under Only
D. Why We Propose a Standard Based on Pressure, Not Temperature
E. Performance Requirements for Radiator Caps and Coolant Reservoir Caps
F. Compatibility Issues for New Caps/Old Vehicles and New Vehicles/Old Caps
G. Testing Procedures for the New Caps
H. Testing Procedures for the New Vehicles
I. ''DOT'' Symbol and Manufacturers'' Maximum Pressure Rating for Each Radiator Cap and Coolant Reservoir Cap
J. Why We are Not Proposing Warning Labels
K. Additional Issues
VIII. Leadtime
IX. Rulemaking Analyses and Notices
A. Executive Order 12866; DOT Regulatory Policies and Procedures
B. Executive Order 13132 (Federalism)
C. Executive Order 13045 (Economically Significant Rules Affecting Children)
D. Executive Order 12778 (Civil Justice Reform)
E. Regulatory Flexibility Act
F. National Environmental Policy Act
G. Paperwork Reduction Act
H. National Technology Transfer and Advancement Act
I. Unfunded Mandates Reform Act of 1995
J. Plain Language
K. Regulation Identifier Number (RIN)

Proposed Regulatory Text

I. Background—What Safety Need Does This Proposed Rule Address?

Until the late 1950's, the liquid-based cooling systems on passenger car engines did not operate under pressure. The low horsepower, low compression engines of these earlier cars did not develop the tremendous amount of heat of present day engines and the coolant generally stayed below the boiling point. If those older systems were kept clean and in good mechanical condition, they had an excess of cooling capacity. Under those conditions, cooling system troubles were rarely experienced.

As the result of the advent of engines with increased horsepower, smaller radiators, higher thermostat opening temperatures, and emissions controls, much more heat can accumulate in the engines of cars and the other types of light vehicles common today. These vehicles include trucks, vans, and sport utility vehicles with a Gross Vehicle Weight Rating (GVWR) of 4536 kg (10,000 pounds) or less. At the same time, today's engines have less engine surface to dissipate the heat into the atmosphere. To eliminate the heat build-up problem, the pressurized cooling system was developed. The radiator caps in these pressurized systems function to provide an opening so that liquid cooling fluid can be added to the cooling systems as needed and to maintain the design pressure in the systems.

During operation, a motor vehicle engine becomes very hot. Motor vehicle engine cooling fluid (also known as coolant) can reach temperatures as high as 118 to 129 degrees Celsius (245 to 265 degrees Fahrenheit) and pressure levels as high as 110 to 117 kilopascals (kPa) (16–17 pounds of pressure per square inch). Under such high temperature and pressure conditions, a person's removal of a standard radiator cap will allow hot fluid and steam to rush out of the neck of the radiator. When the system is under pressure, especially high pressure, removing a radiator cap can cause it to ''explode;'' *i.e.,* the cap can be forcibly ejected or dislodged from the neck of the radiator in some way. A person close to the radiator may be sprayed with the hot fluid or steam that is ejected, and be scalded, possibly severely. We know that such incidents are not uncommon. Over the years, we have received letters from the public and from medical personnel at hospital burn-care facilities reporting of such incidents, encouraging us to establish a safety standard for radiator caps. Also, we have collected data documenting these events.

In order to prevent scald injuries[1] to persons resulting from opening radiator caps of engine systems that are hot and under pressure, NHTSA proposes to regulate radiator and coolant reservoir caps (if provided) on certain new vehicles, and to regulate new radiator and coolant reservoir caps themselves.

II. Has NHTSA Previously Addressed the Issue of Regulating Radiator Caps?

Today's rulemaking is not the first time we have sought comment on a safety standard for radiator caps. On October 14, 1967 (32 FR 14282), we issued an Advance Notice of Proposed Rulemaking, setting forth requirements we were considering proposing for radiator caps on passenger cars, multipurpose passenger vehicles, trucks and buses. One provision would have required a means for relieving radiator pressure, such as an intermediate step that must be taken before the cap could be disengaged from the radiator filler neck. We also considered requirements that would have prevented any replacement pressure cap from having a pressure relief rating higher than the relief rating of the cap initially supplied by the vehicle manufacturer, and would have required distinct and durable markings identifying the pressure rating of the cap. Commenters on the October 1967 notice stated that vehicle manufacturers worldwide had already designed their coolant reservoir systems so that an intermediate step must be taken before the cap can be disengaged.

Based on those comments, we concluded that the problems that could result from removing a radiator cap from a coolant reservoir system under pressure were being solved by the automotive industry. Among the steps being taken were the placement of a warning on the caps, designing the two-

[1] Scalds result from contact with hot liquids and vapors. Burns are caused by contact with hot dry objects. The effects of scalds and burns are similar. In first-degree burns, the damage is limited to the outer layer of the skin, resulting in redness, warmth, an occasional blister, and tenderness. Mild sunburn is an example of a first-degree burn. In second-degree burns, the injury goes through the outer layer and involves the deeper layers of skin, causing blisters. In third-degree burns, the full thickness of skin is destroyed and a charred layer of seared tissue is exposed. The seriousness of a burn depends on the amount of skin burned, the location of the burn, and the depth of the burn.

step operation into caps so that pressure is released prior to cap removal, and using other coolant system designs that minimized the likelihood of escaping steam and/or fluid coming in contact with a person. Accordingly, on January 25, 1972 (37 FR 1120), we suspended rulemaking, stating ''After consideration of the available information, it has been determined that sufficient justification for regulations of the nature proposed has not been shown at this time.''

Regarding its decision in January 1972 to suspend rulemaking, the agency commented in a **Federal Register** notice of June 10, 1993 (58 FR 32504) that:

> That decision was not further explained, but commenters to the ANPRM had stated that the intermediate step before the radiator cap was disengaged had already been designed into the cooling systems of virtually all vehicle manufacturers throughout the world. Thus, NHTSA may have been persuaded that any problems caused by removing radiator caps from overheated radiators had been solved by the automotive industry, therefore rulemaking on that issue was not necessary. (See 58 FR at 32506.)

III. Why Is NHTSA Proposing Rulemaking Now?

A. The Petition From Mr. John Giordano

In April 1992, we received a petition submitted by Mr. John Giordano, suggesting the establishment of a new safety standard that would result in the use of thermal locking safety radiator caps. Mr. Giordano brought to our attention the RadLock thermal locking radiator cap. The new safety standard that he suggested would prevent the accidental scalding of persons who hastily open the cap of a hot motor vehicle radiator. Mr. Giordano recommended that the standard state the following:

> Any new vehicle sold in the U.S. with a water-cooled engine shall be equipped with a radiator cap which can automatically lock when the coolant is at a temperature of 125 degrees F. or greater, thereby preventing it from being turned open. The cap shall unlock when the temperature of the coolant falls below 125 degrees F. to allow safe opening.

In support of his petition, Mr. Giordano asserted the following—

(1) Despite safety education and warning labels, radiator cap scald incidents are increasing, and will continue to increase as vehicle use rises.

(2) Every year, over 100,000 radiator cap scald incidents occur in the U.S., resulting in over 20,000 victims requiring treatment at hospital emergency rooms and burn care facilities.

(3) Issuing a radiator cap safety regulation would result in a significant economic benefit to society by:

(a) reducing medical costs in the amount of $1,000,000,000 annually to potential burn victims and to the general population if potential burn victims cannot afford to pay such costs;

(b) reducing costs to domestic industry by $84,000,000 annually due to lost time from employee burn victims seeking medical after care;

(c) reducing automakers' product liability insurance premiums by over $2,000,000 annually to settle radiator cap injury claims, thereby reducing costs to the consumer for the purchase of new vehicles; and

(d) reducing product liability of manufacturers of antifreeze, radiators, radiator caps and associated products.

Mr. Giordano stated that the new rule would be appropriate for any motor vehicle that uses a water-cooled engine and would be compatible with heat storage battery technology. Mr. Giordano also estimated that a new rule would not have an adverse economic impact on motor vehicle manufacturers, since it would cost less than 15 cents per vehicle for manufacturers to comply if his suggested rule were adopted.

B. Mr. Giordano's Radiator Cap Scald Incidence Data

In support of his assertion that there are over 100,000 scald incidents resulting from radiator cap removals each year in the United States and that these incidents are increasing, Mr. Giordano submitted four medical journal articles, and a letter from the Burn Special Projects Coordinator at the Washington Hospital Center Burn Center in Washington, DC. (The four articles and the letter may be reviewed in the DOT Docket cited in the heading of this notice of proposed rulemaking).

The most relevant and informative article was authored by Dr. C. G. Ward and Dr. J.S. Hammond of the University of Miami School of Medicine (Ward-Hammond article). The article stated that, during a three-year period from January 1979 through December 1981, a total of 86 patients (an average of 29 a year) with radiator-associated injuries required hospital admission to the University of Miami/Jackson Memorial Burn Center.[2] The article stated that twice that number of patients (an average of 58 per year) were treated, but not hospitalized, during that three-year period for radiator-associated injuries.

The Ward-Hammond article stated that of 146 treated injuries caused by radiators, 111 (76 percent) of the automobiles involved were manufactured by General Motors. Other automobiles associated with the radiator injuries were manufactured by Ford (15 percent), Chrysler (5 percent), and American Motors (3 percent). Radiator burns from imported and other automobiles resulted in one percent of the injuries. The Ward-Hammond article stated that, among the General Motors cars involved, the coolant system design included an overflow/reservoir into which liquid can be added. The article noted that on General Motors cars, there was also a cap on top of the radiator, and the injured person did not seem to recognize the overflow reservoir as the proper place to fill the system. Injury was often incurred when the person opened the wrong cap and was sprayed with super-heated liquid. The article further stated that, of the General Motors cars, the models most often involved were made between 1970 and 1975. The article did not suggest any design reasons for why GM cars were seemingly overrepresented, stating: ''It is not known if General Motors automobiles are more often involved because of the design of the cooling system caps, or if their cars are more prone to overheating during normal performance.'' The article stated that the percentage of General Motors cars among the total automobile population ''is not known'' and did not hypothesize why MY 1970–75 cars were most often involved in radiator-associated injuries involving General Motors cars.

Mr. Giordano also provided a May 20, 1992 letter from Mr. Mark S. Lewis, MS, RRT, Burn Special Projects Coordinator at the Washington Hospital Center Burn Center, in Washington, D.C. Mr. Lewis provided information on both the Washington D.C. Center and a center in Baltimore, Maryland. Mr. Lewis provided the following estimates:

2.5 million burn accidents occur each year in the United States.

70,000 burn-related injuries annually will require hospitalization.

21,000 burn-related injuries (30 percent of the 70,000) will require care that can be provided only by a burn center.

In 1987, scalds were 14 percent of all burn admissions to the Washington Burn Center, and 20 percent of all burn admissions to the Baltimore Center.

In 1988, scalds were 16 percent of all burn admissions to the Washington Burn Center, and 25 percent of all burn admissions to the Baltimore Center.

In 1989, scalds were 19 percent of all burn admissions to the Washington Burn Center; the percentage for the Baltimore Center was unknown.

[2] NHTSA believes that cap and filler neck designs are relatively unchanged from the time in which this and the other medical journal articles were written and injury data were collected. For this reason, we believe the data and conclusions in the articles are still relevant today.

In 1990, scalds were 18 percent of all burn admissions to the Washington Burn Center; the percentage for the Baltimore Center was unknown.

Approximately 10 percent of scald injuries in the District of Columbia can be attributed to removing automotive radiator caps.

Mr. Lewis did not indicate whether the scald and burn-related injuries, including those that would require care that can only be treated at a burn center, were second or third degree burns. He noted that the scald rates stated above are derived from actual numbers, representing the percentage of burn patient admissions and that the scald rate would be different if outpatient burns were tabulated. Mr. Lewis further noted that the Washington Hospital Center Burn Center receives a number of outpatients who were burned by hot liquid or steam from an exploding radiator cap, and that if these patients were added to the total scald numbers, the inclusion of these additional victims would probably raise the percentage of scalds attributable to radiator caps by a few percentage points.

Mr. Giordano also provided an April 13, 1992 letter from Mr. Peter A. Brigham, President of the Burn Foundation in Philadelphia, PA. Writing in support of standards for safety locking radiator caps, Mr. Brigham noted that the Burn Foundation maintains an injury cause registry. Five (unspecified) burn centers participate in this registry. Mr. Brigham noted that between one and a half and two percent of the patients admitted to a center that participates in the Burn Foundation's registry were injured when the ''cap is prematurely opened on a hot radiator.'' For patients injured by a cap prematurely opened on a hot radiator, Mr. Brigham stated that the ''average cost of hospital treatment for the original admission of these patients is over $30,000'' (in 1992 dollars). Mr. Brigham went on to state:

> If these figures are a reasonable representation of the national experience, there are close to 400 burn center admissions each year resulting from car radiator scalds, with total acute care costs exceeding $10 million. This figure of course does not include the costs of outpatient care, lost wages, pain and suffering, and long-term disfigurement suffered by these patients. Since burn centers admit only one-third of all severe burn patients, and several burns are treated in outpatient settings for every burn patient admitted, we project that thousands more patients with similar injuries are admitted to general hospitals or discharged from hospital emergency departments after suffering less severe injuries involving the same scenario.

Mr. Giordano also stated his belief that the adoption of a new safety standard resulting in the use of thermal locking safety radiator caps would reduce medical costs by one billion dollars annually, but provided no information in support of this belief. The Ward-Hammond article, however, stated that the average length of hospitalization for burn injuries was ten days. Mr. Giordano also provided no cost data to support his claim that the establishment of a new standard would reduce by $84 million the costs to domestic industry annually due to lost time from employee burn victims seeking medical care. Although the Ward-Hammond article stated that a work loss of two to four weeks was typical for their study group, the article did not convert this loss into dollar figures. Mr. Giordano also provided no data to support his claim that automakers' product liability insurance premiums would be reduced by $2 million annually to settle radiator cap injury claims.

C. NHTSA's Analysis of Injury Data From Mr. Giordano

After carefully reviewing the submitted information, we concluded that Mr. Giordano's data did not support his contentions that over 100,000 radiator cap-related scald injuries occur annually in the United States, and that radiator cap-related scald injuries were increasing. We also saw no information that supported Mr. Giordano's claims of significant economic benefits to society of more than a billion dollars in reduced medical costs.

We were concerned, however, that we could find no data that would either support or refute the allegation that each year 20,000 victims required treatment in hospital emergency rooms and burn care facilities and that radiator cap-related scald injuries were increasing. Our review of highway safety literature, including the National Safety Council's ''Accident Fact'' publication, did not provide useful information on the total annual number of radiator cap-related scald incidents. We could not obtain useful data from automotive product-related injury incidents tracked by the U.S. Consumer Product Safety Commission (CPSC) in the 1970's and 1980's.

In order to more fully examine the issues raised in his petition, we issued a letter on March 23, 1993, granting Mr. Giordano's petition for rulemaking.

IV. June 1993 Request for Comment and Public Comments in Response

In order to obtain information to assess the validity of the assertions in Mr. Giordano's petition, we published a ''Request for Comments'' document in the **Federal Register**, requesting comment on the feasibility of and necessity for rulemaking to prevent scald injuries by requiring thermal locking radiator caps or other devices on motor vehicles with water-cooled engines. (June 10, 1993; 58 FR 32504.) In the notice, NHTSA asked for data that would assist the agency in determining the validity of Mr. Giordano's claims. NHTSA specifically asked the public for comment on the following seven issues:

1. Is accidental scalding from sudden removal of the radiator cap from an overheated motor vehicle engine a significant national safety problem?
2. What information is available regarding the number and seriousness of accidental scaldings from overheated radiators?
3. Would thermal locking radiator caps that automatically lock when the coolant temperature reaches 125 degrees Fahrenheit and unlock when the coolant temperature falls below 125 degrees Fahrenheit significantly reduce the number of accidental scaldings that result from removing the radiator caps from overheated engines?
4. If 125 degrees Fahrenheit is either too high or too low as the proper temperature to lock/unlock the radiator cap, what would be the proper temperature?
5. Are there other technologies currently available or under development that would be helpful in reducing accidental radiator scaldings?
6. If NHTSA proposed a new FMVSS requiring thermal locking safety radiator caps or similar devices:
   a. Should such devices be required on all vehicles with water-cooled engines or just certain ones?
   b. Should such devices be required on all new motor vehicles?
   c. Would redesign of currently-designed cooling systems be necessary?
   d. What notices or warnings could or should be posted on new radiator caps cautioning people not to try to remove the cap when the engine is hot?
7. What actions, or products, such as two-step caps, overflow reservoirs, pressure relief valves, etc. are currently utilized by manufacturers to prevent radiator cap scald incidents? Are some products or designs more effective than others in that regard?

We received 18 comments in response. Ten of the comments were from automobile manufacturers and one of their trade associations. Five of the comments were from truck manufacturers and their trade association or the trucking industry. Two comments were from radiator cap

inventors or manufacturers. Finally, one comment was from a mechanical engineering firm.

The public comments did not provide information that established a safety need to commence a rulemaking to establish a safety standard for thermal locking radiator caps or other devices on motor vehicles with water-cooled engines to prevent scald injuries, nor did they show that there was not any safety problem.

In their comments, most of the automobile manufacturers did not support a radiator cap standard. Jaguar Cars Ltd. proposed as a possible solution, a radiator locking cap that would ''allow the release of pressure and coolant at a specified maximum rate to a safe position under the vehicle until the system reaches a safe state.'' Ford Motor Company commented that the relevant consideration is the coolant system pressure, not coolant system temperature, and stated: ''We firmly believe that controlling the cooling system pressure and proper relief of that pressure at cap removal is the key to providing our customers with a safe, efficient cooling system.'' The trade association then named the American Automobile Manufacturers Association (AAMA) (whose comments General Motors Corporation joined in drafting) stated that although it did not see an immediate need for regulation, it appeared that the venting of cooling system pressure prior to complete radiator cap removal is the most effective and practical means of reducing accidental spills. The AAMA also estimated that the cost of a thermal-locking radiator cap was close to $.50.

The commenters from truck manufacturers and the trucking industry did not see a significant problem of scalds and burns sustained in the removal of radiator caps. The American Trucking Associations suggested that any NHTSA-collected radiator cap injury data be used to separately document injuries attributed to trucks and buses from those resulting from passenger cars.

Two radiator cap manufacturers also commented. One inventor suggested that we require his company's radiator cap, which contains a heat resistant handle. Stant Manufacturing Inc., a manufacturer of radiator caps for vehicle manufacturers and for aftermarket use, also commented. Stant stated that after reviewing its customer complaint files and product litigation files, it found fewer than five reported radiator cap scald incidents per year. Stant discussed its safety radiator cap that uses the trademark ''LEV–R–VENT,'' which features a lever on the cap, providing a means of releasing system pressure through the overflow. Stant concluded by offering its opinion that rulemaking on new vehicles will produce no measurable safety effect for at least 10 years after implementation, based on typical overheating complaint patterns.

V. July 1993 Agreement With Consumer Product Safety Commission for More Research

A. Using CPSC Data To Determine a Need for Safety

In 1993, we changed the status of action on Mr. Giordano's petition from the ''rulemaking phase'' to the ''research phase.'' To gather more data on the extent of scalds and other injuries resulting from radiator cap incidents, we entered into an interagency agreement with the Consumer Product Safety Commission (CPSC) in July 1993 to collect radiator cap-related injury data by using the CPSC's National Electronic Injury Surveillance System (NEISS). NEISS is a CPSC-operated national probability survey of hospital emergency departments that monitors consumer products involved in injury-producing incidents. NEISS enables CPSC to make national estimates of the number, type and severity of injuries associated with specific consumer products. NEISS is a three-level system for collection of consumer product-related injury data from a current sample of 91 of the 6,127 hospitals nationwide with at least six beds that provide emergency care 24 hours a day. The three levels of NEISS data collection are: surveillance of emergency room injuries; follow-up telephone interviews with injured persons or witnesses; and more comprehensive, on-site investigations with injured persons and/or witnesses. One, two, or three levels of data collection are used by the CPSC as primary data collection tools.

Injury data were collected by CPSC from October 1, 1993 to September 30, 1994. The CPSC's data collection effort was completed and the resulting data were delivered to the NHTSA's National Center for Statistics and Analysis (NCSA) in early 1995.

B. Results of the CPSC Data Collection Effort

In November 1997, the NCSA published a technical report, DOT HS 808 598, titled ''Injuries Associated with Specific Motor Vehicle Hazards: Radiators, Batteries, Power Windows, and Power Roofs'' (available for review in the DOT Docket cited in the heading of this notice of proposed rulemaking) that compiled the data from the CPSC's injury data collection effort. The technical report includes estimates of the number of persons injured as a result of incidents involving motor vehicle radiators.

From October 1, 1993 through September 30, 1994 (the period of the study), an estimated 19,638 persons were injured nationwide as a result of incidents involving motor vehicle radiators. Of the 19,638 persons, about 77 percent (15,118 out of 19,638) were injured as a result of activities associated with the radiator cap. Almost 73 percent of the radiator cap injuries (11,024 out of 15,118) resulted from removing or attempting to remove the cap from the radiator. Twenty five percent of the radiator cap injuries (3,794 out of 15,118) were described as resulting from the radiator cap ''exploding,'' i.e., the cap being ejected or dislodged from the neck of the radiator in some way. These situations mainly involved stationary vehicles. However, when the vehicle was moving, vehicle movement, coupled with excessive radiator pressure, may have contributed to the incidence of radiator cap ejection. The remaining 2 percent of the radiator cap injuries (330 out of 15,118) occurred while persons were attempting to put the cap on the radiator, or because a loose, untightened or badly fitting cap allowed the radiator to boil over.

Regarding the types of vehicles in which the radiator cap injuries were incurred, passenger cars represented 91 percent of the cases, pickup trucks approximately 7 percent of the cases, and trucks and vans comprised the remaining cases. As for the model years of the vehicles involved, 65 percent of the motor vehicles were 1980–89 model years, with 52 percent of these being model years 1980–84. About 26 percent of the incidents involved 1975–79 models, about 8 percent involved models older than 1975, and less than 1 percent involved newer vehicles, i.e., model years 1990–94. The following table provides information (by vehicle model year) on persons injured by motor vehicle radiator caps.

RADIATOR CAP-RELATED INJURIES DURING FY 1994

[By Model Year (MY) of the Motor Vehicles Involved]

MY	Pre-1975	1975–1979	1980–1984	1985–1989	1990–1994	All MYs
Radiator Cap Injuries	1,228	3,893	5,143	4,728	126	15,118
Percent of Total	8	26	34	31	1	100

The small number of injuries (1 percent) for MY–1990–1994 vehicles appears anomalous. We are not certain how to account for the small number for MY 1990–1994. One possible explanation is that these newer vehicles experienced fewer mechanical failures overall, including fewer problems with engine and coolant reservoir overheating and fewer malfunctioning radiator caps. Also, not all MY 1994 vehicles were taken into account because the CPSC data collection period ended in September 1994, by which time not all MY 1994 vehicles were sold and on the road. We are not aware of any industry-wide coolant system design changes introduced around 1990 that would have significantly affected the number of radiator-related injuries.

Scalding from hot radiator fluid or steam released from the radiator injured almost 91 percent of those whose injuries involved radiator caps. The face, including eyes and nose, was the most severely injured body region for nearly 38 percent of the persons whose injuries involved radiator caps, followed by the lower arm (26 percent) and upper trunk (18 percent). Approximately 88 percent of the persons whose injuries involved radiator caps had moderately severe injuries, primarily first and/or second degree scalds that did not generally require hospitalization. Nearly 10 percent of the injured were so seriously injured that they required hospitalization. The remaining persons, about 3 percent, received minor injuries.

VI. 1998 Hospitalization Data From Two Regional Burn Centers

In 1998, NHTSA received updated data from the Johns Hopkins University Baltimore Regional Burn Center (Johns Hopkins) and the University of California San Diego Regional Burn Center (UCSD), reporting about persons scalded badly enough from interactions with motor vehicle radiator caps to require hospitalization. (Full details of the Johns Hopkins and UCSD data may be reviewed in NHTSA's Regulatory Analysis of ''FMVSS No. 107 Radiator and Reservoir Pressure Caps Motor Vehicle Coolant System Venting'', available in the DOT Docket cited in the heading of this notice.)

Johns Hopkins provided us with data about a total of 48 patients who were admitted with scald burns from radiator caps during the period July 1, 1987 to June 30, 1998, and who required an in-patient stay at its institution. The data included the following information about its patients: admission by year and month; age; gender; total body surface area (TBSA) burned, as a percentage of the entire body; severity of burn (i.e., first, second, or third degree); hospital length of stay (in days); total number of surgical procedures for skin grafting; total hospital room charges. There were roughly the same number of admissions per year (five to six) for the years 1988 through 1995. From 1996 through 1998, two or three patients per year were admitted. There were 40 male patients and 8 female patients ranging in age from less than one year old to 86 years. (The less than one year old infant was held by a person opening a radiator cap that ejected hot fluids. The 86 year old was a female.) Nearly half of the patients were between 16 and 35 years of age.

The UCSD provided us with data on 8 patients admitted with scald burn injuries from radiator incidents for the period January 1996 to August 1997. There were five males and three females, ranging in age from 29 to 56 years of age. The patients were hospitalized, on average, for 6 days.

We used the Johns Hopkins and UCSD data to project an estimated national average of burn center patients by calculating the estimated annual national average number of patients within the Baltimore primary metropolitan statistical area (PMSA) and San Diego metropolitan statistical area (MSA) and applying a factor to reach a national estimate. The number of patients (48) reported to be admitted by Johns Hopkins from July 1, 1987 to June 30, 1998 was applied to the 1998 estimated population of the Baltimore PMSA (from which most of the cases came) of 2,475,000, and the estimated national population for 1998 of 270,116,000 (based on data from the Statistical Abstract of the United States, 1998, U.S. Census Bureau, the Official Statistics, September 16, 1998.) Applying the burn incidence of the Baltimore PMSA to the national population resulted in an estimated 11-year total of 5,239 scald burns from radiator caps, or an estimated 476 radiator cap scald cases annually throughout the United States requiring burn center hospitalization.

We also examined UCSD data for the 20-month period from January 1996 to August 1997, and made another estimate of the national incidence of radiator cap scald injuries requiring hospitalization. We used UCSD's eight reported radiator scald injuries during this period requiring hospital stays and applied it to the estimated 1998 population for the San Diego MSA of 2,723,000. We then projected the scald burn hospitalization incidence from the San Diego MSA to the national population, and arrived at an estimated annual national incidence of radiator cap scald burn hospitalization of 476 cases, the same number derived from the Johns Hopkins data.

Therefore, based on the estimates from the Johns Hopkins University Baltimore Regional Burn Center and the University of California San Diego Regional Burn Center, we project a national annual average of 476 radiator scald cases requiring burn center in-patient hospitalization.

The Johns Hopkins and UCSD data, used to project an estimated 476 radiator scald hospitalizations per year, do not give a complete picture of the extent of injury to the American public resulting from opening a radiator cap or pressurized coolant reservoir cap on systems under high temperature and pressure. Since the Johns Hopkins and UCSD data are limited to injuries serious enough to require hospitalization, the data did not provide any estimates of how often people scalded by interactions with radiators were treated at hospital emergency rooms, doctors' offices or clinics, or had other medical treatment that did not involve hospitalization.

VII. Notice of Proposed Rulemaking

A. CPSC and Other Data Show a Safety Need To Regulate Caps

The CPSC's NEISS data showed that, in the United States from October 1, 1993 to September 30, 1994, an estimated 15,118 persons were injured (i.e., received scald burns extensive

enough to require treatment in hospital emergency rooms) as a result of activities relating to radiator caps. After reviewing Technical Report DOT HS 808 598 ''Injuries Associated With Specific Motor Vehicle Hazards: Radiators, Batteries, Power Windows and Power Roofs,'' and the 1998 updated data from Johns Hopkins University Baltimore Regional Burn Center and the University of California San Diego Regional Burn Center, we have tentatively concluded that the problem of removing a radiator cap from a hot radiator or a reservoir cap from a coolant reservoir system under pressure has not been solved by the automotive industry as the agency had hoped when it suspended radiator cap rulemaking in January 1972. NHTSA therefore tentatively concludes that there is a safety need to establish a new Federal motor vehicle safety standard to regulate radiator and coolant reservoir cap performance.

B. Major Provisions of the Proposed Standard

The following summarizes the major provisions of NHTSA's proposed standard on radiator caps and reservoir caps:

1. The New Standard Would Apply to New Motor Vehicles 4,536 Kg (10,000 Pounds) GVWR or Less

If made final, the standard would apply to new motor vehicles (except trailers and motorcycles) with a gross vehicle weight rating of 4536 kg (10,000 pounds) or less with liquid-based engine cooling systems and with reservoir caps on pressurized coolant reservoir tanks or with radiator caps. However, the new standard would not require vehicles to have reservoir caps or radiator caps.

If such new vehicles have either reservoir caps for pressurized coolant reservoir tanks or radiator caps, the vehicles must be designed to accommodate both original equipment and replacement radiator caps or reservoir caps that meet the new standard. Customers could tell whether a new vehicle meets the standard or not because vehicles that meet the new standard would have radiator or reservoir caps with ''DOT'' markings on them. Each radiator cap and each reservoir cap that meets the new standard would be marked with ''DOT'' and the manufacturer's maximum pressure rating for the cap.

2. The New Standard Would Apply to Original Equipment Caps and Replacement Caps

The new standard would apply to original caps on new vehicles manufactured after the effective date of the new standard and to replacement caps intended for use on those vehicles.

3. Performance Requirements for Caps

For the vehicles subject to the standard, we would require that when correctly fitted, the caps lock and remain locked when the radiator or cooling reservoir system is at and above 14 kilopascals (kPa) or 2 psi. Since the pressure would be the same throughout the system, we propose that the pressure be measured at the cap. We would further require that when the radiator or reservoir cooling system pressure drops below 14 kPa, and the cap unlocks, thereby becoming removable, the cap may be removable only if it is subjected to a particular motion or series of motions. The cap on a coolant reservoir system must be designed so that it is necessary to rotate them counterclockwise in order to remove them. In addition, we propose that, to be removed, the cap on a radiator must first be pushed down towards the radiator, and then rotated counterclockwise. Because most people are familiar with these motions from previous experience with child-proof caps on bottles, most radiator caps and many pressurized reservoir caps, we tentatively conclude that labels or instructions would not be necessary to inform people how to remove the radiator cap. Nevertheless, we request comments on this point.

4. Manually Operated Pressure Release Mechanism on the Vehicle

We further propose that, at the option of the vehicle manufacturer, a manually operated pressure release mechanism may be provided on the cooling system of a new motor vehicle subject to the standard. We do not propose to specify the location on the vehicle for the pressure release mechanism (e.g., lever), but would specify that the vehicle on which the venting would be provided must have a venting outlet that directs the venting of any liquid or gas downward and toward the center of the vehicle. Requiring that the venting be so directed would reduce the likelihood of the liquid or gas contacting the person operating the manual pressure release mechanism. This would not only prevent the venting liquid or steam from spraying toward a person's face, hands or upper body, but would also reduce the likelihood that a person's feet or legs would be sprayed.

5. Manually Operated Pressure Release Mechanism on the Cap

We also propose that cap manufacturers not be limited simply to manufacture caps that lock above 14 kPa, but may also manufacture replacement radiator or coolant reservoir caps (which would have to lock under any pressure above 14 kPa) with a manually-operated pressure release mechanism incorporated into the cap to reduce the cooling system pressure below 14 kPa. This manually operated pressure release mechanism would permit fluid to flow from the radiator or coolant reservoir system, thereby reducing the pressure in the system faster than would occur through normal cooling of the system. Thus, there would be no need to wait for an extended period of time before the radiator cap or the coolant reservoir cap could be removed. We propose to require that the fluids released by the operation of a pressure release mechanism be directed downward and toward the center of the vehicle. This requirement is intended to reduce the likelihood of hot liquids or gases contacting a person operating the mechanism and also limit their contact with individuals standing next to the vehicle. The mechanism (e.g., lever) to control venting may be located on the radiator cap or the reservoir cap. However, to prevent operation of the mechanism from venting the system in any manner or location that would injure the person actuating it, the vented fluids would not be permitted to vent or leak through the cap itself.

As is the case for the manually operated pressure release mechanism for the vehicle, we propose that the standard specify that the venting outlet, connected to the radiator or its cap or coolant reservoir or its cap, direct the venting of the fluids downward and toward the center of the vehicle. This should have the effect of preventing venting liquid or steam from spraying toward a person's face, hands or upper body, and reducing the likelihood of venting onto the ground in such a way that a person's feet or legs would be sprayed.

Our reasons for proposing each of these provisions are described below.

C. Why We Propose Applying the Rule Only to Vehicles 4,536 Kg (10,000 Pounds) GVWR or Less

In the one-year period studied, fiscal year 1994, the CPSC's NEISS data files document only one hot radiator fluid scald injury from a motor vehicle with a GVWR over 4,536 kg (10,000 pounds). We have no information explaining why

such a low incidence rate was documented for vehicles over 4,536 kg (10,000 pounds) GVWR. However, since there does not appear to be a safety need to regulate them, we are not proposing to include vehicles over 4,536 kg GVWR in this rule.

We are also not proposing that motorcycles be included in this rule because we do not have any data showing that removing radiator caps on very hot motorcycle systems is a safety problem. As stated earlier, when the CPSC's injury data collection effort was reviewed to determine the types of vehicles in which the radiator cap injuries were incurred, we found that passenger cars represented 91 percent of the cases, pickup trucks, approximately 7 percent of the cases, and trucks and vans, the remaining cases.

We welcome any information or data that would show whether removing radiator caps on very hot motorcycle systems or very hot systems on vehicles that have a GVWR over 4,536 kg is a safety problem. If anyone has information showing that there is a potential for scald injuries with removing cooling system caps on motorcycle cooling systems or removing cooling system caps on vehicles over 4,536 kg GVWR, we request that that person also submit suggestions about requirements and test procedures for removing radiator caps and coolant reservoir caps from motorcycles or vehicles over 4,536 kg GVWR.

D. Why We Propose a Standard Based on Pressure, Not Temperature

Mr. Giordano had suggested requiring all new vehicles to be equipped with a radiator cap that automatically locks when the coolant is at a temperature of 125 degrees Fahrenheit (51.6 degrees Celsius) or greater. For the following reasons, we tentatively conclude that the locking requirement for caps should be based on pressure, instead of temperature. Although the temperature of fluid in the radiator is related to the safety problems addressed by this proposal, we believe the more important safety consideration in providing a solution to radiator-related scalds is the pressure in the coolant system. If there is little pressure to force liquid or steam up when the cap is removed, the risk of hot scalding fluid or steam being ejected from the radiator filler neck or coolant system reservoir would be essentially eliminated. Also, ambient temperature under the hood of a vehicle without the engine running could approach 125 degrees Fahrenheit (51.6 degrees Celsius) during the hot part of a summer day in many States in the southern tier of the United States. Thus, adopting Mr. Giordano's suggestion might result in persons' not being able to add radiator fluid (because of a locked cap) in circumstances in which there is no danger of hot liquid or steam being ejected from the coolant system during cap removal.

It should also be noted that a thermal locking cap could be defeated by placing cold material on the cap. This could cause localized cooling and allow the cap to be released while the cooling system remains hot and pressured.

In order to determine the pressure at (or above) which caps should lock in order to prevent motorists from being scalded, NHTSA's Vehicle Research and Test Center (VRTC) in East Liberty, Ohio conducted tests that measured various radiator pressures, and observed the amount of fluid that was released at each of these pressures when the caps were removed. VRTC performed 14 radiator pressure release tests using a 1988 Ford Mustang. The tests were performed by running the engine until it attained its full operating temperature and pressure. The engine was then turned off and the length of time required for the pressure in the cooling system to drop to specified pressure levels was recorded.

The highest pressure achieved during the tests was 15.3 psi. The time required for the pressure to drop from 15.3 psi to 3 psi was 22 minutes, 30 seconds. During these tests, the radiator cap was removed when the pressure was measured at 1, 2, 3, 4, 5 and 6 psi. The discharge of fluid from the radiator when the cap was removed at each of those pressure levels was documented by the use of a video camera. Nine tests were performed with a full radiator. Five tests were performed with 1500 milliliters of fluid removed from the radiator. The videotape showed that after radiator cap removal, the least amount of fluid was released when the radiator pressure was at 1 and 2 psi. Documentation of the VRTC testing has been placed in the DOT Docket cited in the heading of this notice.

While we believe the safest cap would be one that locks at the lowest pressure, data from a 1994 Stant Manufacturing, Inc., pressure cooling system tester manual indicate the manufacturing parameters of the compression spring used in some Stant radiator caps include a tolerance of plus or minus one pound. It therefore appears that any proposed cap locking pressure would be limited by the tolerance of the compression spring used in the cap. We believe that in order to reduce tolerance, a more costly spring would have to be used. Weighing the need for safety against a desire to minimize the costs of this rulemaking on manufacturers, we propose that the cap locking pressure be established at 14 kPa (2 psi) or more.

E. Performance Requirements for Radiator Caps and Reservoir Caps

We are seeking public comment on whether to establish two separate safety requirements governing the removal of radiator caps. The first requirement (which would be applicable to both radiator and coolant reservoir caps) would be that the cap lock and remain locked at or above a pressure of 14 kPa or 2 psi. The proposal would not preclude any cap or vehicle manufacturer from producing a cap that locks at pressures below 14 kPa. The second requirement (applicable only to radiator caps) would be that even when the pressure is at or below that pressure, the cap shall not be removable by rotation only. Radiators would be required to be designed so that removal of a cap would be possible only by simultaneously pressing down on the cap and rotating it counterclockwise. We are seeking comment on requiring this two-motion process because it might help to reduce injuries associated with cap removal when the radiator contents are not quite hot enough to create the pressure necessary for the cap to lock.

As a result of the 1967 Advance Notice of Proposed Rulemaking (32 FR 14282; October 14, 1967) on radiator caps, we learned that the industry standard for the method of removing a radiator cap was the two-motion process described in the immediately preceding paragraph. However, we have no information indicating that this two-motion process is used for caps on coolant reservoir systems also.

As indicated in the questions raised in Section K of this notice of proposed rulemaking, public comment is sought on whether the described motions are used by industry to open both radiator caps and coolant reservoir caps, and whether specifying the two-motion process would impose a new regulatory burden with no safety benefit. Comments on whether any motions should be specified are also sought.

F. Compatibility Issues for New Caps/Old Vehicles and New Vehicles/Old Caps

Although the use of pressure locking radiator and coolant reservoir caps on vehicles manufactured before the effective date of the proposed standard would, if sufficiently pervasive, reduce the incidence of scaldings involving those vehicles, we are not proposing to require that caps subject to the new standard be compatible with those older

vehicles. We realize that there will be a lag time during which pre-standard vehicles will be in existence. This lag time is of concern to the agency since, as noted earlier, radiator cap scald incidents are significantly greater for those model year vehicles that have been in use for at least five years, and peak for those vehicles in use from 10 to 15 years. If, however, there would be a cost-effective way to make a new standard-compliant replacement cap that fits pre-standard vehicles, the agency would encourage the development and sale of such a product.

We also are not proposing that new vehicles that meet the new standard be designed to be incompatible with old radiator or reservoir caps that do not meet the new standard. Although the use of pre-standard caps on post-standard vehicles would, to the extent it occurred, allow a continuation of the scald problem, we do not believe that there would be any incentive to replace compliant caps with non-compliant, pre-standard caps. If the owner of a new vehicle with a compliant cap needed to replace a lost cap, we believe that the owner would likely purchase a compliant replacement cap, given the safety advantages of such caps. Consumers can readily determine whether a radiator or reservoir cap meets the new standard by looking for the ''DOT'' certification on the cap. Further, after the new standard's effective date, all new and replacement radiator and reservoir caps intended for new vehicles will meet the new requirement, and thus, the supply of nonconforming caps should decrease over a period of time.

G. Testing Procedures for the New Caps

We are not proposing any elaborate test procedures to determine whether a cap meets the new safety standard. Compliance would be demonstrated by attaching the cap to a motor vehicle cooling system and pressurizing the system above the specified minimum locking pressure, but not exceeding the system pressure for which the cap was designed. We would then attempt to remove the cap. The cap must not be removable or vent pressure or fluids during an attempt to remove the cap.

Based on our presumption that the standardized two-motion process would be required to remove radiator caps, we propose a test procedure based on the two required motions. The first motion would be a force of not greater than 225 Newtons applied to the radiator cap, axially toward the radiator, and perpendicular to the top of the cap. While maintaining this downward force, we would apply a torque of not greater than 40 Newton-meters to the cap, in a counter-clockwise direction, to remove it.

In selecting a limit for the downward force applied in removing a cap, we noted that the filler pipe opening area of many standard radiator systems is about one square inch. The force of the pressure pushing up against this cap when the system is fully pressurized would depend on the cap's pressure setting. For a cap with a 1.7 kPa setting, the upward force is about 113 Newtons. We propose using a safety factor of two, resulting in our proposal of a downward test force of 225 Newtons.

Similarly for the rotational movement, we propose a torque limit of 40 Newton-meters. We selected this limit after taking into consideration the strength of the strongest motorists. The Wesley E. Woodson's Human Factors Handbook under the heading of ''Human Strength'' indicates that husky male operators can exert a torque up to 15 ft-lb in trying to rotate a knob or cap with a diameter between 2 and 3 inches (5.1 cm and 7.6 cm) or 3.25 inches (8.2 cm) maximum. That value is based on a full right-handed grip. To allow for those people with above average strength whose hand grip may be stronger than 15 ft-lb (and may be able to open a radiator cap of 15 ft-lb), NHTSA proposes to double the hand grip capability for husky male operators, and use a torque limit of 40 Newton-meters (30 ft-lb).

H. Testing Procedures for New Vehicles

For new vehicles that permit venting of fluids or steam, we propose to test the vehicles to determine where fluids would be directed when they are vented from the radiator or coolant reservoir systems. For those vehicle cooling systems that include a means of reducing the cooling system pressure by venting fluids or steam, we propose that testing be done by applying pressurized water to the cooling system via a drain cock or vent fitting in either the engine or radiator, with the cooling system filled with water. The venting mechanism on the vehicle would then be actuated. The personnel conducting the testing would observe where the escaping water (if any) is directed.

This test would be conducted at ambient temperature. Therefore, there could not be any release of steam. We request comments on whether this test is sufficient to ensure that steam would not contact an individual who was operating the mechanism on a hot vehicle. In other words, we would like to know whether steam would be vented in the same way as pressurized water at ambient temperatures. To the extent that the proposed procedure would not address the venting of steam, we request comments on alternative test procedures.

I. ''DOT'' Symbol and Manufacturers' Maximum Pressure Rating for Each Radiator Cap and Reservoir Cap

We propose that each radiator cap and coolant reservoir cap subject to the proposed new standard be permanently marked with the symbol ''DOT'' as certification that the cap meets the new standard. We are not proposing any specifications for the size or the font of the letters. Further, we are not proposing that only labels be used, or that contrasting colors must be used. We propose to let cap manufacturers use their discretion in determining the best way to meet the requirement to provide the ''DOT'' certification. The cap manufacturer may emboss or engrave ''DOT'' directly onto the cap, or may place a permanent label on the cap. We propose to construe the term ''permanent'' in the same way as that term has been used for purposes of the certification labeling requirements described in 49 CFR part 567, *Certification.*

We are also proposing that cap manufacturers permanently label each cap with its maximum pressure rating for the cap. This information will let consumers know the maximum pressure within the radiator or cooling reservoir system that the system is designed to withstand. We believe that when they seek a replacement cap for the systems on their motor vehicles, consumers need to know the maximum pressure capability of the old cap to ensure that they or service personnel select a replacement cap with equal or greater capability. Many radiator cap or reservoir caps appear to be physically identical to each other, but in fact have different pressure performances. We emphasize that the maximum pressure proposal is for labeling purposes only. We are not trying to specify the maximum pressure for any cap.

J. Why We Are Not Proposing Warning Labels

Most radiator cap and reservoir cap manufacturers already place some type of warning on the cap stating that the cap should not be opened when the system is hot and under pressure. We considered proposing to require that all caps be labeled with such a warning, but decided not to do so. As previously noted, in 1972, when we terminated a rulemaking on radiator caps, one of the rationales for the termination was that among the measures taken by the automotive industry to resolve the problem was to place a warning on the

caps. As earlier noted, the injury data show that the warning label, and other measures taken by industry, did not appear to have reduced injuries resulting from opening radiator caps and coolant reservoir caps under high heat and high pressure. Further, given that the cap manufacturers will likely continue to do so, and given our assumption below that the proposed requirement for the locking of caps could be 95 percent effective in reducing scaldings from the contents of radiators and coolant reservoirs, the marginal value of mandating warnings on all caps would be minimal.

Although we are not proposing any warning label requirements, we solicit comments on the need for warnings and on the sufficiency and appearance of existing warnings.

K. Additional Issues

We also ask for comments on the following issues relevant to this rulemaking:

(1) We have noted that radiator caps and coolant reservoir caps generally are removed by at least one motion—counterclockwise rotation, and that many radiator caps, while being removed, must be pushed down during that rotation. We believe that for consistency of use for people who must remove radiator caps, the movement, and perhaps the minimum forces, used to remove those caps should be standardized. We intend to minimize any need to redesign existing systems, by proposing to standardize the motions for cap removal. With this premise, please answer the following questions, for vehicles that have a gross vehicle weight rating of 4,536 kg (10,000 lb) or less. In answering questions regarding future plans for vehicle system performance, please assume that the rule proposed in this NPRM will not be in effect.

(a) For liquid-cooled engine systems, what are the maximum cap pressure(s) on vehicles being sold in the U.S. in MY 2001? What maximum cap pressure(s) does your company anticipate establishing for systems on liquid-cooled motor vehicles to be sold in the U.S. in the future? Please specify whether the maximum pressure is for a radiator cap or a coolant reservoir cap.

(b) What are the largest neck opening diameters on motor vehicles (with liquid-cooled systems) being sold in the U.S. in MY 2001? What neck-opening diameter(s) does your company anticipate specifying on motor vehicle liquid-cooled systems to be sold in the U.S. in the future? Please specify whether the neck openings are for radiators or for coolant reservoirs. Please provide diameters in millimeters.

(c) What force(s) does your company use as the minimum downward axial force and/or torque necessary to remove radiator caps or coolant reservoir caps on motor vehicles (with liquid-cooled systems) being sold in the U.S. in MY 2001?

(2) In this NPRM, we propose that a cap not be removable from a radiator or coolant reservoir system that is under a pressure of 14 kPa (2 psi) or greater. We selected this value in part because we believe specifying a more precise pressure (e.g., 2.5 psi) would result in extra costs to manufacturers. Is there a safety value in specifying the locking pressure to a more precise value? If so, can such a value be specified without unduly increasing the cost of the cap? Is a lower locking pressure possible? At 2 psi, the effluent would be approximately 51.6 degrees Celsius (125 degrees Fahrenheit). We believe that a lower pressure is desirable because the fluid temperature would also be lower and therefore would be less likely to scald.

(3) We propose that fluids vented through actuation of a manually operated pressure release mechanism vent ''downward and toward the center of the vehicle'' to reduce the likelihood that fluids would contact the person operating the venting mechanism. Is this a sufficiently objective and effective way of specifying this performance? Are there better ways of specifying the desired venting performance that would provide greater assurance that the vented fluids do not contact the operator or bystanders standing alongside a motor vehicle?

VIII. Leadtime

We propose that the new standard apply to applicable vehicles manufactured on or after the first September 1st that occurs two or more years after the publication of the final rule. We also propose the same effective date for replacement radiator caps and coolant reservoir caps for use on those vehicles. The agency notes that there would not be any requirements applicable to the manufacture and sale of caps (manufactured after the new standard's effective date) that are designed to or recommended to fit only on pre-standard vehicles. Public comment is sought on these proposed lead times. We believe that two years is sufficient lead time for industry. We do not believe that this proposed rule involves any new technology, or performance specifications that manufacturers cannot meet with existing design, tooling, or manufacturing capabilities. If this proposal were made final, we would encourage manufacturers to comply as soon as possible.

IX. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

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

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

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

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

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

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866, ''Regulatory Planning and Review.'' The rulemaking action is also not considered to be significant under the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

The annual incremental cost of new and replacement radiator caps and coolant reservoir caps for the passenger car and light truck fleet would be $14 million. The estimated incremental cost increase associated with the requirements proposed in this NPRM would be $0.65 for a radiator cap and $0.43 for a coolant reservoir cap. The total medical cost savings and work loss savings would be an estimated $76 million. The estimated annual net monetary benefits would be $62 million. We assume the caps would be 95 percent effective, resulting in an annual reduction of 28,271 scald injuries. This estimate is based on visits to hospitals,

which have been adjusted to include less severe cases resulting in visits to clinics, and doctors' offices.

The complete regulatory evaluation of this rulemaking, ''FMVSS No. 402 Radiator and Coolant Reservoir Caps, Venting of Motor Vehicle Coolant Systems' is provided in the DOT Docket cited in the heading of this notice.

B. Executive Order 13132 (Federalism)

Executive Order 13132 requires us to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, we may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or unless we consult with State and local governments, or unless we consult with State and local officials early in the process of developing the proposed regulation. We also may not issue a regulation with Federalism implications and that preempts State law unless we consult with State and local officials early in the process of developing the proposed regulation.

This proposed rule would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The reason is that this proposed rule, if made final, would apply to motor vehicle manufacturers and manufacturers of radiator caps or reservoir caps, and not to the States or local governments. Thus, the requirements of Section 6 of the Executive Order do not apply to this proposed rule.

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

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

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866 and does not involve decisions based on environmental, health or safety risks that disproportionately affect children.

D. Executive Order 12778 (Civil Justice Reform)

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

E. Regulatory Flexibility Act

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

The Head of the Agency has considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and certifies that this proposal would not have a significant economic impact on a substantial number of small entities. The statement of the factual basis for the certification is that we are not aware that any radiator cap or coolant reservoir cap manufacturer, or radiator manufacturer or coolant reservoir manufacturer is a small business. The U.S. Small Business Administration's size standard for Standard Industrial Classification Code 3714 ''Motor Vehicle Parts and Accessories'' manufacturers is 750 employees (13 CFR 121.201). NHTSA has no information that any radiator cap or coolant reservoir cap manufacturer is a small business that is not owned or otherwise affiliated with a large business. Accordingly, the agency believes that this proposal would not affect the costs of radiator cap and reservoir cap manufacturers considered to be small business entities.

F. National Environmental Policy Act

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

G. Paperwork Reduction Act

NHTSA has determined that, if made final, this proposed rule would impose new collection of information burdens within the meaning of the Paperwork Reduction Act of 1995 (PRA). Under the PRA, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations, (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(I) 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;

(ii) 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;

(iii) how to enhance the quality, utility, and clarity of the information to be collected; and;

(iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the collection of information proposed in this notice of proposed rulemaking.

Labeling for Radiator and Cooling Reservoir Caps

Type of Request—New.

OMB Clearance Number—None assigned.

Form Number—This proposed collection of information would not use any standard forms.

Requested Expiration Date of Approval—Three years from the date of approval of the collection.

Summary of the Collection of Information—NHTSA proposes that each radiator cap and coolant reservoir cap subject to the proposed new standard be marked with the symbol ''DOT'' as certification that the cap meets the new standard. We propose to let cap manufacturers use their discretion in determining the best way it can meet the requirement to provide the ''DOT'' certification. However, the ''DOT'' must be permanently marked.

We are also proposing that cap manufacturers permanently label each cap with its maximum pressure rating for the cap.

Description of the Need for the Information and Proposed Use of the Information—The statute under which this proposal is being issued requires manufacturers to certify the compliance of their motor vehicles and motor vehicle equipment with all applicable FMVSS. In addition, the ''DOT'' certification on each cap is necessary so that consumers would know whether a radiator or coolant reservoir cap meets the proposed performance requirements. The maximum pressure rating labeled on each cap would let consumers know that the maximum pressure capability of the cap. When they seek a replacement cap for the systems on their motor vehicles, consumers need to know maximum pressure information to ensure that they or service personnel get the cap that has equal or greater capability. Many radiator cap or reservoir caps appear to be physically identical to each other, but in fact have different pressure performance capabilities.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information—The new collection of information would apply to manufacturers of radiator caps and manufacturers of pressurized coolant reservoir tank caps. NHTSA has no estimate of the number of cap manufacturers that would be subject to the requirement, but does not believe any of these manufacturers is a small business.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information—The total annual reporting burden is estimated as follows.

New Caps on New Motor Vehicles—Based on 1999 sales of vehicles in the United States, we estimate that each year, out of a total passenger car and light truck sales of approximately 16,890,000, there would be a total of approximately 12,667,901 radiator caps (75 percent of the fleet) and 4,222,634 coolant reservoir caps (25 percent of the fleet). Manufacturers are already aware of the maximum pressure rating for their radiator caps and coolant reservoir caps. We estimate that it would take one second per cap to label, print, or otherwise mark the ''DOT'' certification and maximum pressure rating on each cap. Therefore, the total burden hours on the public per year imposed by caps on new motor vehicles subject to this proposed rule would be 4,692 hours (16,890,535 caps, taking one second per cap to mark divided by 3600 seconds in an hour). In reality, the burden on the public should be less than 4,692 hours per year because many manufacturers already voluntarily label the maximum pressure rating information on the caps. If it costs one cent per cap to label the information on the caps, the total cost burden on the public would be $168,905.35.

New Replacement Caps for Use on Vehicles Subject to the Proposed Rule—In this NPRM, NHTSA does not propose that new replacement caps subject to this proposed rule be required to be compatible with pre-standard vehicles. This means that for a period of time, replacement caps for both vehicles that are subject to the new standard, and for older, pre-standard vehicles would be manufactured. The collection of information burden would be imposed only by new replacement caps that are designed for vehicles that are subject to the new standard.

As noted in the regulatory evaluation (provided in the DOT Docket cited in the heading of this notice), NHTSA assumes that radiator caps and coolant reservoir caps are replaced on average, once over a ten year period. NHTSA estimates that after a 10 year period (when the rule proposed in this NPRM has been in effect for 10 years), there would be 12.9 million new replacement caps manufactured per year that meet the proposed standard.

In the request for clearance at issue, NHTSA seeks OMB approval for a collection of information burden imposed by new replacement caps subject to the new rule for the first three years the rule is in effect. NHTSA does not believe the new vehicles subject to the standard would need many new replacement caps that meet the standard. The following figures take into account new replacement caps for vehicles that are subject to the standard, and also new replacement caps that may be compatible with pre-standard vehicles. For the first three years of the rule's existence, NHTSA estimates that for new replacement caps, in the first year, 100,000 new replacement caps that meet the new standard would be manufactured, in the second year 200,000 new replacement caps would be manufactured, and in the third year, 300,000 new replacement caps would be manufactured. This results in an average of 200,000 new replacement caps per year for three years.

We estimate that it would take one second per cap to label, print, or otherwise mark the ''DOT'' certification and maximum pressure rating on each cap. Therefore, total burden hours on the public per year would be 55.5 hours (200,000 caps, taking one second per cap to mark divided by 3600 seconds in an hour) from marking new replacement caps. In reality, the added burden on the public should be less than 55.5 hours per year because many manufacturers already voluntarily label the maximum pressure rating information on the caps. If it costs one cent per cap to label the information on the caps, the total cost burden on the public would be $2000 per year for labeling new replacement caps.

Total Burdens—Therefore, NHTSA estimates that the total burden hours imposed on the public from labeling new caps on new vehicles and labeling new replacement caps to be an average of 4,747 hours (4,692 hours (vehicle caps) plus 55 hours (replacement caps)) per year, and an average cost of $170,905.35 ($168,905.35 (vehicle caps) plus $2000 (replacement caps)) per year.

NHTSA recognizes that some manufacturers may choose to emboss the ''DOT'' certification and maximum pressure ratings on their caps. This proposed rule permits, but does not

require embossing. The proposed rule requires some type of labeling. Since we are estimating our burdens on the public based on minimum requirements, we are not taking into account additional costs that may result from embossing. However, NHTSA seeks comment on what (if any) additional costs may result from embossing, rather than labeling, caps.

Since nothing in this proposed rule would require radiator cap manufacturers or coolant reservoir cap manufacturers to keep records, recordkeeping costs imposed would be zero hours and zero dollars.

H. National Technology Transfer and Advancement Act

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

After conducting a search of available sources, we have determined that there are not any available and applicable voluntary consensus standards that we can use in this notice of proposed rulemaking. We have searched the SAE's Recommended Practices applicable to radiator caps. We found SAE J164 *Radiator Caps and Filler Necks* JUN91, which provides dimensions for the different pressure ratings of bayonet type radiator pressure caps and filler necks. There is also SAE J151 *Pressure Relief for Cooling System* JUN91, which specifies the requirements for pressure relief means and pressure relief rating identification for cooling systems of liquid cooled engines. Neither of these SAE Standards provides guidance on specifying how caps are to perform in a manner that prevents their removal when the cooling system is under dangerously high pressure and temperature. Since neither SAE Standard provides guidance on an issue material to this rulemaking, we have developed our own proposal.

I. Unfunded Mandates Reform Act

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

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

J. Plain Language

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

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

If you have any responses to these questions, please include them in your comments on this NPRM.

K. Regulation Identifier Number (RIN)

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

Comments

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 in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESS.**

You may also submit your comments to the docket 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.

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, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESS.** When you send a comment containing information claimed to be confidential business information, you should include a cover

letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will the Agency Consider Late Comments?

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. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

8. Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

9. On that page, click on ''search.''

10. On the next page (http://dms.dot.gov/search/), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

11. On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. Although the comments are imaged documents, instead of word processing documents, the ''pdf'' versions of the documents are word searchable.

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.

List of Subjects in 49 CFR Part 571

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

In consideration of the foregoing, it is proposed that the Federal Motor Vehicle Safety Standards (49 CFR Part 571), be amended as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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

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

2. Section 571.402 would be added to read as follows:

§ 571.402 Standard No. 402; Radiator and coolant reservoir caps, venting of motor vehicle cooling systems.

S1. *Scope.* This standard specifies performance requirements for radiator caps and coolant reservoir caps on liquid-based cooling systems for motor vehicle engines. This standard also specifies performance requirements for the venting of those cooling systems.

S2. *Purpose.* The purpose of this standard is:

(a) To reduce the number of scald injuries that occur when people remove radiator caps or coolant reservoir caps of liquid-based cooling systems for motor vehicle engines when the contents of those systems are hot and under high pressure; and

(b) To reduce the likelihood that the discharge of hot fluids from a manually operated pressure release mechanism for one of those cooling systems will contact the person actuating the mechanism.

S3. *Application.* This standard applies to—-

(a) Motor vehicles (except motorcycles and trailers) that have a gross vehicle weight rating of 4,536 kg (10,000 lb) or less and a liquid-based cooling system for their engines; and

(b) Radiator caps and coolant reservoir caps recommended for use on the engine cooling systems in the motor vehicles subject to this standard.

S4. *Definitions.*

Cap means a radiator cap or a coolant reservoir cap recommended for use in a motor vehicle subject to this standard.

Coolant reservoir cap means any removable device that is used to close the filler neck opening of a pressurized reservoir tank of a liquid-based cooling system for a motor vehicle engine.

Fluids means substances, such as liquids or gases, that are capable of flowing and that change shape at a steady rate when acted upon by any force tending to change their shape.

Manually operated pressure release mechanism means any mechanism intended to be operated or actuated for the purpose of reducing the cooling system pressure, and whose operation does not involve removal of a cap from a cooling system filler neck.

Radiator cap means any removable device that is used to close the filler neck opening of a pressurized radiator of a liquid-based cooling system for a motor vehicle engine.

S5. *Requirements.*

S5.1 *Radiator Caps and Coolant Reservoir Caps.*

(a) Caps must be removable without the use of any tools.

(b) Each cap, when installed in the fully-closed position on a motor vehicle cooling system for which it is recommended, and when tested in accordance with S6.1(a), must not be manually removable when the pressure in the system is at or above 14kPa. In addition, such a cap must not vent any internal cooling system pressure or fluids during that test.

(c) In the case of each cap that has a manually operated pressure release mechanism, when the cap is installed in the fully-closed position, and tested in accordance with S6.1(b), actuation of the mechanism must not result in the venting of any fluids through the cap or the seal at the cap-to-filler neck interface.

(d) Each cap must have a label permanently affixed to it with the following information:

(1) The symbol ''DOT'' constituting certification by the cap manufacturer that the cap complies with this standard, and (2) The manufacturer's maximum pressure rating for the cap.

S5.2 *Motor vehicles.*

(a) Each cap on a motor vehicle subject to this standard must comply with the applicable requirements of S5.1.

(b) Each radiator cap, when installed in the fully-closed position on a motor vehicle cooling system for which it is recommended, must not be manually removable unless it is first pushed axially toward the radiator, and then, while still being pushed, is rotated in a counter-clockwise direction.

(c) Each coolant reservoir cap, when installed in the fully-closed position on a motor vehicle cooling system for which it is recommended, must not be manually removable unless it is rotated in a counter-clockwise direction.

(d) In the case of motor vehicles equipped with a cap or caps that include a manually operated pressure release mechanism, each such cap must comply with the requirements of S5.1(c).

(e) In the case of motor vehicles equipped with an engine cooling system that includes a cap with a manually operated pressure release mechanism or has a manually operated pressure

release mechanism in a location other than its cap, testing each such mechanism in accordance with S6.2 must not result in the venting of any fluids through the cap or the seal at the cap-to-filler neck interface, and either must not permit the venting of any fluids outside of the pressurized part of the system, or must direct any fluids vented from any part of the system downward and toward the center of the vehicle.

S6. *Test procedures.*

S6.1 *Radiator caps and reservoir caps.* Each cap is tested as specified in paragraphs (a) and (b) of S6.1.

(a) *Removal.*

(1) Using water, fill the radiator or coolant reservoir system, as applicable, of any vehicle for which the cap is recommended. Attach the cap to the radiator or coolant reservoir, as applicable, of that vehicle in accordance with the manufacturer's installation procedure. Rotate the cap to the fully closed position. Purge air from the system.

(2) Pressurize the radiator or coolant reservoir to any pressure not less than 14 kPa and not more than the maximum pressure rating of the cap as specified by the manufacturer.

(3)(i) *Radiator caps.* While a force of not greater than 225 Newtons is being applied to the cap axially toward the radiator, perpendicular to the top surface of the cap, and a torque of not greater than 40 Newton-meters is being applied to the cap in a counter-clockwise direction, attempt to remove the cap.

(ii) *Coolant reservoir caps.* While a torque of up to 40 Newton-meters is being applied to the cap in a counter-clockwise direction, attempt to remove the cap.

(b) *Venting.*

(1) Using water, fill the radiator or coolant reservoir system, as applicable, of any vehicle for which the cap is recommended. Attach the cap to the radiator or coolant reservoir, as applicable, of that vehicle in accordance with the manufacturer's installation procedure. Rotate the cap to the fully closed position. Purge air from the system.

(2) Pressurize the radiator or coolant reservoir system to any pressure not less than 14kPa and not more than the maximum pressure rating of the cap.

(3) Actuate the manually operated pressure release mechanism in accordance with the manufacturer's instructions.

S6.2 *Motor vehicles-venting.* Each motor vehicle cooling system that includes a means of reducing the system pressure by venting fluids is tested as specified in paragraphs (a) through (d) of S6.2.

(a) Place the motor vehicle on a level surface.

(b) Fill the vehicle's cooling system with water. Attach the vehicle's cap to the radiator or coolant reservoir for which it is intended and rotate the cap to the fully closed position. Purge air from the radiator system or the reservoir system.

(c) Pressurize the system to any pressure at or above 14 kPa and below the maximum pressure rating of the cap as specified by the manufacturer.

(d) Actuate each manually operated pressure release mechanism in accordance with the vehicle manufacturer's instructions.

Issued on: May 25, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–13800 Filed 5–31–01; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 66, No. 106

Friday, June 1, 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.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee; Meeting

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a meeting of the Advisory Committee on Actuarial Examinations (portions of which will be open to the public) in Washington, DC at the Office of Director of Practice on June 25 and 26, 2001.

DATE: Monday, June 25, 2001, from 9 AM to 5 PM, and Tuesday, June 26, 2001, from 8:30 AM to 5 PM.

ADDRESS: The meeting will be held in Suite 4600E, Conference Room, Fourth Floor, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Director of Practice and Executive Director of the Joint Board for the Enrollment of Actuaries, 202–694–1805.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in Suite 4600E, Conference Room, Fourth Floor, Franklin Court Building, 1099 14th Street, NW, Washington, DC on Monday, June 25, 2001, from 9 AM to 5 PM, and Tuesday, June 26, 2001, from 8:30 AM to 5 PM.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in 29 U.S.C. 1242(a)(1)(B) and to review the May 2001 EA1 basic and EA–2B pension Joint Board examinations in order to make recommendations relative thereto, including the minimum acceptable pass score. Topics for inclusion on the syllabus for the Joint Board's examination program for the November 2001 EA–2A pension examination will be discussed.

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the portions of the meeting dealing with the discussion of questions which may appear on the Joint Board's examinations and review of the May 2001 Joint Board examinations fall within the exceptions to the open meeting requirement set forth in 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The portion of the meeting dealing with the discussion of the other topics will commence at 1 PM on June 26 and will continue for as long as necessary to complete the discussion, but not beyond 3 PM. Time permitting, after the close of this discussion by Committee members, interested persons may make statements germane to this subject. Persons wishing to make oral statements should notify the Executive Director in writing prior to the meeting in order to aid in scheduling the time available and must submit the written text, or at a minimum, an outline of comments they propose to make orally. Such comments will be limited to 10 minutes in length. All other persons planning to attend the public session must also notify the Executive Director in writing to obtain building entry. Notifications of intent to make an oral statement or to attend must be faxed, no later than June 18, 2001, to 202–694–1876, Attn: Executive Director. Any interested person also may file a written statement for consideration by the Joint Board and the Committee by sending it to the Executive Director: Joint Board for the Enrollment of Actuaries, c/o Internal Revenue Service, Attn: Executive Director N:C:SC:DOP, 1111 Constitution Avenue, NW., Washington, DC 20224.

Dated: May 25, 2001.

Patrick W. McDonough,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 01–13803 Filed 5–31–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Interim National Drought Council

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of Interim National Drought Council meeting.

SUMMARY: The Interim National Drought Council (Interim Council) was established through a Memorandum of Understanding (MOU) between Federal Agencies; State, local, and tribal governments; and groups impacted by drought. The Interim Council's purpose is to coordinate activities between and among its members. All meetings are open to the public; however, seating is limited and available on a first-come basis.

DATES: The Interim Council will meet on June 21, 2001, from 8:00 a.m. Pacific Daylight Time (PDT) to 5:00 p.m. PDT at the Marriott Residence Inn, Portland Downtown—RiverPlace, 2115 SW. River Parkway, Portland, Oregon, 97201, in the Broadway Room and on June 22, 2001, from 8:00 a.m. PDT to 12:00 noon PDT, at the National Water and Climate Center (NWCC) of the Natural Resources Conservation Service, United States Department of Agriculture (USDA), 101 SW. Main Street, Suite 1600, in Portland, Oregon 97204–3224. The June 21 meeting will be a listening session to provide an opportunity for Federal, State, and local officials; practitioners; and the general public to give their input on how they are being affected by the current drought in the Pacific Northwest. On June 22, the Interim Council will assess its current overall effectiveness and discuss ways to improve its service delivery and assistance.

FOR FURTHER INFORMATION CONTACT: Leona Dittus, Executive Director, Interim National Drought Council, United States Department of Agriculture (USDA), 1400 Independence Avenue, SW., Room 6701–S, STOP 0501, Washington, D.C., 20250–0501 or telephone (202) 720–3168; FAX (202) 720–9688; internet *leona.dittus@usda.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the MOU is to establish a more comprehensive, integrated, coordinated approach toward reducing the impacts of drought through better

preparedness, monitoring and prediction, risk management, and response to drought emergencies in the United States. The Interim Council will encourage cooperation and coordination between and among Federal, State, local, and tribal governments and others, relative to preparation for and response to serious drought emergencies. Activities of the Interim Council include providing coordination to: (a) resolve drought related issues, (b) exchange information about lessons learned, and (c) improve public awareness of the need for drought planning and mitigation measures. The Interim Council is co-chaired by the Secretary of Agriculture or her designee, and a non-Federal co-chair, Ms. Ane D. Deister, Executive Assistant to the General Manager, Metropolitan Water District of Southern California, representing urban water interests. Administrative staff support essential to the execution of the Interim Council's responsibilities shall be provided by USDA.

The Interim Council will continue in effect for 5 years or until Congress establishes a permanent National Drought Council.

If special accommodations are required, please contact Leona Dittus, at the address specified above, by COB June 18, 2001.

Signed at Washington, D.C., on May 24, 2001.

James R. Little,

Acting Administrator, Farm Service Agency.

[FR Doc. 01–13755 Filed 5–31–01; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Evaluation of the Prime Vendor Pilot Project

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Nutrition Service's intention to request Office of Management and Budget approval of data collection instruments for the Evaluation of the Prime Vendor Pilot Project.

DATES: Written comments on this notice must be received by July 31, 2001.

ADDRESSES: 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 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 through 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 Office of Management and Budget (OMB) approval. All comments will also become a matter of public record.

Comments may be sent to: Alberta C. Frost, Director, Office of Analysis, Nutrition and Evaluation, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection forms should be directed to Alberta C. Frost (703) 305–2117.

SUPPLEMENTARY INFORMATION:

Title: Evaluation of the Prime Vendor Pilot Project—Data Collection Instruments.

OMB Number: Not yet assigned.

Expiration Date: N/A

Type of Request: New collection of information.

Abstract: The Prime Vendor Project is a pilot of the Food Distribution Program in Indian Reservations (FDPIR) that is planned to last from July 1, 2001 to June 30, 2002. The FDPIR was authorized by Section 4(b) of the Food Stamp Act of 1977 [7 U.S.C. 2013(b)] and Section 4(a) of the Food and Consumer Protection Act of 1973 [7 U.S.C. 612(c) Note]. The Prime Vendor Pilot will establish a partnership between USDA and the Department of Defense (DoD) to pilot test food distribution operations through a Prime Vendor system. The participating recipients will be the 23 Indian Tribal Organizations (ITO's) in the Midwest Region, covering Minnesota, Wisconsin, and Michigan. Through the Prime Vendor Pilot agreement, USDA becomes a party to the existing DoD contract with commercial wholesalers/distributors through which the Prime Vendor will accept food orders directly from the ITO's, and deliver food items in three days, rather than 60–90 days as currently practiced. ITO's can also order as frequently as needed, instead of once a month, as long as the USDA ordering/entitlement cap set for the ITO is not exceeded. Under this pilot, USDA buys food items directly from the wholesalers/distributors without any middleman. In short, the Prime Vendor will procure foods pre-approved by FNS, store and deliver them to the ITO, and bill USDA. The evaluation component will collect information from ITO's, USDA agencies, and regional offices using two questionnaires: one for the ITO respondents and the other for respondents from the Food and Nutrition Service (FNS), the Agricultural Marketing Service (AMS), the Farm Service Agency (FSA), the Midwest Regional Office (MWRO), and the Kansas City Commodity Office (KCCO). Respondent interviews will be self-administered at two data collection points: pre- and post-intervention.

Estimate of Burden: Public burden for respondents of ITO's is estimated at 1 hour per response for two responses each by 33 respondents ($33 \times 2 \times 1$ hour = 66 hours).

Respondents: The most knowledgeable FDPIR staff member in the ITO will be interviewed. Note: also as part of this effort, the most knowledgeable FDPIR staff member in FNS, AMS, FSA, MWRO, and KCCO will be interviewed as well.

Estimated Number of Respondents: Twenty-three respondents will be interviewed from ITO's in the Midwest Region, 10 respondents from other ITO's. Note: as part of this effort, 5 respondents will be interviewed from USDA agencies and regional offices.

Estimated Number of Responses Per Respondent: Two.

Estimated Total Annual Burden on Respondents: 66 hours (33×2 interviews $\times 1$ hour each).

Dated: May 25, 2001.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 01–13781 Filed 5–31–01; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Fish Creek Watershed Projects, Umpqua National Forest, Douglas County, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service, will prepare an Environmental Impact Statement (EIS) for a variety of connected and similar resource projects within the Fish Creek watershed planning area of the Diamond Lake Ranger District. These projects include several timber sales, the construction of temporary roads, rock source development, spring rehabilitation, trailhead relocation, wildlife enhancement, site preparation, planting, fuels hazard reduction, road decommissioning, precommercial thinning, instream wood placement, and soil restoration. The planning area is located approximately 65 miles east of Roseburg, Oregon. If the proposed alternative or another action alternative is selected, projects within the selected action are expected to be implemented sometime during 2003 through 2008. The agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people may become aware of how they can participate in the process and contribute to the final decision.

DATES: Comments concerning the scope of the analysis should be received in writing, by June 29, 2001.

ADDRESSES: Send written comments and suggestions concerning this proposal to John Ouimet, District Ranger, Diamond Lake Ranger District, 2020 Toketee Ranger Station Road, Idleyld Park, OR 97447–9704.

FOR FURTHER INFORMATION: Direct questions about the proposed actions, or EIS to Pat Williams, ID Team Leader/ Timber Sale Planner, Diamond Lake Ranger District, 2020 Toketee Ranger Station Road, Idleyld Park, OR 97447–9704, or (541) 498–2531.

SUPPLEMENTARY INFORMATION: The area being analyzed in the Fish Creek Watershed Projects EIS encompasses approximately 53,578 acres of National Forest land on the Diamond Lake Ranger District. The planning area is located south of the North Umpqua River, north of the Rogue-Umpqua Divide, east of Copeland Creek, and west of Mount Bailey, within Douglas County, Oregon.

Timber sale harvest activity proposals are based on the need to achieve the objectives for matrix lands within Management Areas 10 and 11 of the planning area, as described in the 1990 Umpqua National Forest Land and Resource Management Plan (LRMP), as amended by the 1994 Record of Decision (ROD) for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl. Objectives for matrix lands are described on page B–1 of the ROD. The ROD states, ''Production of timber and other commodities is an important objective for the Matrix.'' The ROD also states on Page B–2 and B–6 that one of the objectives of matrix is to provide ecological diversity at the landscape scale in the form of early-successional habitat through commercial timber harvest. The main objective for Management Area 10 is to supply timber to local and regional economies on a cost efficient, sustainable basis. The objectives for Management Area 11 are to provide big game winter range habitat and timber production consistent with other resource objectives for wildlife habitat, riparian habitat and water quality, visual quality, and recreation.

Fish Creek Watershed Projects proposed actions are also based on the need to achieve the desired conditions for the planning area recommended in the 1999 Fish Creek Watershed Analysis. Timber harvest proposals are based on the need to maintain a high level of vegetative diversity in both structure and pattern within the watershed over time, by approximating large and small scale natural disturbance processes and patterns through even and uneven aged silvicultural treatments. Proposed natural fuels prescriptions are based on the need to move the planning area from a high severity fire regime towards a moderate severity fire regime. Rehabilitation of soils through sub-soiling is based on the need to improve the long term site productivity and water infiltration within managed stands that have been adversely affected by past management practices. Relocation of three trailheads is based on the need to provide adequate parking for forest visitors that are using trail systems. Spring rehabilitation is based on the need to improve the hydrologic function of the area and reduce potential soil erosion in the area. Wildlife enhancement projects are based on the need to improve wildlife habitat conditions within the watershed. Instream wood placement is based on the need to improve aquatic habitat where large woody debris has been removed or is otherwise absent or deficient. Pre-commercial thinning is based on the need to increase stand growth and vigor of overstocked managed stands. Road reconstruction/ maintenance and decommissioning is based on the need to reduce the risk to the aquatic resources from road related erosional processes. Expansion of existing rock sources within the Fish Creek watershed is based on the need to have available rock resources for reconstructing or maintaining existing road systems in the area.

Timber sale related activities include: regeneration harvest on 422 acres, with 15% green-tree retention in the form of leave groups and dispersed mature trees; and intermediate harvest in the form of commercial thinning on 834 acres; uneven aged management in the form of partial cutting and small group harvest (2–5 acres) on 145 acres; reforestation and seedling protection on 498 acres; site preparation/fuels reduction on 1,401 acres; reconstruction/maintenance of 61 miles of existing roads; construction of 16 miles of temporary roads with subsequent obliteration; construction of 12 permanent helicopter landings; and the expansion of two existing rock pits by 2 acres. The acreage proposed for harvest is estimated to yield 33.1 million board feet of timber. If the proposed action ultimately becomes the preferred alternative, harvest of the total acreage (1,401) is likely to be accomplished via five timber sales. The areas prescribed for harvest will require a combination of helicopter, skyline and ground-based harvesting equipment.

Restoration related activities include: 35.2 miles of road decommissioning; three trailhead relocations; spring/ riparian zone rehabilitation; construction of 5 artificial den structures for small mammals; 61 acres of big game winter range forage enhancement and noxious weed control; reduction of conifer encroachment on seven meadows totaling 110 acres; construction of nesting structures in 8 trees for great gray owls; construction of rock dens for small mammals and reptiles at 4 depleted rock quarries; recruitment of large woody material within timber sale harvest units; 1100 acres of site productivity restoration; 11.6 miles of instream log placement; 2,400 acres of precommercial thinning; and fuels hazard reduction on 1,230 acres. Most of these activities will be funded through the Knutson-Vandenberg Program timber sale collections.

As part of the environmental analysis process under the National Environmental Policy Act, the Umpqua National Forest has begun the scoping process for this project. Preliminary issues identified to date include the following: How will the public respond to reduced travel and trail access within the watershed? How will the public respond to the harvest of old growth stands within the watershed?

The scoping effort is intended to identify issues, which may lead to the

development of alternatives to the proposed actions. One of the purposes of this notice of intent is to solicit input from the public as part of the overall scoping effort. In addition to this notice, the public has been notified of the environmental impact statement through the Umpqua National Forest's April 2001 Schedule of Proposed Actions (SOPA). Scoping for this project will also include a public field trip in the Fish Creek watershed on June 9, 2001. Based on the preliminary issues, the Responsible Official has determined that it is appropriate to proceed with an environmental impact statement.

Public comments are appreciated throughout the analysis process. The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and be available for public review by December 2001. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register.** The final EIS is scheduled to be available in March 2002.

The Forest Service believes it is important to give reviewers notice of this early stage of public participation and of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could have been raised at the draft stage may be waived or dismissed by the court if not raised until after completion of the final EIS. *City of Angoon v. Hodel,* 803 f.2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc. v. Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed actions, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act of 40 CFR 1503.3 in addressing these points.)

In the final EIS, the Forest Service is required to respond to substantive comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal. The Responsible Official is Don Ostby, Forest Supervisor for the Umpqua National Forest. The Responsible Official will document the decision and rationale for the decision in a Record of Decision. The decision will be subject to appeal regulations (36 CFR part 215).

Dated: May 22, 2001.

Don Ostby,

Forest Supervisor, Umpqua National Forest.

[FR Doc. 01–13732 Filed 5–31–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

[01–01–C]

Opportunity To Comment on the Applicants for the Fostoria (OH) Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA requests comments on the applicants for designation to provide official services in the geographic area currently assigned to Fostoria Grain Inspection, Inc. (Fostoria).

DATES: Comments must be postmarked, or sent by telecopier (FAX) by June 30, 2001.

ADDRESSES: Comments must be submitted in writing to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250–3604. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202–690–2755, attention: Janet M. Hart. All comments received will be made available for public inspection at the above address at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202–720–8525, e-mail janhart@gipsadc.usda.gov.

SUPPLEMENTARY INFORMATION: This Action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the March 8, 2001, **Federal Register** (66 FR 13874), GIPSA asked persons interested in providing official services in the Fostoria area to submit an application for designation. There were three applicants for the Fostoria area: Fostoria, Columbus Grain Inspection, Inc. (Columbus), and Michigan Grain Inspection Services, Inc. (Michigan). Fostoria applied for designation to provide official services in the entire area currently assigned to them. Columbus and Michigan, both designated official grain inspection agencies operating in Ohio and Michigan, applied for designation to provide official services in all or part of the Fostoria geographical area.

GIPSA is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of the applicants. All comments must be submitted to the Compliance Division at the above address. Comments and other available information will be considered in making a final decision. GIPSA will publish notice of the final decision in the **Federal Register**, and GIPSA will send the applicants written notification of the decision.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: May 4, 2001.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 01–13583 Filed 5–31–01; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

[01–02–A]

Opportunity for Designation in the Columbus (OH), Farwell (NM), and Northeast Indiana (IN) Areas, and Request for Comments on the Official Agencies Serving These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA) USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end in

January 2002. GIPSA is asking persons interested in providing official services in the areas served by these agencies to submit an application for designation. GIPSA is also asking for comments on the services provided by these currently designated agencies:

Columbus Grain Inspection, Inc. (Columbus);

Farwell Grain Inspection, Inc. (Farwell); and

Northeast Indiana Grain Inspection, Inc. (Northeast Indiana).

DATES: Applications and comments must be postmarked or sent by telecopier (FAX) on or before June 30, 2001.

ADDRESSES: Submit applications and comments to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250–3604; FAX 202–690–2755. If an application is submitted by FAX, GIPSA reserves the right to request an original application. All applications and comments will be made available for public inspection at Room 1647–S, 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202–720–8525, e-mail janhart@gipsadc.usda.gov.

SUPPLEMENTARY INFORMATION: This Action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this Action.

Section 7(f)(1) of the United States Grain Standards Act, as amended (Act), authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act.

1. Current Designations Being Announced for Renewal

Official agency	Main office	Designation start	Designation end
Columbus	Circleville, OH	02/01/1999	01/31/2002
Farwell	Farwell, TX	02/01/1999	01/31/2002
Northeast Indiana	Hoagland, IN	02/01/1999	01/31/2002

a. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Michigan and Ohio, is assigned to Columbus.

In Ohio:

Bounded on the North by the northern Lucas County line east to Lake Erie; the Lake Erie shoreline east to the Ohio-Pennsylvania State line;

Bounded on the East by the Ohio-Pennsylvania State line south to the Ohio River;

Bounded on the South by the Ohio River south-southwest to the western Scioto County line; and

Bounded on the West by the western Scioto County line north to State Route 73; State Route 73 northwest to U.S. Route 22; U.S. Route 22 west to U.S. Route 68; U.S. Route 68 north to Clark County; the northern Clark County line west to State Route 560; State Route 560 north to State Route 296; State Route 296 west to Interstate 75; Interstate 75 north to State Route 47; State Route 47 northeast to U.S. Route 68 (including all of Sidney, Ohio); U.S. Route 68 north to U.S. Route 30; U.S. Route 30 east to State Route 19; State Route 19 north to Seneca County; the southern Seneca County line west to State Route 53; State Route 53 north to Sandusky County; the southern Sandusky County line west to State Route 590; State Route 590 north to Ottawa County; the southern and western Ottawa and Lucas County lines.

In Michigan: Those sections of Jackson, Lenawee, and Monroe Counties which are east of State Route 127 and south of State Route 50.

Columbus' assigned geographic area does not include the export port locations inside Columbus' area which are serviced by GIPSA.

b. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Arizona, New Mexico and Texas, is assigned to Farwell.

Maricopa, Pinal, and Yuma Counties, Arizona.

Bernalillo, Chaves, Curry, DeBaca, Eddy, Guadalupe, Lea, Quay, Roosevelt, San Miguel, Santa Fe, Torrance, and Union Counties, New Mexico.

Bailey, Cochran, Deaf Smith (west of State Route 214), Hockley, Lamb (south of a line bounded by U.S. Route 70, FM 303, U.S. Route 84, and FM 37), and Parmer Counties, Texas.

c. Pursuant to section 7(f)(2) of the Act, the following geographic area, in the State of Indiana, is assigned to Northeat Indiana.

Bounded on the North by the northern Lagrange and Steuben County lines;

Bounded on the East by the eastern Steuben, De Kalb, Allen, and Adams County lines;

Bounded on the South by the southern Adams and Wells County lines; and

Bounded on the West by the western Wells County line; the southern Huntington and Wabash County lines; the western Wabash County line north to State Route 114; State Route 114 northwest to State Route 19; State Route 19 north to Kosciusko County; the western and northern Kosciusko County lines; the western Noble and Lagrange County lines.

The following grain elevator, located outside of the above contiguous geographic area, is part of this geographic area assignment: E.M.P. Coop, Payne, Paulding County, Ohio (located inside Michigan Grain Inspection Services, Inc.'s, area).

2. Opportunity for Designation

Interested persons, including Columbus, Farwell, and Northeast Indiana, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic areas is for the period beginning February 1, 2002, and ending December 31, 2004. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

3. Request for Comments

GIPSA also is publishing this notice to provide interested persons the opportunity to present comments on the Columbus, Farwelll, and Northeast Indiana official agencies. Commenters are encouraged to submit pertinent data concerning these official agencies including information on the timeliness, cost, quality, and scope of services provided. All comments must be

submitted to the Compliance Division at the above address.

Applications, comments, and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: May 4, 2001.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 01–13584 Filed 5–31–01; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

[00–04–S]

Designation for the East Indiana (IN), Fremont (NE), and Titus (IN) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces designation of the following organizations to provide official services under the United States Grain Standards Act, as amended (Act):

East Indiana Grain Inspection, Inc. (East Indiana);

Fremont Grain Inspection Department, Inc. (Fremont); and

Titus Grain Inspection, Inc. (Titus).

EFFECTIVE DATES: September 1, 2001.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202–720–8525, e-mail janhart@gipsadc.usda.gov.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the December 1, 2000, **Federal Register** (65 FR 75237), GIPSA asked persons interested in providing official services in the geographic areas assigned to the official agencies named above to submit an application for designation. Applications were due by December 31, 2000.

East Indiana and Titus were the sole applicants for designation to provide official services in the entire area currently assigned to them, so GIPSA did not ask for comments on them. There were two applicants for the Fremont area: Fremont and Sioux City Inspection and Weighing Service Company (Sioux City). Fremont applied for designation to provide official services in the entire area currently assigned to them. Sioux City, a designated official grain inspection agency operating in Iowa, Nebraska, and South Dakota, applied for designation to provide offiical services in all or part of the Fremont geographical area. GIPSA asked for comments on the applicants for providing service in the Fremont area in the March 8, 2001, **Federal Register** (66 FR 13873). Comments were due by March 31, 2001. GIPSA received no comments by the deadline.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act and, according to Section 7(f)(1)(B), determined that East Indiana and Titus are able, and Fremont is better able, to provide official services in the geographic areas specified in the September 1, 2000, **Federal Register**, for which they applied.

Interested persons may obtain official services by calling the telephone numbers listed below.

Official agency	Headquarters location and telephone	Designation start–end
East Indiana	Muncie, IN: 765–289–1206	09/01/2001–06/30/2004
Fremont	Fremont, NE: 402–721–1270	09/01/2001–06/30/2004
	Additional Service Location: Denison, IA	
Titus	West Lafayette, IN: 765–497–2202	09/01/2001–06/30/2004

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: May 4, 2001.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 01–13585 Filed 5–31–01; 8:45 am]

BILLING CODE 3410–EN–U

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Georgia Transmission Corporation; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to possible financing assistance to Georgia Transmission Corporation for the construction of 5 diesel electric generators at the existing Egypt Substation located just north of Egypt-Ardmore Road and approximately 600 feet west of Georgia Highway 21 in Effingham County, Georgia.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–0468, e-mail at bquigel@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The initial construction will involve the placement of 4, 1825 kilowatt diesels, an 8000 gallon fuel tank, 4, 2.5 million volt-amp transformers, and a 12 kilovolt circuit breaker with protective relaying. The Egypt Substation will be graded and expanded in such a manner as to allow for the addition of one more 1825 kilowatt diesel generator should the load on the substation increase beyond 7.3 megawatts ($4 \times 1825 = 7300$ kilowatts or 7.3 megawatts). The diesel generators will be constructed within sound attenuated enclosures with mufflers to reduce operating noise. In addition, a buffer of vegetation will be installed between the station and nearest residential properties to provide further attenuation of noise levels. The diesels will be unmanned as they can be operated from a remote location.

Copies of the FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Mr. R. Vince Howard, Georgia Transmission Corporation, 2100 East Exchange Place, Tucker, Georgia 30085–2088, telephone (770) 270–7635. Mr. Howard's e-mail address is vincent.howard@gatrans.com.

Dated: May 17, 2001.

Blaine D. Stockton,

Assistant Administrator, Electric Program.

[FR Doc. 01–13824 Filed 5–31–01; 8:45 am]

BILLING CODE 3410–13–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Georgia Transmission Corporation; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to possible financing assistance to Georgia Transmission Corporation for the construction of a 500/230 kV Substation in Mitchell County, Georgia.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–0468, e-mail at *bquigel@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: The project is to be named the Raccoon Creek Substation. It will provide for the interconnection of the existing 500 kV Farley to North Tipton and 230 kV Mitchell to Thomasville transmission lines. The site location for the substation is at the intersection of Jackson Dairy Road and Stagecoach Road in northwest Mitchell County. The size of the site is 110 acres. The fenced area for the substation will be approximately 25 acres. The land use at the site is agricultural field.

Copies of the FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Mr. John Lasseter, Georgia Transmission Corporation, 2100 East Exchange Place, Tucker, Georgia 30085–2088, telephone (770) 270–7710. Mr. Lasseter's e-mail address is *john.lasseter@gatrans.com.*

Dated: May 21, 2001.

Sylvia M. Green,

Acting Assistant Administrator, Electric Program.

[FR Doc. 01–13825 Filed 5–31–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Jackson County Lake Project

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of final environmental impact statement.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) is issuing a Final Environmental Impact Statement (EIS) for the Jackson County Lake Project. The Final EIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (U.S.C. 4231 *et seq.*) in accordance with the Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508) and RUS regulations (7 CFR part 1940–G). RUS invites comments on the Final EIS.

The purpose of the EIS is to evaluate the potential environmental impacts of and alternatives to the Jackson County Empowerment Zone (EZ) Community, Incorporated and Jackson County Water Association's (JCWA) applications for financial assistance to provide water supply for the residents of Jackson County and parts of surrounding counties. A secondary purpose of the proposal is to provide recreational opportunities. The project, known as the Jackson County Lake Project, proposes to construct a roller-compacted concrete dam to create a reservoir within Jackson County, Kentucky, and to construct a raw water transmission main from the proposed reservoir to the JCWA Treatment Plant. A 300-foot buffer zone surrounding the reservoir horizontally from the normal pool level has been proposed to protect the water quality of the reservoir by restricting development and certain land uses in this area. Also included in the proposal is the construction of a water intake structure and a pump house to pump water out of the reservoir. Proposed recreational development around the reservoir may include a boat ramp, boat dock, public beach, hiking trails, picnic areas, and a primitive campground.

DATES: Written comments on this Final EIS will be accepted on or before July 2, 2001.

ADDRESSES FOR FURTHER INFORMATION: To send comments or for more information, contact: Mark S. Plank, Acting Director, USDA, Rural Utilities Service, Engineering and Environmental Staff, 1400 Independence Avenue, Mail Stop 1571, Washington, DC 20250, telephone (202) 720–1649, fax (202) 720–0820, or e-mail: mplank@rus.usda.gov. Further information can also be obtained from: Kenneth Slone, State Director, USDA, Rural Development State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, telephone (606) 224–7300, or fax (606) 224–7340.

A copy of the Final EIS can be obtained or viewed online at http://www.usda.gov/rus/water/ees/feis-jc.htm. The files are in a portable document format (pdf); in order to review or print the document, users need to obtain a free copy of Acrobat Reader. The Acrobat Reader can be obtained from http://www.adobe.com/prodindex/acrobat/readstep.html.

Copies of the Final EIS will be available for public review during normal business hours at the following locations:

Jackson County Public Library, Courthouse Square, P.O. Box 160, McKee, KY 40447, (606) 287–8113

Natural Resources Conservation Service, U.S. Highway 421 South, McKee, KY 40447, (606) 287–8311

Jackson County Extension Service 263 U.S. Highway 421, South, P.O. Box 188, McKee, KY 40447, (606) 287–7693

Kentucky Highlands Investment Corporation, 362 Old Whitley Road, London, KY 40741, (606) 864–5175

Jackson County EZ Community, Incorporated, McCammon Ridge Road, P.O. Box 280, McKee, KY 4044, (606) 287–8395

USDA Rural Development, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (606) 224–7300

SUPPLEMENTARY INFORMATION: Pursuant to Subchapter C, Part I (Empowerment Zones, Enterprise Communities and Rural Development Investment Areas) of Title XIII of the Omnibus Budget Reconciliation Act of 1993, Jackson County, Kentucky is located in an area designated as an Empowerment Zone/Enterprise Community (EZ/EC) (see 60 FR 6945, February 6, 1995). The purpose of the EZ/EC initiative is to empower rural communities and their residents to create opportunities for economic development as part of a Federal-State-local and private sector partnership. The proposed action is an integral component of the EZ/EC initiative as identified in the Kentucky Highland Empowerment Zone's Strategic Plan. The proposed action will improve the area's water supply necessary for promoting economic development in the area.

The Jackson County EZ Community, Inc. and the JCWA have applied for financial assistance for the Jackson County Lake Project from the following: RUS; Appalachian Regional

Commission; U.S. Department of Commerce, Economic Development Administration; Department of Housing and Urban Development; Kentucky Highlands Empowerment Zone; and Kentucky Tobacco Settlement money. In accordance with 40 CFR 1501.5, Lead Agencies, the RUS is the lead Agency for the EIS and the U.S. Forest Service is the Cooperating Agency.

The Draft EIS was published May 26, 2000 for a 45-day comment period. In addition, two public meetings were held in McKee, Kentucky on June 27, 2000 to solicit comments from the public and other interested parties.

Comments received from agencies and the public on the Draft EIS and revision of the water needs analysis led to the reassessment of various reservoir and non-reservoir alternatives for meeting Jackson County's projected water needs. As a result of this reassessment, two types of alternatives are now considered to be reasonable for meeting those needs. The action proposed by the Jackson County Empowerment Zone Community, Incorporated (EZ), Jackson County Fiscal Court, and the Jackson County Water Association (JCWA) consists of either the construction of a roller-compacted concrete (RCC) dam to create a reservoir within Jackson County, Kentucky, and the construction of a raw water transmission main from the proposed reservoir to the existing JCWA Treatment Plant, or the construction of a water transmission pipeline from an existing surface water resource in a neighboring county to Jackson County for the purposes of importing additional water. For the dam and reservoir alternatives, a 300-foot buffer zone surrounding the reservoir horizontally from the normal pool level has been proposed to protect the water quality of the reservoir by restricting development and certain land uses in this area. Along with the dam, a water intake structure and a pump house would be constructed to pump water out of the reservoir. Proposed recreational development around the reservoir may include a boat ramp, boat dock, public beach, hiking trails, picnic areas, and a primitive campground.

In the Draft EIS both the Rural Utilities Service and the Jackson County Empowerment Zone asserted that their preferred alternative for meeting the purpose and need of the proposed action was the War Fork and Steer Fork proposal. After comparing project costs, user rates impacts, future growth prospects of Jackson County and the surrounding area, and evaluating other relevant information with regard to the reasonable alternatives considered in the EIS, RUS has identified the War Fork and Steer Fork, 3.5 MGD reservoir as their preferred alternative. The Jackson County Empowerment Zone concurs.

The War Fork and Steer Fork dam site is located about 0.5 miles southwest of Turkey Foot in eastern Jackson County. The dam would be situated on War Fork, 0.75 miles north of the confluence with Steer Fork. The dam would be about 87 to 107 feet tall, 760 to 790 feet long, and 102 to 122 feet wide, creating a reservoir with an average yield of 3.5 mgd of raw water. At a normal pool elevation of 980 feet above mean sea level (MSL), the surface area of this reservoir would be about 116 acres. At a potential maximum flood elevation of 1,000 feet above MSL, the surface area of the reservoir would be approximately 162 acres. The total acreage for a reservoir at maximum flood level at this site, with a 300-foot buffer extending from normal pool level, would be about 337 acres of land. As much of this land is currently part of the Daniel Boone National Forest, land acquisition at this site would require a land exchange with the U.S. Forest Service. The War Fork and Steer Fork reservoir site has been identified as the Lead Agency's Preferred Alternative.

With this notice, RUS invites any affected Federal, State, and local Agencies and other interested persons to comment on the Final EIS.

Dated: May 24, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

[FR Doc. 01–13521 Filed 5–31–01; 8:45 am]

BILLING CODE 3410–15–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: July 2, 2001.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Patrick T. Mooney (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Janitorial/Custodial
- U.S. Army Reserve Center, Bullville, Route 17K, Bullville, New York
- NPA: Occupations, Inc., Middletown, New York

Mailroom Operation
- Department of Health and Human Services, Program Support Center Headquarters, Dallas, Texas
- NPA: Dallas Lighthouse for the Blind, Inc., Dallas, Texas

Louis R. Bartalot,

Director, Program Analysis and Evaluation.

[FR Doc. 01–13818 Filed 5–31–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: July 2, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Patrick T. Mooney (703) 603–7740.

SUPPLEMENTARY INFORMATION: On October 13, 2000, April 13 and 20, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (65 FR 60903, 66 FR 19136, 19137 and 20234) of proposed additions to the Procurement List.

The following comments pertain to Vegetable Oil, 8945–00–NSH–0001, additional 5% of the Governments requirement.

Comments were received from a current contractor for the vegetable oil. The commenter raised several points in opposing the Committee's proposal. First, the commenter questioned the scope of the proposed addition to the Procurement List. Second, the commenter claimed that the proposed addition would have a severe impact on that company. Third, the commenter claimed that the amount of vegetable oil being added to the Procurement List exceeded the share being provided by small businesses. Fourth, the commenter questioned the Committee's oversight of the fair market price determinations being made for vegetable oil. Fifth, the commenter claimed that the price determinations must be based on statutory and regulatory principles contained in the law governing overseas food assistance programs.

In 1999, the Committee added 15 percent of the total Government requirement for this vegetable oil purchased for overseas food assistance to the Procurement List. By notice published in the August 25, 2000 **Federal Register** (65 FR 51794), the Committee proposed the addition to the Procurement List of an additional 5 percent of the Government requirement, or a monthly amount not to exceed 3,500 metric tons. Because of confusion over the scope of this proposed addition, the Committee on October 13, 2000 republished the proposal in the **Federal Register** (65 FR 60903), stating that its scope was only an additional 5 percent of the Government requirement. The Committee further clarified this correction in a **Federal Register** notice of October 27, 2000 (65 FR 64420).

The Committee has traditionally considered its Procurement List additions to apply to annual Government requirements for commodities. Accordingly, this addition will raise from 15 percent to 20 percent the portion of the total annual Government requirement for this commodity which must be purchased from the designated nonprofit agency. However, this commodity has traditionally been purchased on a monthly basis, and the procuring Government agency, the U.S. Department of Agriculture (USDA) has informed the Committee that it will apply the percentage reservation for the nonprofit agency to its monthly purchases.

USDA purchases vegetable oil in three sizes of containers: 6/4 liter, 20 liter, and 50 gallon. The nonprofit agency designated by the Committee produces the oil in only the first two of these three containers. The commenter has therefore argued that the scope of the Procurement List additions should be limited to a percentage of the vegetable oil purchases which are in those two container sizes. However, the intent of the Committee and USDA is that the Procurement List addition applies to the designated percentage of the total Government requirement, regardless of the size of containers involved.

The commenter claimed in opposing the 1999 addition of 15 percent of the vegetable oil requirement to the Procurement List that it would be severely impacted by the addition. At that time, it was one of two suppliers of the oil to USDA. Since then, the commenter has purchased the oil facilities of the other supplier. While two other small businesses now also supply the oil to USDA, the commenter retains the great majority of the sales to USDA. Consequently, the Committee does not believe that the current addition of an additional 5 percent of the supply requirement to the Procurement List will have a severe adverse impact on the commenter, even when the 1999 addition is taken into account.

Except as provided by the Regulatory Flexibility Act, 5 U.S.C. Chap. 6, the Committee is not required to assess the impact of its Procurement List additions on small businesses. Consequently, the commenter's claims in this area are not relevant to a Procurement List addition decision.

Committee fair market price determinations on USDA bulk food item procurements subject to the Procurement List are governed by a 1993 pricing procedure that establishes an annual fair market price under standard Committee procedures and permits monthly changes to that price based on negotiations between USDA and the nonprofit agency which take into account changing market conditions. Since 1993, the Committee has changed its general commodities pricing procedures to reflect a preference for negotiations generally as a means of assuring that its fair market prices reflect market conditions. Consequently, the pricing procedure used for vegetable oil is consistent with the Committee's general fair market pricing procedures for commodities and do not indicate a lack of Committee oversight as the commenter claimed. USDA's purchases of commodities such as vegetable oil are governed by a law commonly known as Public Law 480 and its implementing regulations. One of the principles of the regulations is that commodities purchased under the Public Law 480 program must be at the ''lowest landed cost,'' which, the commenter claimed, is not consistent with the Committee's pricing procedures. The commenter further claimed that the Committee's prices, which allegedly do not reflect the lowest landed cost, result in USDA having less money to achieve its objectives under Public Law 480.

USDA has informed the Committee that Public Law 480 is not inconsistent with the Committee's program. Furthermore, USDA is authorized to take into account factors other than lowest landed cost when buying such commodities as vegetable oil, particularly in connection with socioeconomic programs such as the Committee's program. USDA also indicated that its costs to buy vegetable oil through the Committee's program are not significantly increased over purchases from commercial suppliers, as any additional cost of dealing with the nonprofit agency is offset by not having to pay for replacement quantities, storage and transportation due to leakage and damaged containers, as USDA has done when dealing with commercial suppliers of vegetable oil.

The following material pertains to all of the items being added to the Procurement List. After consideration of

the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Hose, Fire, 4210–00–542–3480, Vegetable Oil, 8945–00–NSH–0001.

Services

Administrative Services, Building 8–1078, 1–3571, C–7417, 8–6643, Fort Bragg, North Carolina.

Call Center Services, Department of State, Bureau of Consular Affairs (Various location throughout USA), Washington, DC.

Food Service Attendant, Main Dining Facility—Building 3650, Expanded Flight Kitchen—Building 4507, Seymour Johnson AFB, North Carolina.

Janitorial/Custodial, U.S. Air Force Recruiting Station, Wasilla, Alaska.

Janitorial/Custodial, Veterans Affairs, Greater Los Angeles Healthcare System, East Los Angeles Out Patient Clinic, East Los Angeles, California.

Janitorial/Custodial, Social Security Administration, Western Program Center, 1221 Nevin Avenue, Richmond, California.

Janitorial/Custodial, Chateaugay Border Station, Chateaugay, New York.

Janitorial/Custodial, Defense Enterprise Computing Center (DECC), Buildings 308 and 309, Naval Supply Activity (NSA), Mechanicsburg, Pennsylvania.

Janitorial/Custodial, Veteran Affairs Building, 5000 Wissahickon Avenue, Philadelphia, Pennsylvania.

Janitorial/Custodial, Veterans Affairs Medical Center, Huntington, West Virginia.

Janitorial/Custodial, ATF Building, Martinsburg, West Virginia.

Ophthalmic Support Services, Yorktown Naval Weapons Station, Yorktown, Virginia.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Louis R. Bartalot,

Director, Program Analysis and Evaluation.

[FR Doc. 01–13819 Filed 5–31–01; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maryland Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 5 p.m. on Saturday, June 23, 2001, at the Government Office Building, Room 301, 125 N. Division Street, Salisbury, Maryland 21803. The purpose of the meeting is to: (1) Plan future activities, and (2) the Committee will hold a community forum to gather information on civil rights developments from representatives of minority groups and local government in Eastern Shore Maryland counties as part of its project entitled, ''Civil Rights Issues in Maryland Small Towns and Rural Areas: Forums in Southern, Eastern Shore, and Western Counties.''

Persons desiring additional information, or planning a presentation to the Committee, should contact Chairperson K. Patrick Okura, 301–530–0945, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 29, 2001.

Edward A. Hailes Jr.,

General Counsel.

[FR Doc. 01–13827 Filed 5–31–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, June 8, 2001, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of May 4, 2001 Meeting
III. Announcements
IV. Staff Director's Report
V. Staff Advisory Committee Report
- Delaware Citizens Guide to Civil Rights and Supporting Services (Delaware)

VI. Discussion of Report on Voting Irregularities Occurring in Florida During the 2000 Presidential Election
VII. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: David Aronson, Press and Communications (202) 376–8312.

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–13940 Filed 5–30–01; 1:22 pm]

BILLING CODE 6335–00–M

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Initiation of Five-Year (Sunset) Reviews

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

ACTION: Notice of Initiation of Five-Year (''Sunset'') Reviews.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year (''sunset'') reviews of the antidumping and countervailing duty orders listed below. The International Trade

Commission (''the Commission'') is publishing concurrently with this notice its notices of *Institution of Five-Year Reviews* covering these same orders.

FOR FURTHER INFORMATION CONTACT: James P. Maeder, or Martha V. Douthit, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–3330 or (202) 482–5050, respectively, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205–3176.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the ''Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''Department'') regulations are to 19 CFR part 351 (2001). Pursuant to sections 751(c) and 752 of the Act, an antidumping (''AD'') or countervailing duty (''CVD'') order will be revoked, or the suspended investigation will be terminated, unless revocation or termination would be likely to lead to continuation or recurrence of (1) dumping or a countervailable subsidy, and (2) material injury to the domestic industry.

The Department's procedures for the conduct of sunset reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Background

Initiation of Reviews

In accordance with 19 CFR 351.218 we are initiating sunset reviews of the following antidumping and countervailing duty orders:

DOC Case No.	ITC Case No.	Country	Product
A–588–838	A–739	Japan	Clad Steel Plate
A–475–818	A–734	Italy	Certain Pasta
C–475–819	A–365	Italy	Certain Pasta
A–489–805	A–735	Turkey	Certain Pasta
C–489–806	A–366	Turkey	Certain Pasta

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* (19 CFR 351.218) and *Sunset Policy Bulletin*, the Department's schedule of sunset reviews, case history information (*i.e.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset Internet website at the following address: *http://ia.ita.doc.gov/sunset/*.

All submissions in these sunset reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303. Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. The Department will make additions to and/or deletions from the service list provided on the sunset website based on notifications from parties and participation in this review. Specifically, the Department will delete from the service list all parties that do not submit a substantive response to the notice of initiation.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required from Interested Parties

Domestic interested parties (defined in 19 CFR 351.102) wishing to participate in these sunset reviews must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). We note that the Department considers each of the orders listed above as separate and distinct orders and, therefore, requires order-specific submissions. In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of sunset reviews.[1] Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: May 16, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–13683 Filed 5–31–01; 8:45 am]

BILLING CODE 3510–DS–P

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation, 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–834–806]

Postponement of Final Determination for Antidumping Duty Investigation: Certain Hot-Rolled Carbon Steel Flat Products From Kazakhstan

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

ACTION: Notice of extension of time limit for final determination in the antidumping duty investigation of certain hot-rolled carbon steel flat products from Kazakhstan.

SUMMARY: The Department of Commerce (''Department'') is extending the time limit for the final determination in the antidumping duty investigation of certain hot-rolled carbon steel flat products from Kazakhstan.

EFFECTIVE DATE: June 1, 2001.

FOR FURTHER INFORMATION CONTACT: Juanita H. Chen at 202–482–0409, or Rick Johnson at 202–482–3818, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations

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

Postponement of Final Determination and Extension of Provisional Measures

On May 3, 2001, the affirmative preliminary determination was published for the investigation of certain hot-rolled carbon steel flat products from Kazakhstan. See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products from Kazakhstan, 66 FR 22168 (May 3, 2001). Pursuant to section 735(a)(2) of the Act and section 351.210(b)(2)(ii) of the Department's regulations, on April 27, 2001, respondent OJSC Ispat Karmet (''Ispat Karmet'') requested that the Department extend the final determination for the full sixty days as permitted by the statute and regulations. On May 1, 2001, Ispat Karmet submitted a supplemental request that the Department extend provisional measures (i.e., suspension of liquidation) from a four month period to a period not to exceed six months, pursuant to 19 C.F.R. 351.210(e)(2).

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by petitioner. The Department's regulations, at 19 C.F.R. 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four month period to not more than six months.

In accordance with 19 C.F.R. 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) the respondent requesting a postponement accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting Ispat Karmet's request and are postponing the final determination to September 15, 2001, which is not later than 135 days after the publication of the preliminary determination in the **Federal Register**. Suspension of liquidation will be extended accordingly.

This notice of postponement is published pursuant to 19 C.F.R. 351.210(g).

Dated: May 24, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–13828 Filed 5–31–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 0104011088–1108-01; I.D. 030601D]

Endangered and Threatened Species; Finding for a Petition to Revise Critical Habitat for Northern Right Whales

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

ACTION: Notice of 90-day petition finding.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the receipt of a petition to revise critical habitat for northern right whales, *Eubalaena glacialis* and NMFS' finding that the petition presents substantial scientific information indicating that this action may be warranted.

DATES: NMFS is accepting comments on the petition through August 30, 2001.

ADDRESSES: Data, information, or comments concerning this petition should be submitted to Donna Wieting, Chief, Marine Mammal Division, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD, 20910. Comments will not be accepted if submitted via e-mail or Internet. The petition finding, supporting data, and comments are available for public inspection at the same address.

FOR FURTHER INFORMATION CONTACT: Mr. Brad Smith, NMFS, 222 West 7th Avenue, Anchorage, Alaska, 99517; telephone (907) 271–5006; fax (907) 271–3030 or Mr. Michael Payne, NMFS; telephone (907) 586–7235; fax (907) 586–7012.

SUPPLEMENTARY INFORMATION:

Background

On October 13, 2000, NMFS received a petition dated October 4, 2000, from the Center for Biological Diversity, P.O. Box 40090, Berkeley, CA, 94704–4090. The petitioner requests that NMFS amend the present critical habitat designation for northern right whales by designating an area within the southeastern Bering Sea as critical habitat.

Section 4(b)(3)(D) of the ESA, as amended (16 U.S.C. 1533(b)(3)(D)(i)), requires that NMFS make a finding on whether a petition to revise a designation of critical habitat presents substantial scientific information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If the finding is that substantial scientific information is presented, NMFS is required to promptly begin a status review of the species. Within 12 months of the date the petition is received, NMFS must make a determination on whether the petitioned action is warranted and must promptly publish this determination in the **Federal Register**.

This petition, based in part, on recent sightings of the North Pacific stock of this species in the southeastern Bering Sea, states that the vast majority of threats to these animals occur in this

area and that feeding and courtship behavior have been observed in the area.

There are three distinct populations of right whales inhabiting the North Pacific, North Atlantic and the Southern Hemisphere. Both the North Atlantic and North Pacific stocks have previously been described as a single species, *Eubalaena glacialis* (the northern right whale). Recent genetic studies provide evidence supporting species status for both North Atlantic and North Pacific right whales. NMFS will be conducting a review to determine whether the North Pacific stock should be reclassified as *Eubalaena japonica*.

The North Pacific stock is estimated to have once numbered at least 11,000 animals. These whales were heavily exploited by commercial whaling, and remain severely depleted. No reliable population estimate presently exists for this stock, although it is likely fewer than 500.

The North Pacific stock has historically occurred across the North Pacific, north of 35° N, with concentrations in the Gulf of Alaska, eastern Aleutian Islands, south-central Bering Sea, Sea of Okhotsk, and the Sea of Japan. Sightings of these whales have been rare and sporadic in recent times, although a small number of whales have been seen in the south-central Bering Sea each July since 1996. This petition is based largely on these repeated sightings, during which right whales were observed feeding and engaging in courtship behavior.

Critical habitat has been designated for northern right whales in the Atlantic Ocean, consisting of three areas off the northeastern and southeastern United States. The 1991 recovery plan for northern right whales recommended that a separate recovery plan be prepared for the North Pacific stock ''when population numbers are available,'' and that the plan identify habitats essential or important to survival and recovery. No such plan exists today, and critical habitat has not been identified for the North Pacific stock.

The area recommended by the petitioner for designation has been recognized as a region of the Bering Sea in which right whales have traditionally occurred. Based on commercial whaling information, summering grounds for right whales in the Bering Sea were principally located in a triangular area of the southeastern Bering Sea between Atka, St. Matthew, and Nunivak Island, lying largely within, and to the south of, the recommended critical habitat. The Bering Sea shelf is apparently still used as summer feeding areas for some right whales, as observed in 1997, when researchers collected plankton samples near feeding right whales in the southeastern Bering Sea, suggesting that these whales have shifted both their foraging ground, (from the shelf break and deeper waters) and their prey species.

In recent years, the Bering Sea has experienced large changes, attributed in part to climatic change which has resulted in a general warming pattern since the mid-1970s. Unusual blooms of phytoplankton have been noted here, and, in 1997, a large bloom occurred in the southeastern Bering Sea, which was associated with concentrations of feeding right whales. The petitioner, however, notes that the presence of these whales in subsequent years, when blooms were not evident, suggests that these waters provide productive foraging habitat under normal oceanic conditions as well.

The location of calving grounds for this stock is unknown. Breeding and calving of North Pacific right whales were assumed to have occurred during winter outside Alaskan waters. The recent observations of courtship behavior do not necessarily indicate that this area is used for breeding.

Response to Petition

NMFS has reviewed the petition, the literature cited in the petition, and other literature and available information. On the basis of that information, NMFS finds that the petition presents substantial scientific information indicating that the requested action may be warranted. NMFS's finding is based in part on our concurrence with petitioner's statement that recent sightings of this stock have occurred in the area, that this region of the Bering Sea experiences intensive use by commercial shipment and fishing vessels, and that the 1991 recovery plan for northern right whales recommended that this stock be protected through ''vigorous application of existing laws.''

Authority: 16 U.S.C. 1531, *et seq.*

Dated: May 25, 2001.

John Oliver,

Acting Deputy Assistant for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–13831 Filed 5–31–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050901F]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches

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

ACTION: Notice of issuance of modification and annual renewal of a letter of authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that a modification and annual renewal to a Letter of Authorization (LOA) to take small numbers of marine mammals incidental to rocket launches at Vandenberg Air Force Base (VAFB) and on the Northern Channel Islands has been issued to the 30th Space Wing, U.S. Air Force.

DATES: Effective from May 31, 2001, until May 31 2002.

ADDRESSES: The letter of authorization and supporting documentation are available for review during regular business hours at the following offices: Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3225, and the Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Simona P. Roberts, Office of Protected Resources, NMFS, (301) 713–2322, ext. 106, or Christina Fahy, Southwest Region, NMFS, (562) 980–4023.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued. Under the MMPA, the term ''taking'' means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill marine mammals.

Permission may be granted for periods up to 5 years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or

stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of seals and sea lions incidental to missile and rocket launches, aircraft flight test operations, and helicopter operations at Vandenberg were published on March 1, 1999 (64 FR 9930), and remain in effect until December 31, 2003.

In accordance with the MMPA, as amended, and implementing regulations, a 1-year LOA to take small numbers of seals and sea lions was issued on May 31, 2000, to the 30th Space Wing (65 FR 37361).

Summary of Request

On February 5, 2001, the 30th Space Wing, U.S. Air Force, requested a modification to their LOA issued on May 31, 2000. The letter requested modifications to the launch schedule and revisions to the LOA's current monitoring requirements, specifically: (1) to eliminate the number of launches specified for each type of launch vehicle (Titan II, Titan IV, Lockheed-Martin, Delta II, Taurus, Atlas, and Minotaur) to more accurately reflect the year to year variability of launch vehicle type; (2) to clarify that space launches occur from both North and South Vandenberg; (3) to increase the observation period prior to launches from 48 hours before any planned launch time to 72 hours before any planned launch time; (4) to include monitoring over a 2-week period during pupping season following any launches of government and commercial space vehicles, not just following Titan II and Titan IV launches as the current LOA requires; and, (5) to change the criterion for monitoring pinnipeds on the Northern Channel Islands from when sonic booms are predicted to be ''focused'' or greater than 2 pounds per square foot (psf) to criterion for monitoring pinnipeds on the Northern Channel Islands when predicted sonic booms are greater than 1 psf. A final modification request to conduct observations on harbor seal and other pinniped activity only during the harbor seal pupping season (March-June), as opposed to during any launch, was inconsistent with the 5-year programmatic implementing regulations (64 FR 9930). Due to this discrepancy, NMFS determined that this final request must be denied because it first requires modification of the current regulations governing space vehicle and test flight activities (50 CFR 216.120-128). In addition to these requested modifications to the launch schedule and monitoring requirements, the 30th Space Wing also requested renewal of their 1-year LOA for the year 2001-2002.

Comments

On March 19, 2001 (66 FR 15406) NMFS published a notice of proposed modification and annual renewal and a 30-day public comment period was provided on the proposed modifications and annual renewal. During the 30-day public comment period no comments were received.

Authorization

In recognition of the timely receipt and acceptance of the reports required under 50 CFR 216.125(d) and a determination that the mitigation measures required pursuant to 50 CFR 216.124 and the LOA have been undertaken, NMFS has renewed and made the requested modifications to the 1-year LOA. Issuance of this LOA is based on a finding that the total takings will have no more than a negligible impact on the seal and sea lion populations off the Vandenberg coast and on the Northern Channel Islands.

Dated: May 23, 2001.

Wanda L. Cain,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–13834 Filed 5–31–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness).

ACTION: Notice.

In compliance with the Paperwork Reduction Act of 1995, as amended, section 3506(c)(2)(A) of title 44, United States Code, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposal to renew public information collection forms and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed 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 by July 31, 2001.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness) Department of Defense Education Activity, 4040 N. Fairfax Drive, Arlington, VA 22203, Attn: Ms. Sara Riggs.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call at (703) 696–3067 ext. 2652.

Title, Associated Form, and OMB Control Number: Employment Opportunities for Educators; DS Forms 5010, 5011, 5012 and 5013; OMB Number 0704–0370.

Needs and Uses: The information collected by these forms concerns applicants for educator positions within the Department of Defense Dependent Schools. The information is used to verify employment history of educator applicants and to determine creditable previous experience for pay-setting purposes for candidates selected for educator positions. In addition, the information is used to ensure the selection for employment with the Department of Defense Dependents Schools or individuals possessing the abilities and personal traits that give promise of outstanding success under the unusual circumstances they will find working abroad. Information gathered is also used to ensure that the Department of Defense Dependents Schools personnel practices meet the requirements of Federal law. Completion of the forms is entirely voluntary.

Affected Public: Individuals or households.

Annual Burden Hours: 11,200.

Number of Respondents: 24,000.

Responses Per Respondent: 1.

Average Burden Per Response: 28 minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The primary objective of the information collection is to ensure a quality education from prekindergarten through grade 12 for the eligible minor dependents of the Department of Defense military and civilian personnel on official overseas assignments. This is accomplished by securing data from applicants for educational positions and officials with sufficient information to address an individual applicant's traits and characteristics.

The forms associated with this data collection are:

Department of Defense Dependents Schools Supplemental Application for Overseas Employment (DS Form 5010). The primary objective of this voluntary form is to ascertain an applicant's eligibility for educator positions.

Department of Defense Dependents Schools Professional Evaluation (DS Form 5011). This form is provided to officials in managerial and supervisory positions as a means of verifying abilities and personal traits of applicants for educator positions to ensure the selection of the best-qualified individuals to occupy educator positions.

Department of Defense Dependents Schools Voluntary Questionnaire (DS Form 5012). This voluntary form helps ensure that the Department of Defense Dependents Schools personnel practices meet the requirements of Federal law.

Department of Defense Dependents Schools Verification of Professional Educator Employment for Salary Rating Purposes (DS Form 5013). The purpose of this voluntary form is to verify employment history of educator applicants and to determine creditable previous experience for pay-setting purposes for selected candidates.

May 25, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–13750 Filed 5–31–01; 8:45 am]

BILLING CODE 5001–08–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: Defense Federal Acquisition Regulation Supplement (DFARS) Supplement Part 223, Environment, Conservation, and Occupational Safety, and Related Clauses at DFARS Part 252; OMB Number 0704–0272.

Type of Request: Extension.

Number of Respondents: 8,873.

Responses Per Respondent: 1.66.

Annual Responses: 14,726.

Average Burden Per Response: 0.68 hours.

Annual Burden Hours: 9,997.

Needs and Uses: This information collection requires that an offeror/contractor provide information in response to solicitation provisions and contract clauses in DFARS 252.223, excluding those provisions and clauses relating to a drug-free workplace (which are approved under OMB Control Number 0704–0336). DoD contracting officers use this information to: (1) Verify compliance with requirements for labeling of hazardous material; (2) Ensure contractor compliance and monitor subcontractor compliance with DoD 4145.26–M, DoD Contractors' Safety Manual for Ammunition and Explosives, and minimize risk of mishaps; (3) Identify the place of performance of all ammunition and explosives work; and, (4) Ensure contractor compliance and monitor subcontractor compliance with DoD 5100.76–M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives.

Affected Public: Business or Other For-Profit; Not-for-Profit Institutions.

Frequency: On Occasion.

Respondents Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. David M. Pritzker.

Written comments and recommendations on the proposed information collection should be sent to Mr. Pritzker 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: May 25, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–13747 Filed 5–31–01; 8:45 am]

BILLING CODE 5001–08–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 for information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Form, and OMB Number: Customer Comment Card; AF Form 3211; OMB Number 0701–0146.

Type of Request: Reinstatement.

Number of Respondents: 200.

Responses Per Respondent: 1.

Annual Responses: 200.

Average Burden Per Response: 5 minutes.

Annual Burden Hours: 17.

Needs and Uses: Each guest of Air Force Lodging and its contract lodging operations are provide access to AF Form 3211. The AF Form 3211 gives each guest the opportunity to comment on facilities and services received. Completion and return of the form is optional. The information collection is necessary for Wing leadership to assess the effectiveness of their lodging program. Respondents are authorized guests of Air Force Lodging.

Affected Public: Individuals or Households; Business or Other-For-Profit.

Frequency: On Occasion.

Respondents 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.

May 25, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–13748 Filed 5–31–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

MEDICARE–ELIGIBLE RETIREE HEALTHCARE BOARD OF ACTUARIES; MEETING

AGENCY: Department of Defense (DoD) Medicare-Eligible Retiree Health Care Board of Actuaries

ACTION: Notice of meeting.

SUMMARY: A meeting of the board has been scheduled to execute the provisions of Chapter 56, Title 10, United States Code (10 U.S.C. 1111 *et seq.*). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of benefits under DoD retiree health care programs for medicare-eligible beneficiaries. Persons desiring to: (1) Attend the DoD Medicare-Eligible Retiree Health Care Board of Actuaries meeting or, (2) make an oral presentation or submit a written statement for consideration at the meeting must notify Joel Sitrin at (703) 696–7412 by June 22, 2001. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: July 17, 2001, 1:00 p.m. to 5:00 p.m.

ADDRESSES: Hilton-Alexandria Mark Center, Plaza 1 Room, 5000 Seminary Rd., Alexandria, VA 22311.

FOR FURTHER INFORMATION CONTACT: Chris Doyle, Chief Actuary, DoD Office of the Actuary, 1555 Wilson Boulevard, Suite 701, Arlington, VA 22209–2405, (703) 696–7407.

Dated: May 25, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 01–13749 Filed 5–31–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Defense Commissary Agency

Privacy Act of 1974; System of Records

AGENCY: Defense Commissary Agency, DOD.

ACTION: Notice to add systems of records.

SUMMARY: The Defense Commissary Agency proposes to add two systems of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on July 2, 2001, unless comments received that would result in a contrary determination.

ADDRESSES: Defense Commissary Agency, 1300 E. Avenue, Fort Lee, VA 23801–1800.

FOR FURTHER INFORMATION CONTACT: Ms. Carole Marsh, Privacy Officer, at (804) 734–8841.

SUPPLEMENTARY INFORMATION: The Defense Commissary Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 522a(r) of the Privacy Act of 1974, as amended, was submitted on May 17, 2001, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 23, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Defense Commissary Agency

Requesting Records

Records are retried by name or by some other personal identifier. It is therefore especially important for expeditious service when requesting a record that particular attention be provided to the Notification and/or Access Procedures of the particular record system involved so as to furnish the required personal identifiers, or any other pertinent personal information as may be required to locate and retrieve the record.

Blanket Routine Uses

Certain 'blanket routine uses' of the records have been established that are applicable to every record system maintained within the Department of Defense unless specifically stated otherwise within a particular record system. These additional blanket routine uses of the records are published below only once in the interest of simplicity, economy and to avoid redundancy.

Law Enforcement Routine Use

In the event that a system of records maintained by this component to carry out its functions indicates violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign,charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Disclosure When Requesting Information Routine Use

A record from a system of records maintained by this component may be disclosed as a routine use to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

Disclosure of Requested Information Routine Use

A record from a system of records maintained by this component may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Congressional Inquiries Routine Use

Disclosure from a system of records maintained by this component may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

Private Relief Legislation Routine Use

Relevant information contained in all systems of records of the Department of Defense published on or before August 22, 1975, may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosures Required by International Agreements Routine Use

A record from a system of records maintained by this component may be disclosed to foreign law enforcement,

security, investigatory, or administrative authorities in order to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements including those regulating the stationing and status in foreign countries of Department of Defense military and civilian personnel.

Disclosure to State and Local Taxing Authorities Routine Use

Any information normally contained in IRS Form W–2 which is maintained in a record from a system of records maintained by this component may be disclosed to state and local taxing authorities with which the Secretary of the Treasury has entered into agreements pursuant to Title 5, U.S. Code, sections 5516, 5517, 5520, and only to those state and local taxing authorities for which an employee or military member is or was subject to tax regardless of whether tax is or was withheld. This routine use is in accordance with Treasury Fiscal Requirements Manual Bulletin Number 76–07.

Disclosure to the Office of Personnel Management Routine Use

A record from a system of records subject to the Privacy Act and maintained by this component may be disclosed to the Office of Personnel Management concerning information on pay and leave, benefits, retirement deductions, and any other information necessary for the Office of Personnel Management to carry out its legally authorized Government-wide personnel management functions and studies.

Disclosure to the Department of Justice for Litigation Routine Use

A record from a system of records maintained by this component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

Disclosure to Military Banking Facilities Overseas Routine Use

Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged, or retired from the Armed Forces, information as to last known residential or home of record address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated for the individual or the individual has defaulted on a loan and that if restitution is not made by the individual, the U.S. Government will be liable for the losses the facility may incur.

Disclosure of Information to the General Services Administration Routine Use

A record from a system of records maintained by this component may be disclosed as a routine use to the General Services Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Disclosure of Information to the National Archives and Records Administration Routine Use

A record from a system of records maintained by this component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Disclosure to the Merit Systems Protection Board Routine Use

A record from a system of records maintained by this component may be disclosed as a routine use to the Merit Systems Protection Board, including the Office of the Special Counsel for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service and other merit systems, review of OPM or component rules and regulations, investigation of alleged or possible prohibited personnel practices; including administrative proceedings involving any individual subject of a DoD investigation, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

Counterintelligence Purposes Routine Use

A record from a system of records maintained by this component may be disclosed as a routine use outside the DoD or the U.S. Government for the purposes of counterintelligence activities authorized by U.S. Law or Executive Order or for the purpose of enforcing laws which protect the national security of the United States.

ZIG 001

SYSTEM NAME:

Commissary Patron Inquiry, Complaint, Comment, and Suggestion Files.

SYSTEM LOCATION:

Office of the Inspector General, Defense Commissary Agency, 1300 E. Avenue, Fort Lee, VA 23801–1800.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patrons of the Commissaries who make inquiries, complaints, comments, or suggestions on it's operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Customer's name, address, telephone number, and e-mail address; information pertaining to the subject of inquiry, complaint, comment, or suggestion, and response thereto; customer opinion survey data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; and 10 U.S.C. 2482, Commissary stores: operation.

PURPOSE(S):

To aid the Defense Commissary Agency in determining needs of customers, responding to the customer's inquiries and comments, and determining action required to settle customer complaints.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' set forth at the beginning of the Defense Commissary Agency's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated and paper records stored in file folders and computerized database.

RETRIEVABILITY:

By customer's name, case number, e-mail address, and commissary.

SAFEGUARDS:

Paper and automated records are stored in rooms with restricted access in a secure building. In addition, access is

limited to the Inspector General staff in performance of their official duties.

RETENTION AND DISPOSAL:

Records are destroyed by shredding after 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Your Action Line Coordinator, Office of the Inspector General, Defense Commissary Agency, 1300 E. Avenue, Fort Lee, VA 23801–180.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Freedom of Information Act/Privacy Officer, Defense Commissary Agency, 1300 E. Avenue, Fort Lee, VA 23801–1800.

The request should contain the individual's full name, address, and telephone number. These items are necessary for the retrieval of information. Requests submitted on behalf of other persons must include their written authorization.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Freedom of Information Act/Privacy Officer, Defense Commissary Agency, 1300 E. Avenue, Fort Lee, VA 23801–1800.

The request should contain the individual's full name, address, and telephone number. These items are necessary for the retrieval of information. Requests submitted on behalf of other persons must include their written authorization.

CONTESTING RECORD PROCEDURES:

The Defense Commissary Agency's rules for accessing records, for contesting contents and appealing initial agency determinations are contained in Defense Commissary Agency Directive 30–13; 32 CFR part 327; or may be obtained from the Freedom Of Information Act/Privacy Officer at 1300 E. Avenue, Fort Lee, VA 23801–1800.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

ZGC 001

SYSTEM NAME:

General Counsel Case Files.

SYSTEM LOCATION:

Office of the General Counsel, Headquarters, Defense Commissary Agency (DeCa), ATTN: GC, 1300 E. Avenue, Fort Lee, VA 23801–1800.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who may or has filed a claim, a complaint or similar pleading or instituted litigation against the Defense Commissary Agency in a court or administrative body or in an established administrative dispute resolution procedure in which a Defense Commissary Agency employee or the Defense Commissary Agency is name as a defendant concerning matters under the cognizance of the General Counsel, Defense Commissary Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of the party bringing the action, home address, telephone number, location, type of case and other details including settlement and resolution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Department Regulations and 10 U.S.C. 2482, Commissary stores: operation.

PURPOSE(S):

The records are used to evaluate, adjudicate, defend, prosecute, or settle claims or lawsuits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Defense Commissary Agency's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated and paper records stored in file folders and computerized database.

RETRIEVABILITY:

Name of litigant or anticipated litigant and case number.

SAFEGUARDS:

Paper and automated records are stored in rooms with restricted access in a secure building. Access is limited to the General Counsel staff in performance of their official duties.

RETENTION AND DISPOSAL:

Records retained for six years after final action, then destroyed. Paper records are shredded.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Support Assistant, Office of the General Counsel, Headquarters, Defense Commissary Agency, 1300 E. Avenue, Fort Lee, VA 23801–1800.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Freedom of Information Act/Privacy Officer, Defense Commissary Agency, 1300 E. Avenue, Fort Lee, VA 23801–1800.

The request should contain the individual's full name, address, and telephone number. These items are necessary for the retrieval of information. Requests submitted on behalf of other persons must include their written authorization.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Freedom of Information Act/Privacy Officer, Defense Commissary Agency, 1300 E. Avenue, Fort Lee, VA 23801–1800.

The request should contain the individual's full name, address, and telephone number. These items are necessary for the retrieval of information. Requests submitted on behalf of other persons must include their written authorization.

CONTESTING RECORD PROCEDURES:

The Defense Commissary Agency's rules for accessing records, for contesting contents and appealing initial agency determinations are contained in Defense Commissary Agency Directive 30–13; 32 CFR part 327; or may be obtained from the Freedom of Information Act/Privacy Officer at 1300 E. Avenue, Fort Lee, VA 23801–1800.

RECORD SOURCE CATEGORIES:

From all sources with information which may impact upon actual or anticipated litigation, e.g., administrative boards, other record systems within DeCA, DoD, and third parties who provide information voluntarily or in response to discovery.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–13751 Filed 5–31–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB) Analysis Panel.

Date of Meeting: 4 June 2001.

Time of Meeting: 0800–1700.

Place: Ft. Belvoir.

Agenda: The Army Science Board's (ASB) Summer Study 2001 Analysis Panel will meet for briefings and discussions. These meetings will be partially open to the public. Any interested person may attend, appear before, or file statements with the Panel at the time and manner permitted by the Panel. The classified portions of these meetings will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). For further information, please contact Karen Williams at (407) 384–3937.

Wayne Joyner,

Executive Assistant, Army Science Board.

Analysis Panel Ft. Belvoir JVB Site Visit; 4 June 01, Agenda

4 June—Ft. Belvoir

0900–1200 JBV Review; Unclassified—Open
1200–1300 Lunch
1300–1400 JFCOM/JCATS for NKT; Secret
1400–1500 Executive Session; Unclassified—Open

[FR Doc. 01–13763 Filed 5–31–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of an Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB)—Power Panel.

Date of Meeting: 12 June 2001.

Time of Meeting: 0800–1600, 12 June 2001.

Place: Natich, Ma.

Agenda: The Army Science Board's (ASB) Summer Study Panel—Power will meet for discussions on the study subject. Any interested person may attend, appear before, or file statements with the committee at the time and manner permitted by the committee. These meetings will be open to the public. For further information, please contact LTC Thomas A. McWhorter. (757) 788–2859.

Wayne Joyner,

Executive Assistant, Army Science Board.

[FR Doc. 01–13764 Filed 5–31–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency; Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to alter a system of records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on July 2, 2001 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–C, 8725 John J. Kingman Road, Suite 2533, Fort Belvior, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 17, 2001, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 23, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.50 DMDC

SYSTEM NAME:

Defense Eligibility Records (May 19, 1999, 64 FR 27238).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add '100 percent disabled veterans and their dependents or survivors' and 'contractors' to the entry.

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to entry 'disability documentation'.

* * * * *

S322.50 DMDC

SYSTEM NAME:

Defense Eligibility Records.

SYSTEM LOCATION:

Primary location: Naval Postgraduate School Computer Center, Naval Postgraduate School, Monterey, CA 93943–5000.

Back-up location: Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Armed Forces and reserve personnel and their family members; retired Armed Forces personnel and their family members; 100 percent disabled veterans and their dependents or survivors; surviving family members of deceased active duty or retired personnel; active duty and retired Coast Guard personnel and their family members; active duty and retired Public Health Service personnel (Commissioned Corps) and their family members; active duty and retired National Oceanic and Atmospheric Administration employees (Commissioned Corps) and their family members; and State Department employees employed in a foreign country and their family members; civilian employees of the Department of Defense; contractors; and any other individuals entitled to care under the health care program or to other DoD benefits and privileges; providers and potential providers of health care; and any individual who submits a health care claim.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer files containing beneficiary's name, Service or Social Security Number, enrollment number, relationship of beneficiary to sponsor, residence address of beneficiary or sponsor, date of birth of beneficiary, sex of beneficiary, branch of Service of sponsor, dates of beginning and ending eligibility, number of family members of sponsor, primary unit duty location of

sponsor, race and ethnic origin of beneficiary, occupation of sponsor, rank/pay grade of sponsor, disability documentation, index fingerprints and photographs of beneficiaries, blood test results, dental care eligibility codes and dental x-rays.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. Chapters 53, 54, 55, 58, and 75; 10 U.S.C. 136; 31 U.S.C. 3512(c); 50 U.S.C. Chapter 23 (Internal Security); DoD Directive 1341.1, Defense Enrollment/Eligibility Reporting System; DoD Instruction 1341.2, DEERS Procedures; and E.O. 9397 (SSN).

PURPOSE(S):

The purpose of the system is to provide a database for determining eligibility to DoD entitlements and privileges; to support DoD health care management programs; to provide identification of deceased members; to record the issuance of DoD badges and identification cards; and to detect fraud and abuse of the benefit programs by claimants and providers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services; Department of Veterans Affairs; Department of Commerce; Department of Transportation for the conduct of health care studies, for the planning and allocation of medical facilities and providers, for support of the DEERS enrollment process, and to identify individuals not entitled to health care. The data provided includes Social Security Number, name, age, sex, residence and demographic parameters of each Department's enrollees and family members.

To the Social Security Administration (SSA) to perform computer data matching against the SSA Wage and Earnings Record file for the purpose of identifying employers of Department of Defense (DoD) beneficiaries eligible for health care. This employer data will in turn be used to identify those employed beneficiaries who have employment-related group health insurance, to coordinate insurance benefits provided by DoD with those provided by the other insurance. This information will also be used to perform computer data matching against the SSA Master Beneficiary Record file for the purpose of identifying DoD beneficiaries eligible for health care who are enrolled in the Medicare Program, to coordinate insurance benefits provided by DoD with those provided by Medicare.

To other Federal agencies and state, local and territorial governments to identify fraud and abuse of the Federal agency's programs and to identify debtors and collect debts and overpayment in the DoD health care programs.

To each of the fifty states and the District of Columbia for the purpose of conducting an on going computer matching program with state Medicaid agencies to determine the extent to which state Medicaid beneficiaries may be eligible for Uniformed Services health care benefits, including CHAMPUS, TRICARE, and to recover Medicaid monies from the CHAMPUS program.

To provide dental care providers assurance of treatment eligibility.

The DoD 'Blanket Routine Uses' published at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tapes and disks, and are housed in a controlled computer media library.

RETRIEVABILITY:

Records about individuals are retrieved by an algorithm which uses name, Social Security Number, date of birth, rank, and duty location as possible inputs. Retrievals are made on summary basis by geographic characteristics and location and demographic characteristics. Information about individuals will not be distinguishable in summary retrievals. Retrievals for the purposes of generating address lists for direct mail distribution may be made using selection criteria based on geographic and demographic keys.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, guards, administrative procedures (e.g., fire protection regulations).

Access to personal information is restricted to those who require the records in the performance of their official duties, and to the individuals who are the subjects of the record or their authorized representatives. Access to personal information is further restricted by the use of passwords which are changed periodically.

RETENTION AND DISPOSAL:

Disposition pending.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, DSS–C, 8725 John J. Kingman Road, Suite 2533 Fort Belvoir, VA 22060–6221.

Written requests for the information should contain full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location.

For personal visits the individual should be able to provide full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location. Identification should be corroborated with a driver's license or other positive identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, DSS–C, 8725 John J. Kingman Road, Suite 2533 Fort Belvoir, VA 22060–6221.

Written requests for the information should contain full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location.

For personal visits the individual should be able to provide full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location. Identification should be corroborated with a driver's license or other positive identification.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–C, 8725 John J. Kingman

Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Individuals, personnel pay, and benefit systems of the military and civilian departments and agencies of the Defense Department, the Coast Guard, the Public Health Service, Department of Commerce, the National Oceanic and Atmospheric Administration, Department of Commerce, and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–13752 Filed 5–31–01; 8:45 am]

BILLING CODE 5001–08–U

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency.

ACTION: Notice to alter systems of records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on July 2, 2001 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–C, 8725 John J. Kingman Road, Suite 2533, Fort Belvior, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 17, 2001, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 23, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S400.20 CA

SYSTEM NAME:

Day Care Facility Registrant and Applicant Records (July 25, 1997, 62 FR 40053).

CHANGES:

* * * * *

SYSTEM IDENTIFIER:

Delete 'CA' from entry.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'The system contains the registrant's or applicant's name, Social Security Number and birth data; home and emergency addresses; medical, dental, and insurance provider data; medical examination reports, health assessments, and screening results; immunization, allergy, medication, and injury records; physical abilities and limitations; physical, emotional, or other special care requirements; transportation requirements and schedules; parental disabilities, impairments, or special needs; authorization, consent, and agreement forms; incident reports; and sponsor, escort, and emergency contact name and data to include physical and electronic addresses and work, home, cell, and pager telephone numbers. The records may include family background, cultural, and ethnic data such as religion, native language, and family composition for cultural and social enrichment activities. For fee assessment purposes, the application records also include family income data'.

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Enrollee records involving no serious accident or injury requiring emergency medical records are destroyed 1 year after enrollee withdraws from the program. Enrollee records involving a serious accident or injury requiring emergency medical records are destroyed 3 years after the incident or after the enrollee withdraws from the program, whichever is later.'

* * * * *

S400.20

SYSTEM NAME:

Day Care Facility Registrant and Applicant Records.

SYSTEM LOCATION:

Defense Logistics Agency Primary Level Field Activities.

fficial mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and their sponsors who are enrolled in, or have applied for admission to, DLA-managed day care facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the registrant's or applicant's name, Social Security Number and birth data; home and emergency addresses; medical, dental, and insurance provider data; medical examination reports, health assessments, and screening results; immunization, allergy, medication, and injury records; physical abilities and limitations; physical, emotional, or other special care requirements; transportation requirements and schedules; parental disabilities, impairments, or special needs; authorization, consent, and agreement forms; incident reports; and sponsor, escort, and emergency contact name and data to include physical and electronic addresses and work, home, cell, and pager telephone numbers. The records may include family background, cultural, and ethnic data such as religion, native language, and family composition for cultural and social enrichment activities. For fee assessment purposes, the application records also include family income data.

Note: Any and all information relating to an individual's religious preference or religious activity is collected and maintained only if the individual has made an informed decision to voluntarily provide the information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental regulations; 5 U.S.C. 302, Delegation of authority; 10 U.S.C. 133, Under Secretary of Defense for Acquisition, Technology, and Logistics; 10 U.S.C. 2809 and 2812, Military construction of child care facilities; 42 U.S.C. Chap. 127, Coordinated services for children, youth, and families; 40 U.S.C. 490b, Child care services for Federal employees; 42 U.S.C. Chap. 67, Child abuse programs; Pub. L. 101–189, Title XV, Military Child Care Act of 1989; E.O. 9397 (SSN); and DoD Instruction 6060.2, Child Development Programs.

PURPOSE(S):

To provide day care services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To physicians, dentists, medical technicians, hospitals, or health care providers in the course of obtaining emergency medical attention.

To federal, state, and local officials involved with child care or health services for the purpose of reporting suspected or actual child abuse.

The DoD 'Blanket Routine Uses' set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

STORAGE:

Records are stored in paper and computerized form.

RETRIEVABILITY:

Retrieved by registrant's or applicant's name or Social Security Number, and sponsor's name or Social Security Number.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA personnel who must access the records to perform their official duties.

The computer files are password protected with access restricted to authorized users.

RETENTION AND DISPOSAL:

Enrollee records involving no serious accident or injury requiring emergency medical records are destroyed 1 year after enrollee withdraws from the program. Enrollee records involving a serious accident or injury requiring emergency medical records are destroyed 3 years after the incident or after the enrollee withdraws from the program, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director, DLA Support Services Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, and the Commanders of the Defense Logistics Agency (DLA) Primary Level Field Activities (PLFAs). Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, HQ DLA, ATTN: DSS–C, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, or the Privacy Act Officer of the particular DLA PLFA involved.

Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Privacy Act Officer, HQ DLA, ATTN: DSS–C, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, or the Privacy Act Officer of the particular DLA PLFA involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–C, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Information is provided by the registrant or the registrant's sponsor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–13753 Filed 5–31–01; 8:45 am]

BILLING CODE 5001–08–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Wednesday, June 6, 2001. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission offices at 25 State Police Drive, West Trenton, New Jersey.

The conference among the Commissioners and staff will begin at 9:30 a.m. Topics of discussion will include a report on the Comprehensive Plan Workshop of the Commission's Watershed Advisory Council; summaries of the PCB Model Expert Panel meeting on May 18, 2001 and the Toxics Advisory Committee meeting of May 31, 2001; a report on recent meetings of the Monitoring Advisory Committee, and an update on the Delaware Estuary Program.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include, in addition to the dockets listed below, a resolution to adopt the 2001 Water Resources Program.

The dockets scheduled for public hearing are as follows:

1. *Borough of Hampton D–74–8 CP Renewal.* A ground water withdrawal renewal project to supply up to 6.6 million gallons (mg)/30 days of water to be applicant's public water distribution system from Wells Nos. 1 and 3 in the Kittatinny Formation, and Well No. 4 in the Pre-Cambrian Formation. The applicant requests to retain the total withdrawal limit of all wells at 6.6 mg/30 days. The project is located in Hampton Borough, Hunterdon County, New Jersey.

2. *Merrill Creek Owners Group D–77–110 CP (Amendment 13)* A resolution to amend Table A (Revised) of Docket No. D–77–110 CP (Amendment 12) to include the addition of the AES Ironwood, L.L.C. facility in South Lebanon Township, Lebanon County, Pennsylvania as a ''Designated Unit''. The AES Ironwood, L.L.C. project is a 700 MW independent power project approved via Docket D–97–45 on April 21, 1998, and the project is subject to curtailment unless its consumptive water use during DRBC lower basin drought conditions can be made up by releases from storage. The Merrill Creek reservoir will provide the storage and is located in Harmony Township, Warren County, New Jersey.

3. *Philadelphia Suburban Water Company D–90–50 CP Renewal.* A ground water withdrawal renewal project is supply up to 92 mg/30 days of water to the applicant's public water distribution system from existing Wells Nos. 1 through 10. Wells Nos. 1 through 6 are completed a dolomite; Wells Nos. 7 through 10 are completed in gneiss. No increase in allocation is proposed. The project wells are located in East Caln, West Whiteland and Upper Uwchlan Townships, Chester County, Pennsylvania. Wells Nos. 3, 4, 5 and 6 are located in the Southeastern Pennsylvania Ground Water Protected Area.

4. *Audubon Water Company D–97–43 CP.* A ground water withdrawal

project to supply up to 9.3 mg/30 days of water to the applicant's distribution system from new Wells Nos. 1 and 2, and to retain the existing withdrawal limit from all wells at 42.0 mg/30 days. The project is located in Lower Providence Township, Montgomery County in the Southeastern Pennsylvania Ground Water Protected Area.

5. *City of Gloucester D–2000–20 CP.* A project to dredge the Delaware River in Water Quality Zone 4 off Jersey Avenue in Gloucester City, Gloucester County, New Jersey, for the construction of Proprietors Park riverwalk and marina adjacent to the existing riverfront park. The proposed floating dock marina will serve 24 boats up to 24 feet long. A fixed breakwater will be installed to protect the marina from ice and waves generated by passing ships. A 75-foot long T-shaped fishing pier also will be constructed, and the existing 17-space parking lot will be expanded to accommodate 34 vehicles.

6. *Binney & Smith, Inc. D–2000–33.* A project to increase the combined total withdrawal of groundwater from 14 mg/30 days to 16 mg/30 days to continue to serve the applicant's corporate offices and manufacturing facilities from Wells Nos. 1 and 4 in the Epler Formation. Approximately 98 percent of the water is used for non-contact cooling and will continue to be returned to the groundwater table via existing injection Well No. 2. The project is located in Forks Township, Northampton County, Pennsylvania.

7. *Montgomery County Geriatric Center D–2000–40.* A ground water withdrawal project to supply up to 1.5 mg/30 days of water to the applicant's residential community water supply system from new Well No. 4 in the Brunswick Formation, and to establish a withdrawal limit from all wells of 80 mg/30 days. The project is located in Upper Providence Township, Montgomery County in the Southeastern Pennsylvania Ground Water Protected Area.

8. *Philadelphia Suburban Water Company D–2000–48 CP.* A ground water withdrawal project to supply up to 8 mg/30 days of water to the applicant's public water distribution system from new Deer Run Well No. 1 and Grandstaff Wells Nos. 1 and 2 in the Anorthosite Formation, and to retain the withdrawal limit from all wells at 8 mg/30 days. The project is located in Honey Brook Township, Chester County in the Southeastern Pennsylvania Ground Water Protected Area.

9. *Redpack Foods, Inc. D–2000–58.* A ground water withdrawal project to supply up to 18 mg/30 days of water to the applicant's vegetable processing facility from new Wells Nos. 2 and 6 in the Cohansey Aquifer, and to establish a withdrawal limit from all wells of 18 mg/30 days. The project is located in Lawrence Township, Cumberland County, New Jersey.

10. *Citizens Utilities Water Company of Pennsylvania D–2000–71 CP.* A project to transfer up to 0.33 million galls per day (mgd) of potable water to the applicant's public water distribution system via the Rose Hills interconnection with the Western Berks Water Authority, which is located near the intersection of Firethorn Lane and State Hill Road in Sinking Spring Borough, Berks County, Pennsylvania. The transfer will enable the applicant to provide an additional source of potable water to continue its service of portions of Lower Heidelberg and Spring Townships, Berks County, Pennsylvania.

11. *Upper Bern Township D–2001–2 CP.* A project to construct a new 0.055 mgd sewage treatment plant (STP) to serve the Village of Shartlesville area of Upper Bern Township, Berks County, Pennsylvania. The proposed STP will replace failing on-lot disposal systems and provide advanced secondary treatment via sequencing batch reactor and chemical additional processes. Treated effluent will be discharged to Wolf Creek in the Northkill Creek watershed. The project is located approximately 2,000 feet south of the intersection of Interstate 78 (U.S. Route 22) and Wolf Creek as found on the Auburn, PA USGS quad map.

12. *University of Delaware D2001–11 CP* A ground water withdrawal project to supply up to 3.24 mg/30 days of water to the applicant's boiler/air conditioning system (Central Utility Plant) from new Well CUP, in the Columbia Aquifer. The project well is located in the White Clay Creek watershed in the City of Newark, New Castle County, Delaware.

13. *Municipal Authority of the Borough of Orwigsburg D–2001–14 CP.* An application to upgrade and expand a contact stabilization sewage treatment plant (STP) from 0.6 mgd to 0.9 mgd to provide high quality secondary treatment of 0.9 mgd via a vertical loop reactor, oxidation ditch process. The project will continue to serve approximately 4,000 residents of Orwigsburg Borough, Schuylkill County, Pennsylvania. The plant is located in North Manheim Township at the northwest corner of the intersection of State Highway 61 and Legislative Route 53011. STP effluent will continue to be discharged to Mahannon Creek in the Schuylkill River watershed.

In addition to the public hearing, the Commission will address the following at its 1:30 p.m. business meeting: minutes of the April 19, 2001 business meeting; announcements; report on hydrologic conditions; reports by the Executive Director and General Counsel; public dialogue; and resolutions (1) extending and modifying Resolution No. 99–23 establishing the Watershed Advisory Council; (2) extending the Commission's contract with RESOLVE, Inc. to provide facilitation services at a July meeting of the Watershed Advisory Council; (3) authorizing the Executive Director to enter into an agreement with the U.S. Army Corps of Engineers to update the basin Daily Flow Model; (4) amending Resolution No. 2000–17 to allow the DRBC to provide in-kind services as partial match for Section 22 funds under the Commission's contract with the U.S. Army Corps of Engineers for a Lehigh River Instream Flow Study; (5) authorizing the Executive Director to enter into an agreement with an independent laboratory for ambient surface water sampling and analysis for conventional pollutants in the non-tidal lower Delaware River over a period of three years; (6) extending the Commission's April 1999 contract with the Northeast-Midwest Institute; and (7) providing for election of the office of Chair, Vice Chair and Second Vice Chair for the Year 2001–2002, commending July 1, 2001.

Documents relating to the dockets and other items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883–9500 ext. 221 with any docket-related questions. Persons wishing to testify at this hearing are requested to register in advance with the Secretary at (609) 883–9500 ext. 203.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who wish to attend the hearing should contact the Commission Secretary, Pamela M. Bush, directly at (609) 883–9500 ext 203 or through the New Jersey Relay Service at 1–800–852–7899 (TTY) to discuss how the Commission may accommodate your needs.

Pamela M. Bush,

Commission Secretary and Assistant General Counsel.

[FR Doc. 01–13765 Filed 5–31–01; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The 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 July 3, 2001. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before July 31, 2001.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503.

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 Leader, Regulatory Information Management, 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: May 25, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: New.

Title: Child Care Provider Loan Forgiveness Application and Forgiveness Forbearance Forms.

Abstract: The Child Care Provider Loan Forgiveness Application is used to determine whether borrowers meet the eligibility requirements for the Child Care Provider Loan Forgiveness Program. This is a demonstration program administered on a first-come, first-serve basis (subject to the availability of funds). It is intended to bring more highly trained individuals into the early child care field for longer periods. Under the program, individuals who work full-time in certain child care facilities that serve low-income families and meet other qualifications may be eligible to have up to 100% of their Direct Loan and/or Federal Family Education Loan (FFEL) program loan forgiven. The Child Care Provider Loan Forgiveness Forbearance Form is required to comply with program guidance that provides forbearance for child care providers and to determine the child care providers eligibility for forbearance.

Additional Information: Appropriations were only funded this January for these benefits which are meant to enhance the child care field. Funds must be obligated by the end of September, hence the need for this emergency clearance time schedule.

Frequency: Annually.

Affected Public: Individuals or household; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,790.

Burden Hours: 385.

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, D.C. 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 via 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. 01–13702 Filed 5–31–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Golden Field Office; State Energy Efficiency and Renewable Energy Activities

AGENCY: U.S. Department of Energy.

ACTION: Notice of Solicitation for Competitive Financial Assistance Applications.

SUMMARY: The U.S. Department of Energy (DOE) is announcing a competitive solicitation, DE–PS36–01GO90012, for applications for cooperative agreements with States to pursue energy efficiency and renewable energy activities which include, but are not limited to conducting or managing: (1) Resource, technology, and marketing assessments, program evaluation and management; (2) Equipment loan programs; (3) Workshops, conferences, or stakeholder meetings; (4) On-site technology evaluations, economic and feasibility studies for site specific technologies, environmental analysis of projects and actions to overcome developmental barriers to Energy Efficiency and Renewable Energy (EERE) energy technologies; (5) Brochures, manuals, publications, web-based outreach, video presentations, fact sheets, press releases; (6) Media events, marketing and promotional events, exhibit booths, distribution of materials; (7) Demonstration projects and state-level stakeholder coordination.

DATES: The solicitation will be issued in May 2001. The formal solicitation document, which includes greater detail on application instructions, due dates and evaluation criteria, will be available on the Golden Field Office website.

ADDRESSES: To obtain a copy of the solicitation once it is issued, interested parties must access the DOE Golden Field Office Home Page at http://www.golden.doe.gov/businessopportunities.html, click on ''Solicitations.'' And then locate the solicitation number identified above. DOE does not intend to issue written copies of the solicitation.

FOR FURTHER INFORMATION CONTACT: Matthew Barron, Contracting Officer, DOE Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393 or facsimile to (303) 275–4788, or electronically to matt_barron@nrel.gov. Responses to questions will be made by Amendment and posted on the DOE Golden Field Office Home Page.

SUPPLEMENTARY INFORMATION: The objective of this solicitation is to award cooperative agreements to State Energy Offices that will support deploying projects under the following DOE energy technology initiatives (this list of EERE programs is not all inclusive): (1) Wind Energy; (2) Geothermal Energy; (3) Biomass Energy; (4) Distributed Energy Resources (DER); (5) Solar Energy; (6) Community Energy Partnerships; (7) Federal Energy Management; (8) Residential Energy Savings Program; (9) Alternative Transportation Fuels Program; (10) Industrial Energy Program.

Proposals will be subject to the objective merit review procedures for the Office of Energy Efficiency and Renewable Energy. Eligibility for this assistance is restricted to Governor-designated State Energy Offices. For individual projects subsequently awarded, selected applicants may enter teaming or partnership agreements with industry, DOE national laboratories, institutions of higher education, non-profit organizations and Native American organizations.

Issued in Golden, Colorado, on May 22, 2001.

Jerry L. Zimmer,

Director, Office of Acquisition and Financial Assistance.

[FR Doc. 01–13746 Filed 5–31–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Federal Energy Management Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting correction.

On May 15, 2001, the Department of Energy published a notice of open meeting announcing a meeting of the Federal Energy Management Advisory Committee 66 FR 26846. In that notice, the second session was scheduled from 6–7:30 p.m.. Today's notice is announcing that the second session will begin at 5 p.m. and adjourn at 7 p.m.

Issued in Washington, DC on May 29, 2001.

Belinda G. Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–13826 Filed 5–31–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–366–000]

Columbia Gas Transmission Corporation; Notice of Filing

May 25, 2001.

Take notice that on May 16, 2001, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed in Docket No. CP01–366–000 an abbreviated application pursuant to Section 7 of the Natural Gas Act (NGA) and the Commission's Rules and Regulations for a certificate of public convenience and necessity authorizing Columbia to abandon by sale certain natural gas facilities, designated as the CHEWP System, located in West Virginia and Pennsylvania (facilities) and abandonment authorization for the various services provided through the facilities to be sold. Further, Columbia requests that the Commission determine the facilities be exempt from Commission jurisdiction, except in those limited cases where incidental deliveries will be made by the buyer to certain Local Distribution Companies (LDC's), all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may be viewed at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Columbia states that the facilities have been offered for sale by public auction. Additionally, Columbia states that the sale of the facilities will be conditioned on the buyer's continued service to the current customers under items acceptable to both the buyer and the customers. As a result of this condition, Columbia contends that there will be no material change to, or interruption in, the services currently being provided through the facilities. Columbia is not proposing any construction or facility removal in connection with the proposed abandonment. Columbia states that it will require the buyer to install custody transfer meters at or near points of interconnection between Columbia's facilities to be retained and those being sold.

Columbia states that upon sale and transfer of the facilities to the buyer, the facilities will, among other things, continue to be used for incidental delivery of gas to LDC customers currently receiving service through the facilities. Under the present operating conditions, locally produced gas is received into the facilities and transported to Columbia's mainline transmission system. The facilities are also used to provide service to the LDCs, as well as mainline tap customers. At current production rates, Columbia states that the gas supply in certain parts of the system is insufficient to meet the demand, especially during periods of high demand, such as winter heating season. In order to maintain service to those customers, Columbia states that it backflows gas from its main transmission system into the facilities to satisfy any gas shortfalls. Columbia notes that it is not requesting that the Commission issue a limited jurisdiction certificate authorizing the buyer's incidental use of the facilities, but that it believes such a certificate may be required by the buyer to continue such deliveries. Therefore, Columbia is providing such information to familiarize the Commission with the operation of the facilities in anticipation that the buyer will file an application for such an order.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 15, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Any questions regarding the application should be directed to V.J. Hamilton, Certificate Coordinator, Columbia Gas

Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325–1273, telephone (304) 357–2297.

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by everyone of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order at a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the proposal is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 01–13727 Filed 5–31–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP98–150–000 and CP98–151–000]

Millennium Pipeline Company, LP, Columbia Gas Transmission Corporation; Notice of Site Visit

May 25, 2001.

From Monday, June 4 through Wednesday June 6, 2001, the Federal Energy Regulatory Commission staff will conduct a site visit of an alternative route along and within the Consolidated Edison of New York, Inc. (ConEd) electric transmission and the Taconic State Parkway rights-of-way. This alternative is referred to as the ConEd Offset/Taconic Alternative and is between approximate mileposts 391.2 and 404.1 of the proposed Millennium Pipeline Project.

We will meet at the following locations on these dates and times:

- Jane E. Lytle Memorial Arboretum parking area (go through the Hudson National Golf Course on Lounsbury Road, Croton-on-Hudson, New York) on June 4, 2001, at 12 noon; and
- Teatown Lake Reservation Nature Center, 1600 Spring Valley Road, Ossining, New York, on June 5, 2001, at 9 am and will continue along the ConEd Offset/Taconic Alternative.

For further information call the Office of External Affairs, at (202) 208–0004.

David P. Boergers,

Secretary.

[FR Doc. 01–13728 Filed 5–31–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–233–003]

Southern Natural Gas Company; Notice of Petition To Amend Order Issuing Certificate and Approving Abandonment

May 25, 2001.

Take notice that on May 18, 2001, Southern Natural Gas Company (Southern), AmSouth-Sonat Tower, 1900 Fifth Avenue North, Birmingham, Alabama 35203, in Docket No. CP00–233–003, filed an application pursuant to Section 7 of the Natural Gas Act (NGA) and the Commission's Rules and Regulations, for a petition to amend an order, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Southern states that it is making this petition in order to amend the Order Issuing Certificate and Approving Abandonment (Certificate Order) issued in this proceeding on March 15, 2001.[1] Southern states that the Certificate Order authorized the construction and operation of the facilities commonly referred to as Southern's South System Expansion Project. Southern states that it seeks approval of a change in the size of certain of the loop pipelines to be added to Southern's South System. Southern states that it proposes to substitute 36-inch pipe for certain of the 30-inch pipe authorized in the Certificate Order. As indicated by Southern, this change will reduce the estimated cost of the South System Expansion Project by $1.1 million and will reduce the miles of new pipeline required for the project by approximately eight (8) miles.

More specifically, Southern states that it is requesting the Commission issue an order amending the Certificate Order changing the pipe size from 30-inch O.D. to 36-inch O.D. for the indicated pipeline loop segments and changing their lengths as follows:

Loop 1: 4.75 miles of pipeline in Clarke County, Mississippi between Mileposts (MP) 67.23 and MP 71.98 (Phase I) and 3.95 miles of pipeline in Clarke County, Mississippi, between MP 71.98 and MP 75.93 (Phase II).

Loop 2: 3.56 miles of pipeline in Sumter County, Alabama, between MP 102.85 and MP 106.41 (Phase I) and 9.33 miles of

[1] Southern Natural Gas Company, 94 FERC ¶ 61,297 (2001).

pipeline in Sumter County, Alabama, between MP 106.41 and MP 115.74 (Phase II).

Loop 4: 5.99 miles of pipeline in Dallas and Autauga Counties, Alabama, between MP 185.16 and 191.15 (Phase I) and 6.71 miles of pipeline in Autauga County, Alabama, between MP 191.15 and 197.87 (Phase II). Also, the 12-inch pipeline authorized to be abandoned and removed to facilitate the installation of the new pipeline will change to 5.99 miles between MP 185.16 and 191.15 (Phase I) and 4.09 miles between MP 193.16 and MP 194.77; MP 195.09 and MP 197.27; and MP 197.57 and MP 197.87 (Phase II).

Any questions regarding the application should be directed to R. David Hendrickson, Assistant Secretary, Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202–2563, call (205) 325–7114.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before June 15, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, interventions 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.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–13730 Filed 5–31–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–368–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application

May 25, 2001.

Take notice that on May 18, 2001, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, in Docket No. CP01–368–000 filed an application pursuant to Section 7(b) of the Natural Gas Act (NGA) and the Commission's Rules and Regulations, for permission and approval for Transco to abandon certain pipeline facilities located in offshore and onshore Louisiana, which are part of the Central Louisiana Gathering System, by transfer to Williams Gas Processing-Gulf Coast Company, L.P. (WGP), an affiliate of Transco, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). WGP is concurrently filing a Petition requesting that the Commission declare the subject facilities exempt gathering pursuant to Section 1(b) of the Natural Gas Act.

Transco states that Commission authorization for abandonment of the subject gathering facilities to WGP is in the public convenience and necessity because the proposed abandonment will facilitate Transco's transition to providing unbundled services by eliminating facilities unnecessary to Transco's redefined role without detriment to those jurisdictional services that Transco provides to its existing customers. Transco states that abandonment will allow WGP to own and manage those facilities which perform a gathering function as a separate, stand-alone company focused on providing gathering services with its resources dedicated to improving operational efficiencies and ensuring market responsiveness for its customer base.

Any questions regarding the application should be directed to Gisela B. Cherches, Senior Attorney, Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251, call (713) 215–2397.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before June 15, 2001, file

with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Comments, interventions 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.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–13756 Filed 5–31–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–215–000–000, et al.]

ARE Generation Company, L.L.C., et al. Electric Rate and Corporate Regulation Filings

May 23, 2001.

Take notice that the following filings have been made with the Commission:

1. ARE Generation Company, L.L.C.

[Docket No. EG01–215–000]

Take notice that on May 21, 2001, ARE Generation Company, L.L.C. (AGC) tendered for filing with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status, pursuant to Section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended, (PUHCA), 15 U.S.C. § 79z–5a(a)(1) (1994), and Subchapter T, Part 365 of the Commission's regulations.

AGC is a Delaware limited liability company that owns and operates a 40 megawatt gas-fired cogeneration facility located in Anschutz, Wyoming. AGC states that it will be engaged directly, or indirectly through one or more affiliates as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning or operating or both owning and operating an eligible facility, and selling electric energy at wholesale.

Comment date: June 13, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Cold Springs Creek, LLC

[Docket No. EG01–216–000]

Take notice that on May 21, 2001, Cold Springs Creek, LLC (Applicant), an Idaho limited liability company, whose address is 130 Riley Creek Park Drive, P.O. Box 220 Lacede, Idaho 83841, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant intends to lease and operate a facility comprised of five (5), continuously rated 1.6-megawatt generator sets (non-road engines) fired on diesel fuel with a maximum total output of 8-megawatts (the Facility). The Facility is located in Lacede, Idaho. Electric energy produced by the Facility will be sold by Applicant to the wholesale power market in the Northwestern United States.

Comment date: June 13, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. GenPower EW Frankfort, LLC

[Docket No. EG01–217–000]

Take notice that on May 21, 2001, GenPower EW Frankfort, LLC (Applicant), a Delaware limited liability company, whose address is 1040 Great Plain Avenue, Needham, MA, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant intends to construct an approximate 320 MW natural gas-fired independent power production facility in West Frankfort, Franklin County, Illinois (the Facility). The Facility is currently under development and will be owned by Applicant. Electric energy produced by the Facility will be sold by Applicant to the wholesale power market in the north central United States.

Comment date: June 13, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. El Paso Electric Company, Public Service Company of New Mexico, Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District

[Docket No. ER01–2091–000, Docket No. NJ01–7–000]

Take notice that on May 18, 2001, El Paso Electric Company, Public Service Company of New Mexico, Arizona Public Service Company, and the Salt River Project Agricultural Improvement and Power District, tendered for filing revisions to their Open Access Transmission Tariffs to treat the multiple generating units that are connected to the Palo Verde/Hassayampa Common Bus Market Hub as a single point of receipt.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Florida Power & Light Company

[Docket No. ER01-1236–002]

Take notice that on May 18, 2001, Florida Power & Light Company (FPL) tendered for filing a revision to the

filing dated March 15, 2001. The March 15, 2001 filing was to show compliance with Order No. 614, FERC Stats.& Regs. ¶31,096 (2000). FPL revised the filing by changing the designation in the header, specifically, by designating the correct volume number of the governing Tariff as Volume 7 rather than Volume 8.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. New York Independent System Operator, Inc.

[Docket No. ER01–1489–001]

Take notice that on May 18, 2001, the New York Independent System Operator, Inc. (NYISO) tendered for filing revisions to its Open Access Transmission Tariff and Market Administration and Control Area Services Tariff to revise the expiration date of the NYISO's Temporary Extraordinary Procedures, pursuant to the Commission's order issued on May 8, 2001 in the above-captioned docket. The NYISO has requested an effective date of May 1, 2001 for the filing.

The NYISO has served a copy of this filing upon parties on the official service list maintained by the Commission for the above-captioned docket.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. New York Independent System Operator, Inc. Operator, Inc.

[Docket Nos. ER01–1517–001;ER01–181–002]

Take notice that on May 18, 2001, the New York Independent System Operator, Inc. (NYISO) tendered for filing revisions to its Market Administration and Control Area Services Tariff to revise the expiration date of the NYISO's existing Bid Cap in certain of the NYISO-administered markets, pursuant to the Commission's order issued on May 8, 2001 in the above-captioned docket. The NYISO has requested an effective date of May 1, 2001 for the filing.

The NYISO has served a copy of this filing upon parties on the official service lists maintained by the Commission for the above-captioned dockets.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. FPL Energy MH50, L.P.

[Docket No. ER01–1676–001]

Take notice that on May 18, 2001, FPL Energy MH50, L.P. (MH50) tendered for filing amendments to its proposed Rate Schedule FERC No. 2. MH50 states that the amendments consist of limited modifications to three components of the rate schedule, which was originally filed on March 30, 2001.

MH50 states that a copy of this filing has been mailed to PJM.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Idaho Power Company

[Docket No. ER01–1771–002]

Take notice that on May 18, 2001, Idaho Power Company (Idaho Power) tendered for filing a request for an effective date of January 1, 2001 for a Power Sales Agreement (Agreement) tendered for filing on April 10, 2001 in Docket No. ER01–1771–000; and revised sheets of an Amendment to the Agreement filed on April 25, 2001 in Docket No. ER01–1771–001. Idaho Power requests an effective date of February 1, 2001 for the Amendment.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Michigan Electric Transmission Company

[Docket No. ER01–2078–000]

Take notice that on May 18, 2001 Michigan Electric Transmission Company (Michigan Transco) tendered for filing a Letter Agreement with Covert Generating Company, LLC [Generator], dated April 18, 2001, (Agreement). Under the Agreement, certain preliminary construction activities are to be undertaken that are associated with providing an electrical connection between Michigan Transco's transmission system and a generating plant to be built by Generator. It also replaces and supersedes an earlier Letter Agreement with Covert.

Michigan Transco requested that the Agreement be allowed to become effective May 18, 2001.

Copies of the filing were served upon Generator and the Michigan Public Service Commission.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Southern California Edison Company

[Docket No. ER01–2079–000]

Take notice that on May 18, 2001, Southern California Edison Company (SCE) tendered for filing the Amended and Restated Radial Lines Agreement (Amended Agreement) between SCE and AES Huntington Beach L.L.C. (AES)

The Amended Agreement serves to provide the terms and conditions under which SCE shall operate and maintain the Radial Lines, and to reflect certain capital additions to such Radial Line facilities.

Copies of this filing were served upon the Public Utilities Commission of the State of California and AES.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Virginia Electric and Power Company

[Docket No. ER01–2080–000]

Take notice that on May 18, 2001, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing Notices of Termination of Service Agreements with Entergy Power Marketing Corp. for Firm and Non-Firm Point-To-Point Transmission Service designated respectively as First Revised Service Agreement Nos. 188 and 107 under FERC Electric Tariff, Second Revised Volume No. 5 and Koch Energy Trading, Inc. for Firm and Non-Firm Point-To-Point Transmission Service designated respectively as First Revised Service Agreement Nos. 134 and 183 under FERC Electric Tariff, Second Revised Volume No. 5. Dominion Virginia Power also respectfully requests an effective date of the termination of the Service Agreement of July 17, 2001, which is sixty (60) days from the date of filing of the Letter of Termination.

Copies of the filing were served upon Axia Energy, L.P. (merged entity replacing Koch Energy Trading, Inc. and Entergy Power Marketing Corp.), the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER01–2081–000]

Taken notice that on May 18, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) tendered for filing Service Agreement No. 123 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services. Allegheny Energy Supply requests a waiver of notice requirements for an effective date of April 19, 2001 for service to Atlantic City Electric Company. Confidential treatment of information in the Service Agreement has been requested.

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, the West Virginia Public Service Commission, and all parties of record.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. California Independent System Operator Corporation

[Docket No. ER01–2082–000]

Take notice that on May 18, 2001, the California Independent System Operator Corporation, tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Ramco, Inc. for acceptance by the Commission.

The ISO states that this filing has been served on Ramco, Inc. and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective May 8, 2001.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. California Independent System Operator Corporation

[Docket No. ER01–2083–000]

Take notice that on May 18, 2001, the California Independent System Operator Corporation, tendered for filing a Participating Generator Agreement between the ISO and Ridgewood Olinda, LLC for acceptance by the Commission.

The ISO states that this filing has been served on Ridgewood Olinda, LLC 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 May 8, 2001.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. California Independent System Operator Corporation

[Docket No. ER01–2084–000]

Take notice that on May 18, 2001, the California Independent System Operator Corporation, tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Ridgewood Olinda, LLC for acceptance by the Commission.

The ISO states that this filing has been served on Ridgewood Olinda, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective May 8, 2001.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. California Independent System Operator Corporation

[Docket No. ER01–2085–000]

Take notice that on May 18, 2001, the California Independent System Operator Corporation, tendered for filing a Participating Generator Agreement between the ISO and Ramco, Inc. for acceptance by the Commission.

The ISO states that this filing has been served on Ramco, Inc. 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 May 8, 2001.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. San Manuel Power Co. LLC

[Docket No. ER01–2086–000]

Take notice that on May 18, 2001, San Manuel Power Co. LLC (Applicant), tendered for filing an application for approval of its initial rate schedule (FERC Electric Tariff Original Volume No. 1) and for blanket approval for market-based rates pursuant to Part 35 of the Commission's regulations.

Applicant is a limited liability company that will operate a 37-MW generating plant near San Manuel, Arizona.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Deseret Generation & Transmission Co-operative

[Docket No. ER01–2087–000]

Take notice that on May 18, 2001, Deseret Generation & Transmission Co-operative, Inc. (Deseret), tendered for filing an executed long-term firm point-to-point service agreement with Idaho Power Company under Deseret's open access transmission tariff. Deseret requests a waiver of the Commission's notice requirements for an effective date of January 1, 2001.

Deseret's open access transmission tariff is currently on file with the Commission in Docket No. OA97–487–000. Idaho Power has been provided a copy of this filing.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. American Electric Power Service Corporation

[Docket No. ER01–2090–000]

Take notice that on May 18, 2001, the American Electric Power Service Corporation (AEPSC) tendered for filing executed Interconnection and Operation Agreement between Ohio Power Company and Dominion Equipment, Inc. 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 July 17, 2001.

A copy of the filing was served upon the Ohio Public Utilities Commission.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Florida Power & Light Company

[Docket No. ER01–874–002]

Take notice that on May 18, 2001, Florida Power & Light Company (FPL) tendered for filing a revision to the filing dated March 6, 2001. The March 6, 2001 filing was to show compliance with Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000). FPL revised the filing by changing the designation in the header, specifically, by designating the correct volume number of the governing Tariff as Volume 7 rather than Volume 8.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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, N.E., Washington, D.C. 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). Comments, protests, and interventions

may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–13725 Filed 5–31–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–102–000, et al.]

North Carolina Power Holdings, LLC, et al.; Electric Rate and Corporate Regulation Filings

May 24, 2001.

Take notice that the following filings have been made with the Commission:

1. North Carolina Power Holdings, LLC, Enron North America Corp., AIG Highstar Capital, L.P.

[Docket No. EC01–102–000]

Take notice that on May 18, 2001, Enron North America Corp. (ENA), North Carolina Power Holdings, LLC (NCPH) (on behalf of its wholly-owned subsidiaries, Elizabethtown Power, LLC (Elizabethtown) and Lumberton Power, LLC (Lumberton), and AIG Highstar Capital, L.P. (AIG Highstar) (collectively Applicants) filed with the Federal Energy Regulatory Commission an application pursuant to Section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby ENA will transfer one hundred percent of the equity interests it holds in NCPH to AIG Highstar through a securities purchase agreement. Applicants request confidential treatment of Exhibit I, pursuant to 18 CFR 388.112 of the Commission's regulations, for the written instruments associated with the proposed disposition.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Western Resources, Inc. and Kansas Gas and Electric Company

[Docket No. EC01–103–000]

Take notice that on May 21, 2001, Western Resources, Inc. and Kansas Gas and Electric Company filed with the Federal Energy Regulatory Commission an application pursuant to Section 203 of the Federal Power Act for authorization to transfer operational control of certain of their jurisdictional transmission facilities to the Southwest Power Pool Regional Transmission Organization.

Comment date: June 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Pool

[Docket No. ER01–1398–001]

Take notice that on May 21, 2001, the New England Power Pool (NEPOOL) Participants Committee tendered for filing a report of compliance in response to requirements of the Commission's April 25, 2001 order in Docket No. ER01–1398–000. New England Power Pool, 95 FERC ¶ 61,105 (2001).

The NEPOOL Participants Committee states that copies of these materials were sent to all persons identified on the service lists in the captioned proceedings, the NEPOOL Participants and the six New England state governors and regulatory commissions.

Comment date: June 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. PJM Interconnection, L.L.C.

[Docket No. ER01–1440–001]

Take notice that on May 21, 2001, PJM Interconnection, L.L.C. (PJM), in compliance with ordering paragraph (B) of the Commission's order in PJM Interconnection, L.L.C., 95 FERC ¶ 61,175 (2001), tendered for filing Second Revised Sheet No. 54 to the PJM Reliability Assurance Agreement Among Load Serving Entities in the PJM Control Area, which eliminates the limit on the Alternate Value calculation.

Comment date: June 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. PJM Interconnection, L.L.C.

[Docket No. ER01–1730–001]

Take notice that on May 21, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing a clean First Revised Sheet No. 43 Superceding Original Sheet No. 43 which was mis-designated in the original filing made April 5, 2001 in this docket.

Comment date: June 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Idaho Power Company

[Docket No. ER01–2088–000]

Take notice that on May 21, 2001, Idaho Power Company tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between Idaho Power and the State of Nevada, Colorado River Commission under its open access transmission tariff in the above-captioned proceeding.

Comment date: June 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Idaho Power Company

[Docket No. ER01–2089–000]

Take notice that on May 21, 2001, Idaho Power Company tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service between Idaho Power and the State of Nevada, Colorado River Commission under its open access transmission tariff in the above-captioned proceeding.

Comment date: June 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Idaho Power Company

[Docket No. ER01–2093–000]

Take notice that on May 21, 2001, Idaho Power Company tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between Idaho Power and Axia Energy, LP, under its open access transmission tariff in the above-captioned proceeding.

Comment date: June 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Idaho Power Company

[Docket No. ER01–2094–000]

Take notice that on May 21, 2001, Idaho Power Company tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service between Idaho Power and Axia Energy, LP, under its open access transmission tariff in the above-captioned proceeding.

Comment date: June 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Avista Corporation

[Docket No. ER01–2095–000]

Take notice that on May 21, 2000, Avista Corporation (Avista) tendered for filing a Parallel Operating and Power Sale Agreement (Agreement) between Avista and Kootenai Electric Cooperative (Kootenai). The Agreement allows Kootenai to interconnect a 1.6 MW diesel powered electric generating unit located at Kootenai's Athol Substation with Avista's electric system for parallel operation of the unit with Avista's system. The Agreement also provides for sales of power from the unit to Avista, to the extent Kootenai is able to produce more power from the unit than it needs to cover its loss obligations to Avista.

Given the urgent need for additional generating capacity in the Pacific Northwest, Avista also requests waiver of the Commission's notice requirements to allow the Agreement to become effective on March 15, 2001.

Comment date: June 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–13726 Filed 5–31–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request for Extension of Time To Commence and Complete Construction of Project Improvements and Soliciting Comments, Protests, and Motions To Intervene

May 25, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request for Extension of Time.

b. *Project No:* 2655–040.

c. *Date Filed:* March 19, 2001; Supplemented May 21, 2001.

d. *Applicant:* Eagle & Phenix Hydro Company, Inc.

e. *Name and Location of Project:* The Eagle & Phenix Hydroelectric Project is located on the Chattahoochee River in Miscogee County, Georgia and Russell County, Alabama. The project would not occupy federal or tribal lands.

f. *Filed Pursuant to:* Sections 4.200(c) and 4.202(a) of the Commission's regulations.

g. *Applicant Contact:* Ms. Beth Harris, Chi Energy, Inc., P.O. Box 8597, 1311A Miller Road, Greenville, SC 29604, (864) 281–9630.

h. *FERC Contact:* James Hunter, (202) 219–3839.

i. *Deadline for filing comments, protests, and motions to intervene:* 30 days from the issuance date this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and motions to intervene 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.*

Please include the project number (P–2655–040) on any comments or motions filed. Previously filed comments on this extension request need not be repeated.

j. *Description of Proposal:* The licensee requests a two-year extension of time to commence and complete construction of an additional 24.3 megawatts of capacity at the project. The additional capacity was authorized by order issued December 19, 1986. The plan of construction was modified by order issued November 23, 1992. Article 301 of the project license, as last amended, requires that construction be commenced by June 19, 2001, and completed by June 19, 2003. In support of its request, the licensee states that the additional capacity is needed in the light of developing energy shortages. The licensee states further that it intends to work with the neighboring cities on the design of the new powerhouse, sponsoring a design contest, scheduling tours of the old and new powerhouses, and installing picnic facilities to support increased tourism.

k. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at *www.ferc.fed.us/online/rims.htm* (Call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–13729 Filed 5–31–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6989–8]

Agency Information Collection Activities: Proposed Collection; Comment Request; Final National Primary Drinking Water Regulations; Stage 1 Disinfectants/Disinfection Byproducts Rule and Interim Enhanced Surface Water Treatment Rule

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that Environmental Protection Agency (EPA) is planning to submit the following two continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collection as described at the beginning of **SUPPLEMENTARY INFORMATION.**

DATES: Comments must be submitted on or before July 31, 2001.

ADDRESSES: Office of Ground Water and Drinking Water (MC 4606), 1200 Pennsylvania Avenue NW., Washington, DC 20460. A hard copy of an ICR may be obtained without charge by calling the identified information contact individual for each ICR in Section C of the Supplementary Information.

FOR FURTHER INFORMATION CONTACT: For specific information on the individual ICR see Section C of the **SUPPLEMENTARY INFORMATION.**

SUPPLEMENTARY INFORMATION:

A. For All ICRs

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR part 9.

The EPA would like to solicit comments to:

(i) 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;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

B. List of ICRs Planned To Be Submitted

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following two continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB):

(1) Information Collection Request for Final National Primary Drinking Water Regulations; Stage 1 Disinfectants/Disinfection Byproducts Rule, ICR Number: 1896.01, OMB Control Number: 2040–0204, expiring November 30, 2001.

(2) Information Collection Request for Final National Primary Drinking Water Regulations; Interim Enhanced Surface Water Treatment Rule, ICR Number: 1895.01, OMB Control Number: 2040–0205, expiring November 30, 2001.

C. Contact Individuals for ICRs

(1) Information Collection Request for Final National Primary Drinking Water Regulations; Stage 1 Disinfectants/Disinfection Byproducts Rule, Nicole Foley, phone: 202–260–0875, facsimile: 202–401–2345, *foley.nicole@epa.gov.* (ICR Number: 1896.01, OMB Control Number: 2040–0204, expiring November 30, 2001);

(2) Information Collection Request for Final National Primary Drinking Water Regulations; Interim Enhanced Surface Water Treatment Rule, Nicole Foley, phone: 202–260–0875, facsimile: 202–401–2345, *foley.nicole@epa.gov.* (ICR Number: 1895.01, OMB Control Number: 2040–0205, expiring November 30, 2001).

D. Individual ICRs

(1) Information Collection Request for Final National Primary Drinking Water Regulations; Stage 1 Disinfectants/Disinfection Byproducts Rule, ICR Number: 1896.01, OMB Control Number: 2040–0204, expiring November 30, 2001.

Affected Entities: Entities potentially affected by this action are State, local, Tribal or Federal governments, and public water systems (PWSs). This rule applies to community water systems and nontransient noncommunity water systems that add a chemical disinfectant to the water in any part of the drinking water treatment process and transient noncommunity water systems that use chlorine dioxide. ''Small'' systems serve less than 10,000 people. ''Large'' systems serve 10,000 or more people. ''Subpart H'' systems include all PWSs using surface water or ground water under the direct influence of surface water as a source (40 CFR 141.2).

Abstract: The Stage 1 Disinfectants/Disinfection Byproducts Rule (Stage 1 DBPR) requires information collection for disinfectants and disinfection byproducts (DBPs). The contaminants included in this rule also include DBP precursors, characterized as total organic carbon (TOC). Under the Stage 1 DBPR, contaminants and disinfectants regulated include total trihalomethanes (TTHMs), five haloacetic acids (HAA5), bromate, chlorite, chlorine, chloramines, chlorine dioxide, and TOC (through a treatment technique). The regulation is intended to protect public health and welfare from these chemicals.

All of the data collected from PWSs and States are mandatory (40 CFR part 141 subpart L and 40 CFR part 142). Data from laboratories for laboratory certification or approval are not mandatory, but laboratories must provide it in order to obtain or retain a benefit. Under this rule, State and local respondents will collect and report information on the levels of various contaminants in drinking water supplies at specified intervals. The Environmental Protection Agency (the Agency), through the Safe Drinking Water Information System (SDWIS), will use the information to ensure compliance with this rule and to protect public health. The date that systems begin to monitor contaminants for the Stage 1 DBPR depends on the size and type of the system (40 CFR 141.130).

Monitoring, reporting, and record keeping are required at both system and State levels under the National Primary Drinking Water Regulations (NPDWRs) (40 CFR 141.131, 141.132, 141.134, 141.135, 142.14, 142.16). All public water systems (PWSs) shall maintain and report to the State information documenting compliance with the treatment and monitoring requirements under the NPDWRs. States shall maintain records essential for program implementation and oversight. These records, retained in the SDWIS or at State offices, will allow EPA to track PWS compliance with the NPDWRs.

Data collected under the Safe Drinking Water Act (SDWA) are used by the Agency's Office of Ground Water and Drinking Water and other U.S. EPA

programs, such as Superfund and RCRA. The data are also used by the Farmers Home Administration, the Department of the Interior, the Department of Housing and Urban Development, the U.S. Army Corps of Engineers, White House Task forces, the Federal Emergency Management Agency, the Food and Drug Administration, public interest groups, and many private companies and individuals. The information collected is not confidential.

Burden Statement: The estimated annual burden hours for this renewed information collection are 724,307 hours. The estimated average burden hours per response is 0.7 hours. The estimated average number of responses per respondent is 24. The estimated number of likely respondents annually is 47,074. The estimated annual cost is $43.1 million which represents O&M costs in the form of fee for service.

Change in Burden: The burden will be changed from 314,471 annual burden hours to 724,307 annual burden hours for this renewal ICR. The estimated burden of 409,836 annual burden hours is occurring because all monitoring, reporting, and record keeping requirements associated with compliance under the Stage 1 DBPR will take effect during the next ICR approval period. The O&M costs also occur as a result of the monitoring requirements.

(2) Information Collection Request for Final National Primary Drinking Water Regulations; Interim Enhanced Surface Water Treatment Rule, ICR Number: 1895.01, OMB Control Number: 2040–0205, expiring November 30, 2001.

Affected Entities: Entities potentially affected by this action are State, local, Tribal or Federal governments, and public water systems serving 10,000 or more people using surface water or ground water under the direct influence of surface water. ''Subpart H'' systems include all PWSs using surface water or ground water under the direct influence of surface water as a source (40 CFR § 141.2).

Abstract: The Interim Enhanced Surface Water Treatment Rule (IESWTR) requires information collection of turbidity measurements and water quality characteristics for Subpart H public water systems (PWSs) serving 10,000 or more people. Subpart H systems include all PWSs using surface water or ground water under the direct influence (GWUDI) of surface water as a source (40 CFR 141.2). Under this rule, standards for combined filter effluent are strengthened to improve control of microbial contaminants, the protozoan Cryptosporidium in particular. The rule also establishes individual filter monitoring and reporting requirements. Additionally, the provisions of this rule are intended to prevent an increase in microbial risk while PWSs comply with new standards for disinfection byproducts. The regulatory initiative discussed in this document is intended to protect public health and welfare from microbial contaminants. All of the data collected from PWSs and States are mandatory (40 CFR part 141 subpart L and 40 CFR part 142). Data from laboratories for laboratory certification or approval are not mandatory, but laboratories must provide the data in order to obtain or retain a benefit. In addition, under this drinking water protection initiative, EPA would assure appropriate laboratory approval through a volunteer program for the measurement of microbial contaminants (e.g., Cryptosporidium) for the protection of public health. Through this program, EPA would evaluate the performance of laboratories analyzing PWS source water microbial samples. Given the high level of skill and experience required for the appropriate analytical methods, and the impracticality for States to adopt their own laboratory approval program for a small number of laboratories, an EPA laboratory approval program is critical to ensure high quality data. Also, the microbial contaminant data analyzed by the laboratories may be used to meet possible future compliance requirements for PWSs.

Several distinct types of data are being collected under the IESWTR. The most extensive data collection effort involves monitoring the turbidity of drinking water at individual filters for all PWSs covered by this rule. This monitoring requirement supplements current combined filter effluent turbidity monitoring already required under the Surface Water Treatment Rule (SWTR). Under the current SWTR, PWSs must monitor their combined filter effluent every 4 hours to determine compliance. This requirement will continue under the IESWTR, but the turbidity compliance levels will change. The IESWTR will initiate new requirements for individual filter monitoring using a continuous monitoring turbidimeter and electronically recording data on a continuous basis. The turbidity data for individual filters are used to determine if follow-up filter or plant assessments are needed.

Monitoring, reporting, and record keeping are required at both system and State levels under the National Primary Drinking Water Regulations (NPDWRs) (40 CFR 141.172, 141.174, 142.175, 142.14, 142.15). All affected PWSs shall maintain and report to the State information documenting compliance with the treatment and monitoring requirements under the NPDWRs. States shall maintain records essential for program implementation and oversight. These records, retained in the Safe Drinking Water Information System (SDWIS), will allow EPA to track PWS compliance with the NPDWRs.

Data collected under the Safe Drinking Water Act (SDWA) are used by the Agency's Office of Ground Water and Drinking Water, and other U.S. EPA programs such as Superfund and RCRA. The data are also used by the Farmers Home Administration, the Department of the Interior, the Department of Housing and Urban Development, the U.S. Army Corps of Engineers, White House task forces, the Federal Emergency Management Agency, the Food and Drug Administration, public interest groups, and many private companies and individuals. The information collected is not confidential.

Burden Statement: The estimated annual burden hours for this renewed information collection are 4,682,067 hours. The estimated average burden hours per response is one hour. The estimated average number of responses per respondent is 3,229. The estimated number of likely respondents annually is 1,497. The estimated annual capital cost is $30.9 million. The estimated annual O&M cost is $10.3 million.

Change in Burden: The burden will be changed from 150,557 annual hours to 4,687,452 annual hours for this renewal ICR. The burden of 4,682,067 annual hours is occurring because turbidity monitoring for individual filters and sanitary surveys are beginning in the third year following promulgation of the rule. In addition, a laboratory approval program for measurement of microbial contaminants will add an estimated marginal burden of 5,385 annual hours, an estimated annual capital cost of $17,000, and an estimated annual O&M cost of $71,000.

Dated: May 24, 2001.

Phil Oshida,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 01–13923 Filed 5–31–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6989–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Clean Air Act Tribal Authority

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Clean Air Act Tribal Authority (OMB Control No. 2060–0306), expiring May 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 2, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1676.03 and OMB Control No. 2060–0306, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION OR A COPY: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at *farmer.sandy@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1676.02. For technical questions about the ICR contact Hollis Hope at EPA by phone at (202) 564–7434.

SUPPLEMENTARY INFORMATION:

Title: Clean Air Act Tribal Authority (OMB Control No. 2060–0306 ; EPA ICR No. 1676.03.) expiring May 31, 2001. This is a request for an extension of the currently approved collection.

Abstract: This ICR requests clearance of EPA's review and approval process for determining Tribal eligibility to carry out the Clean Air Act (CAA). Tribes may choose to submit a CAA eligibility determination and a CAA program application to EPA at the same time for approval and EPA will review both submittals simultaneously.

The program regulation provides for Indian Tribes, if they so choose, to assume responsibility for the development and implementation of CAA programs. The regulation, Indian Tribes: Air Quality Planning and Management (the Tribal Authority Rule (TAR)), sets forth how Tribes may seek authority to implement their own air quality planning and management programs. The rule establishes: (1) Which CAA provisions Indian Tribes may seek authority to implement, (2) what requirements the Tribes must meet when seeking such authorization, and (3) what Federal financial assistance may be available to help Tribes establish and manage their air quality programs. The TAR provides Tribes the authority to administer air quality programs over all air resources, including non-Indian owned fee lands, within the exterior boundaries of a reservation and other areas over which the tribe can demonstrate jurisdiction. An Indian Tribe that takes responsibility for a CAA program would essentially be treated in the same way as a State would be treated for that program.

To be eligible for delegation of CAA programs, an Indian Tribe must submit documentation showing they meet the following criteria: (1) Be recognized by the Federal government (CAA section 302(r)), (2) have an existing governing body, which carries out governmental duties (such as tax and police functions), (3) show that the management and protection of air resources applies within the exterior boundaries of the reservation or other areas within the Tribe's jurisdiction, and (4) be reasonably expected to be capable of implementing all applicable regulations.

In evaluating a Tribe's demonstration of program implementation capability, EPA considers their management and technical skills by reviewing the following factors: (1) Tribe's previous management experience, (2) existing environmental or public health programs administered, (3) mechanism(s) in place for carrying out the executive, legislative and judicial functions of the Tribal government, (4) the relationship between regulated entities and regulating administrative agency, and (5) the technical and administrative capabilities of the staff. Tribes with limited management and technical skills can also submit a plan detailing steps for acquiring those skills.

The TAR adopts EPA's ''streamlined'' eligibility review and approval process for Tribes to implement CAA programs. EPA will use this information to determine if a Tribe meets the statutory criteria under section 301(d) of the CAA and is qualified for purposes of implementing an Air Quality Program. Section 114 of the CAA is the authority for the collection of information.

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 OMB **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 7, 2001; (66 FR 13724). No comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 40 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: All 561 federally recognized Tribes.

Estimated Number of Respondents: 22.

Frequency of Response: Once, at the time of application.

Estimated Total Annual Hour Burden: 293.

Estimated Total Annualized Capital, Operating/Maintenance Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1676.03 and OMB Control No. 2060–0306 in any correspondence.

Dated: May 2, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–13841 Filed 5–31–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6988–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Soil Ingestion Research Study

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Soil Ingestion Research Study (EPA ICR Number 1965.01). The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 2, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1965.01 to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at *farmer.sandy@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1965.01. For technical questions about the ICR contact Larry J. Zaragoza (703–603–8867).

SUPPLEMENTARY INFORMATION: *Title:* Soil Ingestion Research Study (EPA ICR No. 1965.01). This is a new collection.

Abstract: This ICR supports research to examine the amount of soil ingested. Soil is ingested in two ways, incidental ingestion from everyday hand to mouth activity and ingestion resulting from inhaled particles of soil that are deposited in upper and middle respiratory tract and swallowed. The ingestion of soil is important because contaminated soils from a hazardous waste site poses risks to individuals exposed to contaminated soil. This research should help any environmental program concerned with contaminated soils but is specifically being sponsored by Superfund. This research will evaluate ingestion by comparing the amount of trace metals that are ingested in food with the amount of metals that are excreted, any amount in excess of the ingested trace metals is attributed to incidental soil ingestion. Because of the possibility of trace metal ingestion from a variety of sources (like food and toothpaste), a questionnaire to identify and characterize sources of trace metals that can affect daily variation in trace metals is an important part of the experimental design of these studies. About 20 study volunteers are paid and are expected to participate in this study for about two weeks. Each night the study participants would participate in a questionnaire that will later be used to help interpret daily variations in trace metals.

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 OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on November 21, 2000 (65 FR 69936); no written comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 5 minutes per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: About 20 paid volunteers will be involved in responding to this collection as part of a paid research study.

Estimated Number of Respondents: 20 responses.

Frequency of Response: Daily for 2 weeks.

Estimated Total Annual Hour Burden: 20 hours.

Estimated Total Annualized Capital, O&M Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1965.01 in any correspondence.

Dated: May 21, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–13842 Filed 5–31–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Region II Docket No. NJ45–222, FRL–6990–3]

Adequacy Status of the Submitted 2002, 2005 and 2007 Rate of Progress and Updated Attainment Demonstration Budgets for the Ozone National Ambient Air Quality Standards for Transportation Conformity Purposes for the New Jersey Severe Ozone Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that we have found that the motor vehicle emissions budgets for volatile organic compounds and nitrogen oxides in the submitted rate of progress state implementation plan (SIP) for the New Jersey severe nonattainment areas to be adequate for conformity purposes. On March 2, 1999, the D.C. Circuit Court ruled that submitted state implementation plan budgets cannot be used for conformity determinations until EPA has affirmatively found them adequate. As a result of our finding, the New Jersey portions of the New York-New Jersey-Connecticut severe ozone nonattainment area can use the motor vehicle emissions budgets of volatile organic compounds and nitrogen oxides for 2002, 2005 and 2007 from the submitted rate of progress SIP for future conformity determinations. These budgets also apply to the Warren County marginal nonattainment area. The New Jersey portions of the Philadelphia-Wilmington-Trenton severe ozone nonattainment areas can use the motor vehicle emissions budgets of volatile organic compounds and nitrogen oxides for 2002 and 2005 from

the submitted Rate of Progress SIP for future conformity determinations. These budgets also apply to the Atlantic City moderate ozone nonattainment area.

DATES: This finding is effective June 18, 2001.

FOR FURTHER INFORMATION CONTACT: Melanie A. Zeman, Mobile Source Team, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4022, e-mail address: zeman.melanie@epa.gov.

The finding and the response to comments will be available at EPA's conformity website: *http://www.epa.gov/oms/traq*, (once there, click on the ''Conformity'' button, then look for ''Adequacy Review of SIP Submissions for Conformity'').

SUPPLEMENTARY INFORMATION:

Background

Today's notice is simply an announcement of a finding that we have already made. EPA Region 2 sent a letter to the New Jersey Department of Environmental Protection on May 23, 2001 stating that the motor vehicle emissions budgets in the submitted rate of progress plan (dated April 11, 2001) for the New Jersey portions of the New York-New Jersey-Connecticut and Philadelphia-Wilmington-Trenton severe nonattainment areas are adequate for conformity purposes. This finding will also be announced on EPA's conformity website: *http://www.epa.gov/oms/traq*, (once there, click on the ''Conformity'' button, then look for ''Adequacy Review of SIP Submissions for Conformity'').

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

We've described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision''). We followed this guidance in making our adequacy determination.

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

Dated: May 23, 2001.

Kathleen C. Callahan,

Acting Regional Administrator Region 2.

[FR Doc. 01–13780 Filed 5–31–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6618–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review

Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 2000 (65 FR 20157).

Draft EISs

ERP No. D–AFS–G36152–NM Rating LO, Santa Fe National Forest, Santa Fe Municipal Watershed Project, Servere Crown Fire Reduction and Sustainable Forest and Watershed Conditions Restoration, Implementation, Pecos Wilderness to Cochitti Lake, Santa Fe National Forest, Santa Fe County, NM.

Summary

EPA has no objections to the selection of the preferred alternative.

ERP No. D–BIA–K60031–NV Rating EC2, Moapa Paiute Energy Center/Associated Facilities Construction, Operation and Maintenance of a 760-Megawatt (MW) Baseload Natural Gas-Fired Combined Cycle Power Plant, Land Lease and Water Use Approval, R–O–W Grants, Temporary Use, COE Section 10/404 and EPA NPDES Permits, Moapa River Indian Reservation and BLM Lands, Clark County, NY.

Summary

EPA expressed concerns, and requested additional information regarding: lack of evaluation for ressonable alternatives, impacts to groundwater resources, air quality impacts, and endangered species act compliance.

ERP No. D–BOP–G81010–LA Rating LO, Pollock Federal Correctional Institution, Construction and Operation, near Town of Pollock, Grant Parish, LA.

Summary

EPA expressed no objection to the project proposal.

ERP No. D–BOP–K80043–AZ Rating EC2, Southern Arizona Federal Correctional Facility, Construction and Operation, Pima and Yuma Counties, AZ.

Summary

EPA expressed concerns regarding the lack of detail relating to specific site location information and potential impacts of the prison industry component of the project. EPA requested additional information on those areas, and also requested additional analysis of the ''no action' alternative.

ERP No. D–IBR–J39029–SD Rating EC2, Angostura Unit—(Dam, Reservoir and Irrigation Facilities) Renewal of a Long-Term Water Service Contract, Cheyenne River Basin, Pine Ridge Reservation, Bismarck County, SD.

Summary

EPA expressed environmental concerns over the level of analysis of direct and indirect impacts, and the lack of information regarding the cumulative effects of the Angostura project and the means to mitigate the significant impacts of each alternative.

Final EISs

ERP No. F–AFS–K61145–CA Programmatic EIS—Ansel Adams, John Muir and Dinkey Lakes Wildernesses, Proposed New Management Direction, Amending the Land and Resource Management Plans for the Inyo and Sierra National Forests, Implementation, Inyo, Madera, Mono and Fresno Counties, CA.

Summary

No formal comment letter was sent to the preparing agency.

ERP No. F–IBR–L28008–ID Arrowrock Dam Outlet Works Rehabilitation, Construction and Operation, To Remove 10 Lower Level Ensign Valves and Replace with 10 Clamshell Gates, Boise River, City of Boise, ID.

Summary

EPA is pleased that the final EIS includes a modification from the draft EIS which reduces the likelihood of

significant impacts to water quality and fish. However, EPA continues to have objections because the final EIS does not clearly state how much the modification would reduce the potential for turbidity and lacks a quantitative estimate of suspended solids, new information about monitoring and mitigation, and a greater description of environmental impacts and alternatives analyses.

ERP No. F–JUS–K81010–AZ Pinal County Private Detention Facility, To Develop and Operate a Pre-Trail Detention Facility, Pinal County, CA.

Summary

No formal comment letter was sent to the preparing agency.

Regulations

ERP No. R–BLM–A99217–00 43 CFR Subpart 3809—Surface Management Regulations for Locatable Mineral Operations; Proposed Suspension.

Summary

EPA expressed concern that the bonding and financial assurance requirements be adequate to ensure that states and the federal government are not required to pay reclamation and clean up costs for abandoned mine sites. EPA recommends that the financial assurance requirements in the current regulation not be suspended but be contined.

Dated: May 29, 2001.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 01–13829 Filed 5–31–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6618–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR www.epa.gov/oeca/ofa

Weekly receipt of Environmental Impact Statements

Filed May 21, 2001 Through May 25, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010175, DRAFT EIS, AFS, ID, Hidden Cedar Project, Road Construction and Watershed Restoration, Idaho Panhandle National Forest, St. Joe Ranger District, Benewah, Shoshone, Clearwater and Latah Counties, ID, Comment Period Ending: July 16, 2001, Contact: Kimberly Johnson (208) 245–6072.

EIS No. 010186, FINAL EIS, AFS, MT, Maudlow-Toston Post-Fire Salvage Sale, Harvesting Burnt Timber, Implementation, Helena National Forest, Townsend Ranger District, Broadway County, MT, Wait Period Ending: July 02, 2001, Contact: Jerry Meyer (406) 449–5201.

EIS No. 010187, DRAFT EIS, USA, TX, Programmatic EIS—Fort Sam Houston, Camp Bullis, and Canyon Lake Recreation Area Master Plan, Implementing Revisions to the Existing 1988 Land Use Plan, City of San Antonio, TX, Comment Period Ending: July 16, 2001, Contact: Greg Brewer (793) 692–9220.

EIS No. 010188, DRAFT EIS, AFS, MT, Burned Area Recovery, Proposal to Reduce Fuels, Improve Watershed Conditions and Reforest Burned Lands, Sula, Darby, West Fork and Stevensville Ranger Districts, Bitterroot National Forest, Ravalli County, MT, Comment Period Ending: July 16, 2001, Contact: Craig Bobzien (406) 363–7100.

EIS No. 010189, FINAL EIS, AFS, OR, South Bend Weigh and Safety Station Establishment, Special Use Permit for Construction, Maintenance and Operation, Deschute National Forest Lands along US 97 near the Newberry National Volcanic Monument, Deschutes County, OR, Wait Period Ending: July 02, 2001, Contact: Chris Mickle (541) 383–4769.

EIS No. 010190, FINAL EIS, BLM, UT, CO, NM, Williams, Questar, Kern River Pipeline Project, To Approve a Petroleum Products Pipeline, and one or two Natural Gas Pipelines and To Amend Forest Plan, UT, NM, and CO, Wait Period Ending: July 02, 2001, *Contact:* LaVerne Steah (801) 539–4114.

EIS No. 010191, FINAL EIS, AFS, MN, Boundary Waters Canoe Area Wilderness Fuel Treatment, Implementation, Superior National Forest, Cook, Lake and St. Louis, MN, Wait Period Ending: July 02, 2001, Contact: Joyce Thompson (218) 626–4317.

EIS No. 010192, DRAFT EIS, BPA, OR, Condon Wind Project, To Execute One or More Power Purchase and Transmission Services Agreements To Acquire and Transmit up to the Full Electrical Output, NPDES Permits and Right-of-Way Permit for Public Land, Gilliam County, OR, Comment Period Ending: July 16, 2001, Contact: Sarah T. Branum (503) 230–5115.

EIS No. 010193, FINAL EIS, FAA, Programmatic EIS-Licensing Launch Vehicles, Implementation, Issuing a Launch License, Wait Period Ending: July 20, 2001, Contact: Michon Washington (202) 267–9305.

Dated: May 29, 2001.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 01–13830 Filed 5–31–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00722; FRL–6786–8]

Meeting on Consumer Awareness Program for Chromated Copper Arsenicals--Treated Wood; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA is announcing a June 7th meeting which will focus on the Consumer Awareness Program and a new proposed action plan developed by the Chromated Copper Arsenicals (CCA)-treated wood industry to strengthen dissemination of information regarding proper consumer use and handling precautions to all purchasers and users of CCA-treated wood products. This meeting is a follow-up to two meetings held on May 9, 2001, concerning the consumer awareness program for dissemination of information to consumers on the proper use and handling of CCA-treated wood products. The first meeting was between the Agency and public interest groups (Beyond Pesticides and Environmental Working Group), while representatives of the American Wood Preservers Institute, Home Depot, Lowe's, the National Lumber and Building Materials Dealers Association, and the manufacturers of CCA attended the second meeting. A representative from the University of Florida and the Florida Department of Agriculture were also in attendance at both meetings. The purpose of the May 9th meetings was to evaluate current efforts for informing the public about the safe use and handling of CCA-treated wood.

DATES: The meeting will be held on Thursday, June 7, 2001, from 9 a.m. to 11 a.m.

Requests to participate in the meeting must be received by EPA on or before June 6, 2001.

ADDRESSES: The meeting will be held at the Hilton Crystal City, 2399 Jefferson Davis Hwy., Arlington, VA.

Requests to participate in this meeting may be submitted by mail, electronically, or in person. Please

follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Connie Welch, Chief, Regulatory Management Branch II, Antimicrobials Division, Office of Pesticide Programs (7510C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8218; e-mail address: welch.connie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to all stakeholders interested in pressure-treated wood. Participants may include environmental/public interest and consumer groups; industry and trade associations; wood preservative users; Federal, State and local governments; and the general public. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

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

2. *In person*. The Agency has established an official record for this meeting under docket control number OPPTS–00722. The official record consists of the documents specifically referenced in this notice and other information related to the ''Meetings on CCA-Treated Wood and the Consumer Awareness Program.'' This record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division, Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the PIRIB is (703) 305–5805.

III. How Can I Request To Participate in this Meeting?

You may submit a request to participate in this meeting through the mail, in person, or electronically. Do not submit any information in your request that is considered CBI. Your request must be received by EPA on or before Wednesday, June 6, 2001. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–00722 in the subject line on the first page of your request.

1. *By mail*. You may submit a written request to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. You may deliver a written request to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division, Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the PIRIB is (703) 305–5805.

3. *Electronically*. You may submit your request electronically by e-mail to: ''opp-docket@epa.gov''. Do not submit any information electronically that you consider to be CBI. Use Wordperfect 8.0 or ASCII file format and avoid the use of special characters and any form of encryption. All comments in electronic form must be identified by docket control number OPPTS–00722. You may also file a request online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Pesticides.

Dated: May 23, 2001.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. 01–13840 Filed 5–29–01 4:36 pm]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6988–6]

Extension of Comment Period for the Preliminary Administrative Determination Document on the Question of Whether Ferric Ferrocyanide Is One of the ''Cyanides'' Within the Meaning of the List of Toxic Pollutants Under the Clean Water Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: The comment period for the preliminary administrative determination document on the question of whether ferric ferrocyanide is one of the ''cyanides'' within the meaning of the list of toxic pollutants under the Clean Water Act was scheduled to end on June 10, 2001. The comment period will now end 30 days later on July 10, 2001. The notice announcing document availability was published in the **Federal Register** on January 25, 2001 (66 FR 7759). A notice reopening the comment period until June 10, 2001 was published in the **Federal Register** on March 13, 2001 (66 FR 14581).

DATES: Comments will be accepted through July 10, 2001.

ADDRESSES: Send written comments to ''Ferric Ferrocyanide; Preliminary Administrative Determination'' Comment Clerk (W–00–24); Water Docket (4101); U. S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Hand deliveries should be delivered to: EPA's Water Docket at 401 M Street, SW., East Tower Basement (Room EB 57), Washington, DC 20460. If you wish to hand-deliver your comments, please call (202) 260–3027 between 9 a.m. and 4 p.m., Monday through Friday, excluding Federal holidays, to obtain the room location for the Docket. Commenters are requested to submit any references cited in their comments. Commenters also are requested to submit an original and three copies of their written comments and enclosures. Commenters that want a confirmed receipt of their comments should include a self-addressed, stamped envelope. All comments must be postmarked or delivered by hand. No facsimiles (faxes) will be accepted.

Comments also may be submitted electronically to: OW-Docket@epa.gov. Electronic comments must be submitted as a Word Perfect for Windows 5/6/7/8 file or an ASCII file, avoiding the use of

special characters and any form of encryption. Comments and data also will be accepted on disks in Word Perfect 5/6/7/8 or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries. All electronic comments must be identified by docket number. Electronic comments will be transferred into a paper version for the official record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission.

A docket for this preliminary administrative determination has been established under docket number W–00–24. A copy of the supporting documents cited in this document are available for review at EPA's Water Docket. These documents are available for inspection from 9 a.m. to 4 p.m. EST, Monday through Friday, excluding Federal holidays at EPA's Water Docket, 401 M Street SW., East Tower Basement (Room EB 57), Washington, DC 20460. For access to docket materials, please call (202) 260–3027 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: For further information and to request a copy of the administrative determination, contact Dr. Maria Gomez-Taylor, USEPA, Engineering and Analysis Division (4303), Office of Science and Technology, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or call (202) 260–1639; or fax (202) 260–7185; or e-mail gomez-taylor.maria@epa.gov.

SUPPLEMENTARY INFORMATION: On January 25, 2001, EPA published in the **Federal Register** (66 FR 7759) a notice announcing availability of the preliminary administrative determination document and a public comment period that was scheduled to end on March 12, 2001. EPA received requests for additional time to provide comments. EPA reopened the comment period for an additional 90 days on March 13, 2001 (66 FR 14581). Recently, EPA received another request for an additional 30 days to comment on the preliminary administrative determination document. This action extends the comment period for an additional 30 days, from June 10, 2001 to July 10, 2001, for a total of five-and-a-half months.

Dated: May 23, 2001.

Diane C. Regas,

Acting Assistant Administrator for Water.

[FR Doc. 01–13844 Filed 5–31–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6988–8]

Standard Auto Bumper Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into a settlement with the Florida East Coast Railway Company for past response costs pursuant to section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9622(h)(1) concerning the Standard Auto Bumper Superfund Site located in Hialeah, Dade County, Florida. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. EPA, Region 4 (WMD–CPS), 61 Forsyth Street SW, Atlanta, Georgia 30303, (404) 562–8887.

Written comments may be submitted to Ms. Bachelor within 30 calendar days of the date of this publication.

Dated: May 9, 2001.

Franklin E. Hill,

Chief, CERCA Program Services Branch, Waste Management Division.

[FR Doc. 01–13843 Filed 5–31–01; 8:45 am]

BILLING CODE 6560–50–P

EXPORT–IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank)

Summary: The Advisory Committee was established by Pub. L. 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

Time and Place: Tuesday, June 19, 2001, at 9:30 a.m. to 12:30 p.m. The meeting will be held at the Export-Import Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

Agenda: This meeting will include a discussion on developments in private sector finance.

Public Participation: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to November 3, 2000, Nichole Westin, Room 1257, 811 Vermont Avenue, NW., Washington, DC 20571, Voice: (202) 565–3542 or TDD (202) 565–3377.

Further Information: For further information, contact Nichole Westin, Room 1257, 811 Vermont Ave., NW., Washington, DC 20571, (202) 565–3542.

John M. Niehuss,

General Counsel.

[FR Doc. 01–13767 Filed 5–31–01; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 95–31; FCC 01–64]

Reexamination of Comparative Standards for Noncommercial Educational Applicants

AGENCY: Federal Communications Commission

ACTION: Notice.

SUMMARY: The Commission announced in a document that it would require pending reserved channel noncommercial educational (''NCE'') broadcast applicants in closed mutually exclusive groups to file point supplements or settlements by a ''supplement date'' which would be announced by public notice. The ''supplement date'' would also serve as the ''snap shot'' date for determining the applicant's maximum comparative position. On March 22, 2001 the Commission's Mass Media Bureau issued a public notice announcing a ''supplement date'' of June 4, 2001. Affected applicants filing neither a settlement nor a supplement by June 4, 2001 will be dismissed.

DATES: Settlements and supplements must be filed with the Commission by June 4, 2001.

ADDRESSES: Federal Communications Commission, Mass Media Bureau, Audio Services Division, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Irene Bleiweiss (legal) or Edward P. De La Hunt (engineering). (202) 418–2700,

Internet addresses: *ibleiwei@fcc.gov* and *edelahu@fcc.gov.*

SUPPLEMENTARY INFORMATION: This public notice was issued on March 22, 2001. The public notice is also available during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036. It also appears on the internet at *www.fcc.gov* in the headlines section. This public notice is a follow up to a Memorandum Opinion and Order published in the **Federal Register**, 66 FR 15353, March 19, 2001.

Supplements and Settlements to Pending Closed Groups of Noncommercial Educational Broadcast Applications Due By June 4, 2001

Settlement Caps Waived Until June 4, 2001; Abridged Forms 340 and 349 Released for Use in Claiming Points

On February 28, 2001 the Commission affirmed and clarified its comparative selection policies for applicants seeking to build noncommercial educational (''NCE'') broadcast stations. *Memorandum Opinion and Order* (''MO&O''), Reexamination of the Comparative Standards for Noncommercial Educational Applicants, MM Docket No. 95–31, FCC 01–64 (February 28, 2001); *summarized in* 66 FR 15353 (March 19, 2001). Under those policies, the Commission will resolve conflicts among mutually exclusive applications by use of a ''point system.'' The Commission directed the staff, for a limited period, to waive monetary limits to facilitate settlements among existing groups of mutually exclusive applicants, and finalized the process for selecting among non-settling applicants. In this Public Notice, the Mass Media Bureau provides additional information for applicants in the approximately 500 pending NCE licensing proceedings identified in Appendix D of the Commission's MO&O. Each of these groups is ''closed;'' *i.e.,* the Commission will not accept additional applications in any of the groups. We are aware of additional pending applications that are not considered ''closed,'' and also of applicants that want to file future applications to build noncommercial educational broadcast stations. We will consider such applications and provide an opportunity for such applicants to claim points in the first relevant NCE filing window, which we expect to open after resolving the ''closed'' groups.

The MO&O established actions that closed group applicants must take by a ''supplement date'', which we hereby announce will be June 4, 2001, approximately 45 days after the rule clarifications become effective. On or before June 4, 2001 pending closed group applicants must file either a settlement (which can exceed the monetary settlement caps set forth in 47 CFR 73.3525(a)(3)) or a supplement claiming the points to which they are entitled under the new rules. Those filing neither a settlement agreement nor a supplement claiming points by June 4, 2001 will be dismissed.

We recommend that all affected applicants obtain a copy of the MO&O, which is available on our internet home page *www.fcc.gov* in the headlines section under the date ''02/28/2001''. Mutually exclusive applicants listed in Appendix D should contact each other to ascertain whether a settlement may now be possible, and if a settlement cannot be reached rapidly, applicants should prepare supplements to claim points. Mutual exclusivity for radio groups may have changed as a result of the Commission's decision in *Streamlining of Radio Technical Rules,* MM Docket No. 98–93 (November 1, 2000), and Appendix D does not reflect these changes. More specifically, in that proceeding the Commission adopted less preclusive second adjacent interference protection standards in §§ 73.509 and 74.1204 of the Commission's rules to conform NCE FM and FM translator proposals to commercial standards. Under the new rules, a station's 100 dBu contour generally defines its second adjacent channel interfering contour. Radio applicants with second adjacent channel conflicts should determine whether these rule changes eliminate technical conflicts with any other applications. Applicants seeking to modify closed groups based on the new second adjacent channel interference standard should file engineering showings prominently labeled ''Showing Regarding Second Adjacent Channel'' by the June 4, 2001 supplement deadline.

Settlements

We will waive limitations on the amount of consideration only for settlement agreements that are received at the Commission's Office of the Secretary on or before June 4, 2001. Settlements may be filed immediately. Two types of settlements will be acceptable: universal settlements for both radio and television applicants and technical solutions in the case of radio applicants only. A universal settlement resolves all applications in the mutually exclusive group. A technical solution is one in which an applicant removes itself from the group to achieve a grant by making minor engineering changes to its own application, without affecting the viability of any of the other applicants to compete for a second station. We will not entertain partial settlements. If a settlement involves more than one group, the settlement must be consistent with these guidelines and must resolve all groups. We refer applicants to paragraph 98 of the MO&O for more information about settlements.

Supplements

Applicants not filing qualifying settlements must file supplements to provide information needed to compare mutually exclusive applications. We will be unable to consider any pending ''closed group'' application that does not contain the new information. Thus we will conclude that any applicant failing to file either a supplement or settlement on or before June 4, 2001 is no longer interested in obtaining a permit and dismiss its application. Full service FM and TV applicants will use relevant sections of FCC Form 340 (June 2000 version or later) to submit supplements. FM Translator applicants will use relevant sections of FCC Form 349 to submit supplements. For the applicants' convenience, we have produced abridged versions of these forms, containing only the form sections and instructions needed to claim points. Applicants may use these abridged ''point supplements,'' which are attached to this notice, to amend applications filed prior to adoption of the point system. These supplement forms are also available via the internet at *http://www.fcc.gov/formpage.html.* For additional information about claiming points, we refer applicants to the MO&O (especially paragraphs 28 through 32 which identify the reference dates applicants should use to determine the number of points for which they qualify and the limited extent to which applicants may be able to enhance some of their points prior to those dates). The applicant's points as of the date it files its supplement (up to June 4, 2001) will establish its maximum position for non-technical matters. With respect to technical matters, the applicant's maximum position will be established as of the earlier of the ''B'' cut-off date for the closed group or April 21, 2000 (the date of the Report and Order in this proceeding, if no ''B'' cut-off notice was issued). The applicant will not gain any points for enhancements made after the relevant date(s). The applicant will,

however, lose points for changes made after the relevant date(s) that detract from its proposal. With respect to population information, applicants should use the 2000 Census, if available by June 4, 2001.

How To File

We will accept point supplements for applicants in closed groups beginning on April 18, 2001 (the effective date of the rule clarifications in the MO&O) and ending on June 4, 2001. We are currently accepting settlements, and will continue to accept settlements that exceed expenses until June 4, 2001. It is important that applicants provide the correct file number, city and state of the application being supplemented or settled, so that we can associate the supplemental submissions with the original application and the proper mutually exclusive group. FM and FM translator applicants should also include the ''group number'' that appears in Appendix D of the MO&O. Electronic filing of these forms is not available, and thus applicants will submit paper forms.

Applicants must file an original and three copies of all point supplements, section 307(b) information, engineering proposals to resolve mutual exclusivity, and/or settlement agreements on or before June 4, 2001 with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Room TW–A325, Washington, DC 20554. In addition, radio applicants can deliver a courtesy copy to James Crutchfield, Audio Services Division, Room 2–B450. Applicants with multiple pending proposals must file separate submissions for each station, with each submission able to stand on its own. In the case of universal settlements, it is sufficient for applicants to file three copies for the settling group plus one additional copy for each settling station, rather than the usual three copies per station.

Example: In a settlement of a group with four members, the settling applicants may submit 7 (3 + 4) copies of their joint settlement, rather than 12 (3 × 4) copies.

Applicants will submit documentation of their point claims to the Commission and to a locally available public file. An applicant satisfies its certification that it has submitted documentation to the Commission by attaching that documentation to its supplement or by concurrently submitting the documentation to the Commission's reference room for inclusion in the application file.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–13716 Filed 5–31–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

CANCELLATION OF PREVIOUSLY ANNOUNCED MEETING: *Tuesday, June 5, 2001, 10 a.m.;* Meeting closed to the public.

DATE & TIME: *Thursday, June 7, 2001 to follow the open meeting*

PLACE: 999 E Street, N.W., Washington, DC

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: *Thursday, June 7, 2001 at 10 a.m.*

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Draft Advisory Opinion 2001–07: The Nuclear Management Company Political Action Committee by George Aandahl.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris. Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 01–13891 Filed 5–30–01; 10:30 am]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011666–001

Title: West Coast North America/Pacific Islands Vessel Sharing Agreement

Parties:

Hamburg-Südamerikanische Dampfschifffahrts-Gesellschaft KG

Polynesia Line Ltd.

Fesco Ocean Management Ltd.

Synopsis: The proposed amendment corrects the name of Hamburg-Süd and adds Fesco Ocean Management Ltd. as an additional party.

Agreement No.: 011737–002

Title: The MCA Agreement

Parties:

Crowley Liner Services, Inc.

Cho Yang Shipping Co., Ltd.

CMA CGM S.A.

Compania Chilena De Navegacion Interoceanica S.A. Mexican Line Limited.

Lykes Lines Limited, LLC

Tecmarine Lines, Inc.

Tropical Shipping & Construction Co., Ltd.

Allianca Navegacao E. Logistica Ltda.

Hamburg-Südamerikanische Dampfschifffahrts-Gesellschaft

Synopsis: The proposed amendment adds Hamburg Sud, d.b.a. Columbus Line and Crowley American Transport., as a party to the agreement.

Agreement No.: 011766

Title: Contship/CMA CGM-Safmarine Space Charter Agreement

Parties:

CMA CGM S.A.

Contship Containerlines Limited

Safmarine Container Lines NV

Synopsis: The proposed agreement authorizes Contship and CMA CGM to charter space to Safmarine on vessels operated pursuant to FMC Agreement No. 011692 in the trade between the U.S. Atlantic Coast and ports in India, Sri Lanka, Southeast Asia from Bangladesh to the Philippines and countries bordering on the Red and Mediterranean Seas.

Dated: May 25, 2001.

By order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–13698 Filed 5–31–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Fact Finding Investigation No. 24]

Exclusive Tug Arrangements in Florida Ports; Order of Investigation

Notice is given that on May 24, 2001, the Federal Maritime Commission (''Commission'') issued an Order instituting a nonadjudicatory investigation of exclusive tug arrangements in Port Canaveral, Florida and Port Everglades, Florida. The Order was issued pursuant to sections 10, 11, 12 and 15 of the Shipping Act of 1984, 46 U.S.C. app. 1709, 1710, 1711 and 1714, and part 502, Subpart R of Title 46 of the Code of Federal Regulations, 46 CFR 502.281, *et seq*. The purpose of the investigation is to gather facts relating to the practices of the Canaveral Port Authority and the Port Everglades Department/Broward County Board of County Commissioners concerning exclusive tug arrangements in their respective ports.

Commissioner Antony M. Merck is the proceeding's Investigative Officer. The Commission's Order directs the development of a record on possible harm caused by tug monopolies at these ports and the factors which may be offered as justification for either or both of the respective port's actions in preventing competition for tug services. A report is to be submitted to the Commission no later than 180 days of the publication of this Notice in the **Federal Register**, and interim reports if it appears that more immediate Commission action is necessary. The report should include recommendations for any further Commission action, including any formal adjudicatory, injunctive or rulemaking proceedings, warranted by the factual record developed in the proceeding. The Investigative Officer's reports will remain confidential unless and until the Commission provides otherwise.

The Investigative Officer has been authorized to hold public or non-public sessions, to resort to all compulsory process authorized by law (including the issuance of subpoenas *ad testificandum* and *duces tecum*), to administer oaths, to require reports, and to perform such other duties as may be necessary in accordance with the laws of the United States and the regulations of the Commission. Interested persons are invited and encouraged to contact the Investigative Officer at (202) 523–5712 (Phone), or (202) 523–0522 (Fax), should they wish to provide testimony or evidence, or to contribute in any other manner to the development of a complete factual record in this proceeding.

The full text of the Order may be viewed on the Commission's home page at http://www.fmc.gov, or at the Office of the Secretary, Room 1046, 800 N. Capitol Street, NW, Washington, DC.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–13699 Filed 5–31–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants:

Cargo Care, Inc., 1300C South Finley Road, Suite 104, Lombard, IL 60148. Officers: Thomas S. Fornell, President (Qualifying Individual), Olaf Sodemann, Vice President

Deltamax Freight System Corporation, 10834 S. La Cienega Blvd., Inglewood, CA 90304. Officers: Jack Y.M. Kao, President/Managing Director (Qualifying Individual), Yoke Liu, Vice President

S&T Shipping, 810 Kangaroo Ct., Deltona, FL 32738. Timothy A. Voit, Sole Proprietor

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Transportation Intermediary Applicants:

Venture Transport, Inc., 314 North Post Oak Lane, Houston, TX 77024. Officers: Richard S. Higgins, Vice President (Qualifying Individual), Ronnie Murphy, President

Maraly International Corp., 7206 N.W. 84th Avenue, Miami, FL 33166. Officer: Robert Esquivel, President (Qualifying Individual)

Magellan Maritime Ltd., 391 Grand Avenue, Englewood, NJ 07631. Officers: Michael Rubin, President (Qualifying Individual), Mona Rubin, Vice President

Pum Yank Logistics, Inc., 425 Victoria Terrace, Ridgefield, NJ 07657. Officers: Young Joo Shin, President (Qualifying Individual), Hae Sook Lee, Chairman

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Malvazia Co. d/b/a Advanced Cargo, 2535 Seaboard Coastline Drive, Savannah, GA 31401. Officers: Patrice A. Kiley, Secretary (Qualifying Individual), Stefanos Vassilakos, President

Dated: May 25, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–13701 Filed 5–31–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License

The Commission gives notice that it has requested that the parties to the below listed agreement provide additional information pursuant to section 6(d) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1701 et seq. The Commission has determined that further information is necessary to evaluate the proposed agreement. This action prevents the agreement from becoming effective as originally scheduled.

Agreement No.: 011760.

Title: Discovery Cruise Line/Seaboard Space Charter and Sailing Agreement.

Parties:

Discovery Cruise Line
Seaboard Marine, Ltd.

Dated: May 25, 2001.

By order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–13697 Filed 5–31–01; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR 515.

License No.	Name/address	Date reissued
14323N	Hefco International, Inc. d/b/a Hefco International, d/b/a Sea Viper Shipping, 16725 Aldine Westfield, Houston, TX 77032.	March 29, 2001.
4619NF	Amad Corporation d/b/a Amad Shipping, 7250 N.W. 35th Terrace, Miami, FL 33122.	November 8, 2000.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–13700 Filed 5–31–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 18, 2001.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Eugene J. Allen and Virginia Allen, both of Meridian, Texas, as co-trustees of the Eugene J. Allen and Virginia Allen Living Trust; to acquire additional voting shares of Bosque Corporation, Meridian, Texas, and thereby indirectly acquire additional voting shares of Bosque County Bank, Meridian, Texas.

Board of Governors of the Federal Reserve System, May 29, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–13816 Filed 5–31–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 28, 2001.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Millennium Bancorp, Inc., Edwards, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Millennium Bank, Edwards, Colorado.

Board of Governors of the Federal Reserve System, May 29, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–13817 Filed 5–31–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 18, 2001.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Discount Bancorp, Inc., New York, New York; to engage *de novo* through its subsidiary, IDB Mortgage Corp., New York, New York, in residential mortgage lending activities, pursuant to §§ 225.28 (b)(1) and (b)(2) of Regulation Y.

2. Dexia S.A., Brussels, Belgium; to acquire Artesia Mortgage Capital Corporation, Issaqua, Washington; Artesia Mortgage CMBS, Inc., Issaqua, Washington; Artesia Delaware Inc., Wilmington, Delaware; and Artesia North America, Inc., Wilmington, Delaware, and thereby engage in extending credit and servicing loans,

pursuant to § 225.25(b)(1) of Regulation Y, activities related to extending credit, pursuant to § 225.25(b)(2) of Regulation Y, and investment transactions as a principal in connection with its hedging activities, pursuant to § 225.25 (b)(8) of Regulation Y.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Northview Financial Corporation, Northfield, Illinois; to retain its interest in Northview Mortgage L.L.C., Northfield, Illinois, and thereby engage in extending credit and servicing loans, pursuant to § 225.28 (b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, May 29, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–13815 Filed 5–31–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Solicitation of Nominations for Membership

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board is inviting the public to nominate qualified individuals for appointment to its Consumer Advisory Council, whose membership represents interests of consumers, communities, and the financial services industry. New members will be selected for three-year terms that will begin in January 2002. The Board expects to announce the selection of new members by year-end 2001.

DATE: Nominations should be received by August 13, 2001.

ADDRESSES: Nominations should be submitted in writing and mailed (not sent by facsimile) to Sandra F. Braunstein, Assistant Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: Ann Bistay, Secretary of the Council, Division of Consumer and Community Affairs, (202) 452–6470, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Consumer Advisory Council was established in 1976 at the direction of the Congress to advise the Federal Reserve Board on the exercise of its duties under the Consumer Credit Protection Act and on other consumer-related matters. The Council by law represents the interests both of consumers and of the financial services industry (15 USC 1691(b)). Under the Rules of Organization and Procedure of the Consumer Advisory Council (12 CFR 267.3), members serve three-year terms that are staggered to provide the Council with continuity.

New members will be selected for terms beginning January 1, 2002, to replace members whose terms expire in December 2001; the Board expects to announce its appointment of new members by year-end. Nomination letters should include a résumé and information about past and present positions held by the nominee; a description of special knowledge, interests or experience related to community reinvestment, consumer protection regulations, consumer credit, or other consumer financial services; and the full name, title, organization name, organization description, current address, telephone and fax numbers for both the nominee and the nominator. Individuals may nominate themselves.

The Board is interested in candidates who have familiarity with consumer financial services, community reinvestment, and consumer protection regulations, and who are willing to express their viewpoints. Candidates do not have to be experts on all levels of consumer financial services or community reinvestment, but they should possess some basic knowledge of the area. They must be able and willing to make the necessary time commitment to participate in conference calls, and prepare for and attend meetings three times a year (usually for two days, including committee meetings), held at the Board's offices in Washington, D.C. The Board pays travel expenses, lodging, and a nominal honorarium.

In making the appointments, the Board will seek to complement the background of continuing Council members in terms of affiliation and geographic representation, and to ensure the representation of women and minority groups. The Board may consider prior years' nominees and does not limit consideration to individuals nominated by the public when making its selection.

Council members whose terms end as of December 31, 2001, are:

Lauren Anderson, Executive Director, Neighborhood Housing Services, New Orleans, Louisiana.

Malcolm Bush, President, Woodstock Institute, Chicago, Illinois.

Mary Ellen Domeier, President, State Bank & Trust Company of New Ulm, New Ulm, Minnesota.

John Gamboa, Executive Director, The Greenlining Institute, San Francisco, California.

Willie Jones, Senior Vice President, The Community Builders, Inc., Boston, Massachusetts.

Anne Li, Executive Director, New Jersey Community Loan Fund, Trenton, New Jersey.

Marta Ramos, Vice President and CRA Officer, Banco Popular de Puerto Rico, San Juan, Puerto Rico.

Gary Washington, Senior Vice President, ABN AMRO, Chicago, Illinois.

Robert Wynn, Financial Education Officer, Department of Financial Institutions, Madison, Wisconsin.

Council members whose terms continue through 2002 and 2003 are:

Anthony Abbate, President and Chief Executive Officer, Interchange Bank, Saddle Brook, New Jersey.

Dorothy Broadman, Senior Vice President, Cal Fed Bank, San Francisco, California.

Teresa A. Bryce, General Counsel, Nexstar Financial Corporation, St. Louis, Missouri.

Manuel Casanova, Executive Vice President, International Bank of Commerce, Brownsville, Texas.

Constance Chamberlin, President/CEO, Housing Opportunities Made Equal, Richmond, Virginia.

Robert Cheadle, Interim Executive Director, Oklahoma Indian Legal Services, Oklahoma City, Oklahoma.

Lester Wm. Firstenberger, Deputy General Counsel, American General Finance, Evansville, Indiana.

Earl Jarolimek, Vice President/Corporate Compliance Officer, Community First Bankshares, Fargo, North Dakota.

Dean Keyes, Community and Economic Development Consultant, Dean Keyes Consulting, Tucson, Arizona.

Patrick Liddy, Director of Compliance, Fifth Third Bancorp, Cincinnati, Ohio.

Oscar Marquis, Attorney, Hunton and Williams, Park Ridge, Illinois.

Jeremy Nowak, Chief Executive Officer, The Reinvestment Fund, Philadelphia, Pennsylvania.

Ronald Reiter, Supervising Deputy Attorney General, California Department of Justice, San Francisco, California.

Elizabeth Renuart, Staff Attorney, National Consumer Law Center, Boston, Massachusetts.

Russell Schrader, Senior Vice President and Assistant General Counsel, Visa U.S.A., San Francisco, California.

Frank Torres, Legislative Counsel, Consumers Union, Washington, District of Columbia.

Board of Governors of the Federal Reserve System, May 29, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–13814 Filed 5–31–01; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Consumer Advisory Council

Notice of Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Thursday, June 28, 2001. The meeting, which will be open to public observation, will take place at the Federal Reserve Board's offices in Washington, DC, in Dining Room E of the Martin Building (Terrace level). The meeting will begin at 8:45 a.m. and is expected to conclude at 1 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

E-Sign Act—Discussion of the Board's interim rules allowing electronic delivery of disclosures required under certain consumer financial services laws. Discussion of statutory or regulatory changes needed to facilitate online banking and lending.

Truth in Lending Act—Discussion of proposed amendments to Regulation Z concerning the Home Ownership and Equity Protection Act.

Community Reinvestment Act—Discussion of topics to be included in the 2002 review of Regulation BB which implements the Community Reinvestment Act.

Home Mortgage Disclosure Act—Discussion of the proposed changes to Regulation C which implements the Home Mortgage Disclosure Act.

Committee Reports—Council committees will report on their work.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit views to the Council regarding any of the above topics may do so by sending written statements to Ann Bistay, Secretary of the Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551. Information about this meeting may be obtained from Ms. Bistay, 202–452–6470.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–13813 Filed 5–31–01; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting; Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10 a.m., Wednesday, June 6, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS 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: Michelle A. Smith, Assistant to the Board; 202–452–3204.

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: May 30, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–13907 Filed 5–30–01; 11:19 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below will be submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act (''PRA''). The FTC is seeking public comments on its proposal to extend through September 30, 2004 the current PRA clearance for information collection requirements contained in its Appliance Labeling Rule (''Rule''), promulgated pursuant to the Energy Policy and Conservation Act of 1975 (''EPCA''). The clearance expires on September 30, 2001.

DATES: Comments must be submitted on or before July 31, 2001.

ADDRESSES: Send written comments to: Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. All comments should be identified as responding to this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection requirements should be addressed to Hampton Newsome, Attorney, Bureau of Consumer Protection, Division of Enforcement, Room 4616, Federal Trade Commission, 600 Pennsylvania AVe., NW., Washington, DC 20580 (202–326–2889).

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3) and 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the Rule (OMB Control Number 3084–0069).

The FTC invites comments on: (1) 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) 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) 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 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.

The Appliance Labeling Rule (16 CFR part 305) establishes testing, reporting, recordkeeping, and labeling requirements for manufacturers of major household appliances (refrigerators, refrigerator-freezers, freezers, water heaters, clothes washers, dishwashers, room air conditioners, furnaces, central air conditioners, heat pumps, pool heaters, certain lighting products, and certain plumbing products). The requirements relate specifically to the disclosure of information relating to energy consumption and water usage. The Rule's testing and disclosure requirements enable consumers purchasing appliances to compare the energy use or efficiency of competing models. In addition, EPCA and the Rule require manufacturers to submit relevant data to the Commission regarding energy or water usage in connection with the products they manufacture. The Commission uses this data to compile ranges of comparability for covered appliances for publication in the **Federal Register**. These submissions, along with required records for testing data, may also be used in enforcement actions involving alleged misstatements on labels or in advertisements.

Burden Statement

Estimated Annual Hours Burden: 445,000 hours.

The estimated hours burden imposed by Section 324 of EPCA and the Commission's Rule include burdens for testing (338,292 hours); reporting (1,324 hours); recordkeeping (767 hours); labeling (101,333 hours); and retail catalog disclosures (2,550 hours). The total burden for these activities is 445,000 hours (rounded to the nearest thousand). This estimate is lower than previous estimates because of revised assumptions regarding the number of basic models subjected to FTC-required testing each year (see discussion below).

The following estimates of the time needed to comply with the requirements of the Rule are based on census data, Department of Energy figures and estimates, general knowledge of manufacturing practices, and industry input and figures. Because compliance burden falls almost entirely on manufacturers and importers (with a de minimis burden for retailers), burden estimates are calculated on the basis of the number of domestic manufacturers and/or the number of units shipped domestically in the various product categories.

A. Testing

Under the Rule, manufacturers of covered products must test each basic model they produce to determine energy usage (or, in the case of plumbing fixtures, water consumption). The burden imposed by this requirement is determined by the number of basic models produced, the average number of units tested per model, and the time required to conduct the applicable test.

Manufacturers need not subject each basic model to testing annually; they must retest only if the product design changes in such a way as to affect energy consumption. Previously, staff based its burden estimate on the assumption that manufacturers generally test each model at least once a year. Staff then conservatively assumed that this annual testing meant that all basic models were either replaced or subject to design changes during the year that necessitated testing under the Rule. Based on input from industry representatives for most manufacturer categories, however, staff's now believes that the frequency with which models are tested every year ranges roughly between 10% and 50% and that the actual percentage of basic models tested varies by appliance category. In addition, it is likely that only a small portion of the tests conducted is attributable to the Rule's requirements. Given the lack of specific data on this point, staff will conservatively assume that all of the tests conducted are attributable to the Rule's requirements and will use the high end of the range noted above. Accordingly, the burden estimates are based on the assumption that 50% of all basic models are tested annually. Thus, the estimated testing burden for the various categories of products covered by the Rule is as follows:

Category of manufacturer	Number of basic models	Percentage of models tested (FTC required)	Avg. number of units tested per model	Hours per unit tested	Total annual testing burden hours
Refrigerators, Refrigerator-freezers, and Freezers	3,075	50	2	4	12,300
Dishwashers	393	50	2	1	393
Clothes washers	500	50	2	2	1,000
Water heaters	650	50	2	24	15,600
Room air conditioners	1,092	50	2	8	8,736
Furnaces	1,900	50	2	8	15,200
Central A/C	1,270	50	2	24	30,480
Heat pumps	903	50	2	72	65,016
Pool heaters	250	50	2	12	3,000
Fluorescent lamp ballasts	975	50	4	3	5,850
Lamp products	2,100	50	12	14	176,400
Plumbing fixtures	1,700	50	2	2	3,400
Plumbing fittings	22,000	50	1	.0833	917
					338,292

B. Reporting

Reporting burden estimates are based on information from industry representatives. Manufacturers of some products, such as appliances and HVAC equipment (furnaces, boilers, central air conditioners and heat pumps), indicate that, for them, the reporting burden is best measured by the estimated time required to report on each model manufactured, while others, such as makers of fluorescent lamp ballasts and lamp products, state that an estimated number of annul burden hours by manufacturer is a more meaningful way to measure. The figures below reflect these different methodologies as well as the varied burden hour estimates provided by manufacturers pf the different product categories that use the latter methodology.

Appliances, HVAC Appliances, HVAC Equipment, and Pool Heaters

Staff estimates that the average reporting burden for these manufacturers is approximately two minutes per basic model. Based on this estimate, multiplied by a total of 10,033

basic models of these products, the annual reporting burden for the airplane, HVAC equipment, and pool heater industry is an estimated 334 hours (2 minutes × 10,033 models ÷ 60 minutes per hour).

Fluorescent Lamp Ballasts, Lamp Products, and Plumbing Projects

The total annual reporting burden for manufacturers of fluorescent lamp ballasts, lamp products, and plumbing products is based on the estimated average annual burden for each category of manufacturers, multiplied by the number of manufacturers in each respective category, as shown below:

Category of manufacturer	Annual burden hours per manufacturer	Number of manufacturers	Total annual reporting burden hours
Fluorescent lamp ballasts	6	20	120
Lamp products	15	50	750
Plumbing products	1	120	120

Total Reporting Burden Hours: The total reporting burden for industries covered by the Rule is 1,324 hours annually (334+120+750+120).

C. Recordkeeping

EPCA and the Appliance Labeling Rule require manufacturers to keep records of the test data generated in performing the tests to derive information included on labels and required by the Rule. As with reporting, burden is calculated by number of models for appliances, HVAC equipment, and pool heaters, and by number of manufacturers for fluorescent lamp ballasts, lamp products, and plumbing products.

Appliances, HVAC Equipment, and Pool Heaters

The recordkeeping burden for manufacturers of appliances, HVAC equipment, and pool heaters varies directly with the number of tests performed. Staff estimates total recordkeeping burden to be approximately 167 hours for these manufacturers, based on an estimated average of one minute per record stored (whether in electronic or paper format), multiplied by 10,033 tests performed annually (1 × 10,033 ÷ 60 minutes per hour).[1]

Fluorescent Lamp Ballasts, Lamp Products, and Plumbing Products

The total annual recordkeeping burden for manufacturers of fluorescent lamp ballasts, lamp products, and plumbing products is based on the estimated average annual burden for each category of manufacturers (derived from industry sources), multiplied by the number of manufacturers in each respective category, as shown below:

Category of manufacturer	Annual burden hours per manufacturer	Number of manufacturers	Total annual recordkeeping burden hours
Fluorescent lamp ballasts	2	20	40
Lamp products	10	50	500
Plumbing products	.5	120	60

Total Recordkeeping Burden Hours: The total recordkeeping burden for industries covered by the Rule is 767 hours annually (167+40+500+60).

D. Labeling

EPCA and the Rule require that manufacturers of covered products provide certain information to consumers, through labels, fact sheets, or permanent markings on the products. The burden imposed by this requirement consists of (1) the time needed to prepare the information to be provided, and (2) the time needed to provide it, in whatever form, with the products. The applicable burden for each category of products is described below:

Appliances, HVAC Equipment, and Pool Heaters

EPCA and the Rule specify the content, format, and specifications for the required labels, so manufacturers need only add the energy consumption figures derived from testing. In addition, most larger companies use automation to generate labels, and the labels do not change from year to year. Given these considerations, staff estimate that the time to prepare labels for appliances, HVAC equipment, and pool heaters is no more than four minutes per basic model. Thus, for appliances, HVAC equipment, and pool heaters, the approximate annual drafting burden involved in labeling is 669 hours per year [10,033 (all basic models) × four minutes (drafting time per basic model) ÷ 60 (minutes per hour)].

Industry representatives and trade associations have estimated that it takes between 4 and 8 seconds to affix each label to each product. Based on an average of six seconds per unit, the annual burden for affixing labels to appliances, HVAC equipment, and pool heaters is 83,522 hours [six (seconds) × 50,113,098 (the number of total products shipped in 2000) divided by 3,600 (seconds per hour)].

The Rule also requires that HVAC equipment manufacturers disclose energy usage information on a separate fact sheet or in an approved industry-prepared directory of products. Staff has estimated the preparation of these fact sheets requires approximately 30 minutes per basic model. Manufacturers producing at least 95 percent of the affected equipment, however, are members of trade associations[2] that produce approved directories (in connection with their certification programs independent of the Rule) that satisfy the fact sheet requirement. Thus, the drafting burden for fact sheets for HVAC equipment is approximately 102 hours annually [4,073 (all basic models)

[1] The amount of annual tests performed is derived by multiplying the number of basic models within the relevant product categories by the average number of units tested per model within each category (the underlying information may be drawn from the table in Section A.).

[2] These associations include the Air-Conditioning and Refrigeration Institute, the Gas Appliance Manufacturers Association, and the Hydronics Institute.

× .5 hours × .05 (proportion of equipment for which fact sheets are required)].

The Rule allows manufacturers to prepare a directory containing fact sheet information for each retail establishment as long as there is a fact sheet for each basic model sold. Assuming that six HVAC manufacturers (i.e., approximately 5% of HVAC manufacturers), produce fact sheets instead of having required information shown in industry directories, and each spends approximately 16 hours per year distributing the fact sheets to retailers and in response to occasional consumer requests, the total time attributable to this activity would also be approximately 96 hours.

The total annual labeling burden for appliances, HVAC equipment, and pool heaters is 668 hours for preparation plus 83,522 hours for affixing, or 84,191 hours. The total annual fact sheet burden is 102 hours for preparation and 96 hours for distribution, or 198 hours. The total annual burden for labels and fact sheets for the appliance, HVAC, and pool heater industries is, therefore, estimated to be 84,389 hours (84,191 + 198).

Fluorescent Lamp Ballasts

The statute and the Rule require that labels for fluorescent lamp ballasts contain an ''E'' within a circle. Since manufacturers label these ballasts in the ordinary course of business, the only impact of the Rule is to require manufacturers to reformat their labels to include the ''E'' symbol. Thus, the burden imposed by the Rule for labeling fluorescent lamp ballasts is minimal.

Lamp Products

The burden attributable to labeling lamp products is also minimal, for similar reasons. The Rule requires certain disclosures on packaging for lamp products. Since manufacturers were already disclosing the substantive information required under the Rule prior to its implementation, the practical effect of the Rule was to require that manufacturers redesign packaging materials to ensure they include the disclosures in the manner and form prescribed by the Rule. Because this effort is now complete, there is no ongoing labeling burden imposed by the Rule for lamp products.

Plumbing Products

The statute and the Rule require that manufacturers disclose the water flow rate for plumbing fixtures. Manufacturers may accomplish this disclosure by attaching a label to the product, through permanent markings imprinted on the product as part of the manufacturing process, or by including the required information on packaging material for the product. While some methods might impose little or no additional incremental time burden and cost on the manufacturer, other methods (such as affixing labels) could. Thus, staff estimate of an overall blended average burden associated with this disclosure requirement of one second per unit sold. Staff also estimate that there are approximately 9,000,000 covered fixtures and 52,000,000 fittings sold annually in the country. Therefore, the estimated annual burden to label plumbing products is 16,944 hours [61,000,000 (units) x 1 (seconds) + 3,600 (seconds per hour)].

Total Burden for Labeling: The total labeling burden for all industries covered by the Rule is 101,333 hours (84,389 + 16,944) annually.

E. Retail Sales Catalogs Disclosures

The Rule requires that sellers offering covered products through retail sales catalogs (i.e., those publications from which a consumer can actually order merchandise) disclose in the catalog energy (or water) consumption for each covered product. Because this information is supplied by the product manufacturers, the burden of the retailer consists of incorporating the information into the catalog presentation.

In the past, staff has estimated that there are 100 sellers who offer covered products through paper retail catalogs. While the Rule initially imposed a burden on catalog sellers by requiring that they draft disclosures and incorporate them into the layouts of their catalogs, paper catalog sellers now have substantial experience with the Rule and its requirements. Energy and water consumption information has obvious relevance to consumers, so sellers are likely to disclose much of the required information with or without the Rule. Accordingly, given the small number of catalog sellers, their experience with incorporating energy and water consumption data into their catalogs, and the likelihood that many of the required disclosures would be made in the ordinary course of business, staff believe that any incremental burden the Rule imposes on these paper catalog sellers would be minimal.

Staff estimates that there are an additional 150 new online sellers of covered products who are subject to the Rule's catalog disclosure requirements. Many of these sellers may not have the experience the paper catalog sellers have in incorporating energy and water consumption data into their catalogs. Staff estimates that these online sellers each require approximately 17 hours per year to incorporate the data into their online catalogs. This estimate is based on the assumption that entry of the required information takes 1 minute per covered product and an assumption that the average online catalog contains approximately 1,000 covered products (based on a sampling of websites of affected retailers). Given that there is a great variety among sellers in the volume of products they offer online, it is very difficult to estimate such volume with precision. In addition, this analysis assumes that information for all 1,000 products is entered into the catalog. This is a conservative assumption because the number of incremental additions to the catalog from year to year is likely to be much lower after initial start-up efforts have been completed. The total catalog disclosure burden for all industries covered by the rule is 2,550 hours (150 sellers x 17 hours annually).

Estimated Annual Cost Burden: ($7,826,750 in labor costs and $3,519,422 in capital or other non-labor costs.

Labor Costs: Staff derived labor costs by applying appropriate estimated hourly cost figures to the burden hours described above. In calculating the cost figures, staff assumes that test procedures are conducted by skilled technical personnel at an hourly rate of $20.00, and that recordkeeping and reporting, and labeling, marking, and preparation of fact sheets, generally are performed by clerical personnel at an hourly rate of $10.00.

Based on the above estimates and assumptions, the total annual labor costs for the five different catagories of burden under the rule, applied to all the products covered by it, is $7,827,000 (rounded to the nearest thousand), derived as follows:

Activity	Burden hours per year	Wage category hourly rate	Total annual labor cost
Testing	338,292	Skilled clerical/$20	$6,765,840
Reporting	1,324	Clerical/$10	13,240

Activity	Burden hours per year	Wage category hourly rate	Total annual labor cost
Recordkeeping	934	Clerical/$10	9,340
Labeling, marking, and fact sheet preparation	101,333	Clerical/$10	1,013,330
Catalog disclosures	2,550	Clerical/$10	25,500
			7,827,250

Capital or Other Non-Labor Costs: $3,519,000 (rounded), determined as follows:

Staff has examined the five distinct burdens imposed by EPCA through the Rule–testing, reporting, recordkeeping, labeling, and retail catalog disclosures—as they affect the 11 groups of products that the rule covers. Staff has concluded that there are no current start-up costs associated with the rule. Manufacturers have in place the capital equipment necessary—especially equipment to measure energy and/or water usage—to comply with the rule.

Under this analysis, testing, recordkeeping, and retail catalog disclosures are activities that incur no capital or other non-labor costs. As mentioned above, testing has been performed in these industries in the normal course of business for many years as has the associated recordkeeping. The same is so for regarding compliance applicable to the requirements for paper catalogs. Manufacturers and retailers who make required disclosures in catalogs already are producing catalogs in the ordinary course of their businesses; accordingly, capital cost associated with such disclosure would be minimal or nil. Staff recognizes that there may be initial costs associated with posting online disclosure, and it invites further comment to reasonably quantify such costs.

Manufacturers that submit required reports to the Commission directly (rather than through trade associations) incur some nominal costs for paper and postage. Staff estimates that these costs do not exceed $2,500. Manufacturers must also incur the cost of procuring labels and fact sheets used in compliance with the rule. Based on estimates of 50,113,098 units shipped and 128,650 fact sheets prepared,[3] at an average cost of seven cents for each label or fact sheet, the total (rounded—labeling cost is $3,516.922.

John D. Grubert,

Acting General Counsel.

[FR Doc. 01–13707 Filed 5–31–01; 8:45 am]

BILLING CODE 6750–01–M

[3] The units shipped total is based on combined actual or estimated industry figures for calendar year 2000 across all of the product categories, except for fluorescent lamp ballasts, lamp products, and plumbing fixtures. Staff has determined that, for those product categories, there are little or no costs associated with the labeling requirements. The fact sheet estimation is based on the previously noted assumption that five percent of HVAC manufacturers produce fact sheets on their own. Based on total HVAC units shipped (10,291,965), five percent amounts to 514,598 HVAC units. Because manufacturers generally list more than one unit on a fact sheet, staff has estimated that manufacturers independently preparing them will use one sheet for every four of these 514,598 units. Thus, staff estimates that HVAC manufacturers produce approximately 128,650 fact sheets.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Request for Nominations of Members to the Advisory Committee on Blood Safety and Availability

AGENCY: Office of the Secretary, HHS.

ACTION: Announcement of request for membership nominations.

SUMMARY: The Office of the Secretary requests nomination of individuals to serve on the Advisory Committee on Blood Safety and Availability in accordance with its charter. Appointments will be made for a term of four years. Individuals nominated after June 1, 2000 will remain under consideration for these appointments.

DATES: All nominations must be received at the address below no later than 4 p.m. EDT August 31, 2001.

ADDRESSES: All nominations shall be submitted to Stephen D. Nightingale, M.D., Executive Secretary, Advisory Committee on Blood Safety and Availability, Office of Public Health and Science, Department of Health and Human Services, 200 Independence Ave., SW., Washington, DC 20201. Phone (202) 690–5560.

FOR FURTHER INFORMATION CONTACT: Stephen D. Nightingale, M.D., Executive Secretary, Advisory Committee on Blood Safety and Availability, Office of Public Health and Science, Department of Health and Human Services, Room 736–E, 200 Independence Ave., SW., Washington, DC 20201. Phone (202) 690–5560.

Nominations: In accordance with the charter of the Committee, persons nominated for membership should be from among authorities knowledgeable in blood banking, transfusion medicine, bioethics and/or related disciplines. Members shall be selected from State and local organizations, blood and blood products industry including manufacturers and distributors, advocacy groups, consumer advocates, provider organizations, academic researchers, ethicists, private physicians, scientists, consumer advocates, legal organizations and from among communities of persons who are frequent recipients of blood and blood products.

Information Required: Each nomination shall consist of a package that, at a minimum, includes:

A. The name, return address, daytime telephone number and affiliation(s) of the individual being nominated, the basis for the individual's nomination, the category for which the individual is nominated, and a statement bearing an original signature of the nominated individual that he or she is willing to serve as a member of the committee;

B. The name, return address, daytime telephone number at which the nominator may be contacted. Organizational nominators must identify a principal contact person in addition to the contact person in addition to the contact information; and

C. A copy of the nominee's curriculum vitae.

The Department of Health and Human Services has a strong interest in ensuring that women, minority groups, and physically challenged individuals are adequately represented on the Committee and, therefore, encourages nomination of qualified candidates from these groups. The Department also encourages geographic diversity in the composition of the Committee.

Individuals should feel free to nominate themselves. All nomination information for a nominee must be provided in a complete single package. Incomplete nominations will not be processed. Nomination materials must bear original signatures, and facsimile transmission or copies are not acceptable.

Dated: May 21, 2001.

Stephen D. Nightingale,

Executive Secretary, Advisory Committee on Blood Safety and Availability.

[FR Doc. 01–13745 Filed 5–31–01; 8:45 am]

BILLING CODE 4150–28–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Public Health and Science

Announcement of Availability of Funds for Research in Family Planning Service Delivery Improvement

AGENCY: Office of Population Affairs, OPHS, DHHS.

ACTION: Notice.

SUMMARY: The Office of Population Affairs (OPA) requests applications for family planning service delivery improvement research grants. Applications should address Title X Family Planning Program priorities in two general areas: (1) Providing family planning and reproductive health services to undeserved populations; and (2) assessing the impact of increasing costs on the delivery of family planning and reproductive health services.

DATES: The closing date for this grant announcement is July 26, 2001. Applications will be considered as meeting the deadline date if they are: (1) Received on or before the deadline date or (2) postmarked on or before the deadline date and received in time to be considered during the competitive review process. A legible date receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Applications which do not conform to requirements of this announcement will be accepted for review. Applicants will be so notified and the applications will be returned.

ADDRESSES: Application kits may be obtained from the Office of Population Affairs, Office of Grants Management, 4350 East-West Highway, Suite 200, Bethesda, MD 20814. Application kits may also be downloaded from the OPA web site at *http://www.hhs.gov/opa* or requests may be faxed to (301) 594–5980. To facilitate the handling of written requests, please include: name, title, organization, mailing address, telephone number and e-mail address. All completed applications must be submitted to the Office of Grants Management at the above mailing address. Please label the application envelope: ''Attention: Family Planning Research.''

FOR FURTHER INFORMATION CONTACT: For information on specific research issues: Eugenia Eckard, Office of Population Affairs, (301) 594–6534. For questions about the technical preparation of the grant application: Andrea Brandon, Grants Management Officer, (301) 594–4012.

SUPPLEMENTARY INFORMATION: Title X of the Public Health Service Act (42 U.S.C. 300a–2) authorizes the Secretary of Health and Human Services to award grants and enter into contracts with public agencies or private nonprofit entities to provide research in behavioral and program implementation fields related to family planning. (Catalogue of Federal Domestic Assistance No. 93.974.) This research program is not subject to the intergovernmental review requirements of Executive Order 12372 and 45 CFR 100.

It is the policy of OPA that women and members of minority groups and their subpopulations be included in all OPA supported research projects involving human subjects, unless a clear and compelling rationale and justification are provided indicating that inclusion is inappropriate with respect to the health of the subject or the purpose of the research.

All investigators proposing research involving human subject should read the updated ''NIH Guidelines for Inclusion of Women and Minorities as Subjects in Clinical Research'', published in the NIH Guide for Grants and Contracts on August 2, 2000 and available at: http://grants.nih.gov/grants/funding/women_min/guidelines_update.htm.

In the interest of making data available to others, copies of data sets and accompanying documentation produced with funds granted trough this announcement will be deposited with a public use data achieve or with the OPA. The cost of making such data available should be budgeted in the proposal.

Applications should address how findings from the proposed study will have general applicability to the improvement of the delivery of family planning services, and a plan must be presented on how information from the research findings will be disseminated.

Healthy People 2010: The OPA is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2010,'' a PHS-led national activity for setting priority areas. This Request for Applications (RFA) is related to one or more of the priority areas, in particular the focus area on family planning. Potential applicants may obtain ''Healthy People 2010'' at *http://www.health.gov/healthypeople.*

Research Goals and Scope: The primary purpose of the Title X Family Planning Program is to provide family planning and reproductive health services to all persons desiring them. To that end, the program is guided by a set of priorities: maintain a high level of quality in the family planning and reproductive health services delivered; ensure comprehensiveness in the range of services offered, and; increase access to services through partnerships with other public health providers and community-based organizations, as well as outreach to underserved populations. This RFA invites proposals for applied research to address these priorities in two general areas: (1) Providing family planning and reproductive health services to underserved populations; and (2) assessing the impact of increasing costs on the delivery of family planning and reproductive health services.

Underserved Populations

It has been demonstrated that access to family planning and reproductive health services has a positive impact on reducing the incidence of sexually transmitted diseases (STD)/HIV infection, unintended pregnancy, abortion, maternal and infant morbidity and mortality, and diseases of the reproductive system. The Title X Family Planning Program was established in 1970 to facilitate such access by offering a broad range and family planning and reproductive health services-at low or no cost, on a voluntary and confidential basis, and without regard to race, national origin, age, gender, or disability.

The Title X program currently serves approximately 4.5 million persons annually and service data indicate the program is meeting its mandate of providing family planning and reproductive health services to many of those in need. For example, a major barrier to receiving health care is its cost. Title X regulations specify that priority in the provision of services be given to persons from low income families and, in 1999, 83 percent of Title X clients had family incomes at or below 150 percent of the poverty level. There are, however, factors other than low income that can have a negative impact on the ability of come populations to obtain family planning and reproductive health services. Of particular concern are the social, cultural, physical, and language barriers that may hinder access for certain populations subgroups. These factors

must be better understood and addressed, and protocols to meet the unique service delivery requirements of affected populations need to be developed and tested.

Under this announcement, funds are available for research, directly applicable to service provision, on one or more of the following underserved populations: Homeless persons, migrant workers, recent immigrants, substance abusers, disabled persons, and males. Proposals must demonstrate a well developed understanding of the family planning and reproductive health needs of the target population(s) chosen. Relevant areas of inquiry include, but are not limited to: Client behavior—when and why they do or do not seek services; physical or location barriers which may inhibit client access; the implications of clinic personnel knowledge, attitudes and behavior on client access; providing services in nontraditional settings; the development and testing of outreach and communication strategies, and; the development and testing of information and education materials specifically targeting underserved populations.

Increasing Costs

Even as the Title X Family Planning Program works to provide outreach and services to underserved populations, increasing costs are having an impact on the program's ability to maintain the level and quality of the services it provides to currently enrolled clients. Inflationary pressures are easily quantified; for example, during the past decade, the medical care component of the Consumer Price Index (CPI) increased at an average annual rate of 5.1 percent, compared with an average annual increase of 2.7 percent in the overall CPI. What are not as easily quantified are the cost increases incurred by technology advances, changes in the population served and the mix of services they require, and maintaining adequate clinic staffing in terms of both number and qualification.

A fundamental charge to the Title X program is to ensure contraceptive choice; program regulations and guidelines require that a full range of contraceptive methods and related counseling be available to clients. Hormonal methods of contraception are highly effective and nearly three-quarters of Title X clients choose them. They are also costly, particularly in the case of implants and injectables. Other contraceptive methods, such as the diaphragm or natural family planning, while not costly in terms of supplies, do require extensive instruction and counseling—which are costly.

Similarly, screening for STDs, cancers and other diseases of the reproductive system are core Title X services and an integral element in maintaining high standards of care and comprehensiveness of services. There are new diagnostic technologies available that have the potential to better manage diagnoses and reduce the need for invasive procedures; they are often significantly more expensive than the traditional technologies.

The true cost of providing services is, however, more complicated than the cost of a contraceptive method or a diagnostic test multiplied by the number of persons receiving the service. Who is receiving services would also have an impact on cost. For example, the reported influx of uninsured or underinsured clients into the Title X system has implications for the type and quantity of services required, as well as for provider revenue. Efforts to reach underserved, and often hard-to-serve, populations could have similar effects. Demands for increased staff time spent providing counseling as well as clinical services are another consideration, as are increases in personnel costs as State requirements for masters degree level nurse practitioners are implemented.

Under this announcement, funds are available for research on the complex interplay of factors that contribute to the increasing costs of providing family planning and reproductive health services and to document and assess the extent and impact of such increases. It is preferable that analyses address change over time rather than one single point in time. Relevant areas of inquiry include, but are not limited to: the increasing cost of providing specific contraceptive methods, including the actual cost of the method(s), shifts in demand for the method(s), and staff level and time required; the cost of using advanced diagnostic technologies, including the actual cost of the technology, staff level and time required, and the long range cost implications—to the provider—of adopting the technology; the cost of providing services to underserved populations(s), including outreach efforts and the specific mix of services required; the costs involved in recruiting and retaining adequate numbers of qualified clinical and nonclinical staff, and; factors affecting provider revenue, including increases in the number of clients requiring subsidized services, changes in third party reimbursement to providers, and shifts in Federal, state, and local funding sources.

Eligible applicants: Any public or private nonprofit entity is eligible to apply for a grant under this announcement.

Funds Available: The OPA intends to make available approximately $1,000,000 in Fiscal Year (FY) 2001 to support an estimated three to four new research grants, each in the range of $150,000 to $250,000. Grants will be funded in annual increments (budget periods) and may be funded for a project period of up to two years. A match will not be required. Funding for the second approved budget period is contingent upon the availability of funds, satisfactory progress on the project, and adequate stewardship of federal funds. Funding decisions can be expected by September 30, 2001.

Review Procedures and Criteria: Applications in response to this solicitation will be reviewed and scored, in competition with other submitted applications, by an independent review panel. Review criteria include:

1. Potential usefulness. How the results of the proposed research project are expected to advance knowledge in the field of family planning and reproductive health service delivery with respect to underserved populations or assessing the extent and impact of increasing costs. (30 points)

2. Quality and soundness of research design. The strength and appropriateness of the conceptual framework underlying the project, as well as the methodology and analytic strategies proposed. (30 points)

3. Qualifications of personnel and organizational capacity. The qualifications of project personnel for conducting the proposed research as evidenced by professional training and experience. Principal investigator and staff time commitments will also be considered, as will the capacity of the organization to provide necessary infrastructure and support. (20 points)

4. Adequacy of work plan and budget. The reasonableness and sufficiency of the work plan and budget to ensure timely implementation and completion of the proposed research. (20 points)

Final grant award decisions will be made by the Deputy Assistant Secretary for Population Affairs (DASPA) on the basis of priority score, program relevance, and availability of funds.

Applicants will be notified, by letter, of final funding decisions. The official document notifying an applicant that an application has been approved for funding is the Notice of Grant Award, which specifies the amount of money awarded, the purpose of the grant, and the terms and conditions of the grant award.

Method of Applying: Applications should be prepared on form PHS 5161,

which is included in the application kit for this announcement and also available from the business or grant and contracts office at most academic and research institutions, as well as at: *http://forms.psc.gov/forms/PHS/phs.html.* Submissions should include a signed typewritten original of the application and two signed photocopies. Application submissions may not be faxed or sent electronically.

Dated: May 18, 2001.

Mireille B. Kanda,

Acting Director, Office of Population Affairs.

[FR Doc. 01–13743 Filed 5–31–01; 8:45 am]

BILLING CODE 4150–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting of the Advisory Committee on Minority Health

AGENCY: Office of the Secretary, Office of Public Health and Science, Office of Minority Health, HHS.

ACTION: Notice is given of the second meeting.

The Advisory Committee on Minority Health will meet on Thursday, June 21, 2001 from 9:00 am to 5:00 pm, and Friday, June 22, 2001, from 8:30 am–12 Noon. The meeting will be held at the Hilton Washington and Towers Hotel, The State Room, 1919 Connecticut Avenue, NW., Washington, DC.

The Advisory Committee will discuss racial and ethnic disparities in health, as well as, other related issues.

The meeting is open to the public. There will be an opportunity for public comment which will be limited to five minutes per speaker. Individuals who would like to submit written statements should mail or fax their comments to the Office of Minority Health at least two business days prior to the meeting.

For further information, please contact Ms. Patricia Norris, Office of Minority Health, Rockwall II Building, 5515 Security Lane, Suite 1000, Rockville, Maryland 20852. Phone: 301–443–5084 Fax: 301–594–0767.

Dated: May 25, 2001.

Nathan Stinson, Jr.,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 01–13744 Filed 5–31–01; 8:45 am]

BILLING CODE 4150–29–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01085]

Integrating Prevention Services for Persons With Bleeding and Clotting Disorders; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program to demonstrate the effectiveness of the comprehensive care model in preventing or reducing bleeding and clotting disorder related complications through hemostasis and thrombosis centers. This program addresses the ''Healthy People 2010'' focus areas of access to quality health services, disability and secondary conditions, educational and community-based programs, and public health infrastructure.

The purpose of the program is to (1) determine the efficacy of integrated multi-disciplinary care and prevention services for persons with hemophilia, other hereditary bleeding disorders including women with bleeding disorders, and thrombophilia to reduce morbidity and mortality associated with bleeding and clotting diseases; (2) assess unmet needs for service delivery and identify outreach strategies designed to improve access to care; (3) develop effective messages aimed at disease management and prevention; and (4) foster the development of training programs to enhance provider skills for the delivery of hemostasis and thrombosis care.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Title 2 of the United States Code, Chapter 26, section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $1,000,000 is available in FY 2001 to fund approximately four awards. It is expected that the average award will be $250,000, ranging from $200,000 to $300,000. It is expected that the awards will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to two years. The funding estimate may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Using the principles of the multi-disciplinary comprehensive care model utilized in hemophilia treatment center prevention programs, implement the model in a health care setting that features strong clinical, research, outreach, education, support and provider training programs for persons with hemophilia, other hereditary bleeding disorders including women with bleeding disorders, and thrombophilia.

Specifically:

(1) Identify unmet needs of target populations and establish outreach mechanisms to improve access to care for persons with bleeding and clotting disorders for the purpose of evaluating prevention interventions.

(a) Determine strategies that will address unmet needs, assess the efficacy of prevention activities and improve access to under-served populations such as women with bleeding disorders and individuals with thrombophilia.

(b) Conduct outreach efforts to increase prevention intervention awareness and availability of comprehensive care among the affected population and referring providers and establish referral patterns.

(c) Facilitate communication with other sub-specialties concerning awareness and prevention of the complications of bleeding and clotting disorders.

(2) Develop and implement a plan that will provide clinical expertise for diagnosing underlying causes of coagulation disorders and provide management and prevention services. Experience with bleeding and clotting

disorders should be a preferred requirement for clinical expertise.

(3) Collaborate with clinical research programs designed to improve the treatment of bleeding and clotting disorders.

(4) Develop training programs to educate physicians and other providers in management of bleeding and clotting disorders.

b. Develop education and awareness programs for affected populations to increase knowledge and assist consumers in making informed decisions.

(1) Establish mechanisms for consumer input and education and assist in fostering locally based consumer organizations to assist in care evaluation.

(2) Develop educational materials and distribute as needed.

(3) Develop methods (i.e. utilizing consumers) to assist with the delivery of prevention messages through peer-led prevention education, outreach, and support.

c. Evaluate the model for feasibility and effectiveness.

(1) Develop appropriate data collection and evaluation systems to document unmet needs for integrated diagnostic, management and prevention services for persons with hemophilia, other hereditary bleeding disorders including women with bleeding disorders, and thrombophilia.

(2) Establish longitudinal studies to determine outcomes related to multi-disciplinary care management for persons with coagulation disorders.

(3) Devise consent and protocol for collection of DNA samples for analysis.

(4) Publish and disseminate program results.

2. CDC Activities

a. Provide consultation, scientific and technical assistance in the design and conduct of the project, including intervention methods, outcome measures, and analytic approach, as requested;

b. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

c. Perform selected laboratory testing as needed including DNA analysis of blood samples.

d. Assist in data management, the analysis of research data, interpretation and dissemination of research findings, as requested.

E. Content

Letter of Intent (LOI)

An LOI is required for this program. The narrative should be no more than 3 single-spaced pages, printed on one side, with one inch margins, and unreduced font. Your letter of intent will be used to enable CDC to plan for the review, and should include the following information (1) the program announcement number 01085, (2) name and address of institution, and (3) name, address, and telephone number of contact person. Notification can be provided by facsimile, postal mail, or electronic mail (E-mail).

Application

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 20 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

F. Submission and Deadline

Letter of Intent (LOI)

On or before June 29, 2001, submit the LOI to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Application

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are available in the application kit and at the following Internet address: www.cdc.gov/od/pgo/forminfo.htm

On or before July 20, 2001, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Capacity (25 Points Total)

The extent that the applicant provides multi-disciplinary, integrated, clinical and research-based prevention activities, outreach, education, support and provider training programs to persons with hemophilia, other hereditary bleeding disorders including women with bleeding disorders, and thrombophilia.

a. The extent that the applicant documents and explains the scope and magnitude of previous experiences in providing a comprehensive, prevention program for hemophilia, thrombophilia, and women's bleeding disorders including diagnosis, management, outreach, education, and data collection utilizing the multi-disciplinary, comprehensive care model. The extent to which these services are prevention oriented. (15 points)

b. The extent that the applicant demonstrates a collaborative relationship with well-established basic science and clinical research programs to provide the environment for broad based training and translation research. (10 points)

2. Background and Need (15 Points)

The extent that the target populations and catchment area are described in terms of known morbidity, demographics, sources of care, and existing data collection and surveillance. The extent the applicant identifies unmet needs and how they can appropriately address the issues of the target communities.

3. Goals and Objectives (10 Points)

The extent that the applicant's proposed goals and objectives meet the required activities specified under ''Recipients Activities'' and are specific, measurable, time-phased, and realistic.

4. Methods and Activities (35 Points)

a. The extent that the applicant's plan explains how the program activities are to be conducted and the extent that prevention methods proposed are: (1) appropriate to accomplish stated goals and objectives and (2) feasible within programmatic and fiscal restrictions. (15 points)

b. The extent to which the applicant describes and documents the

collaborative efforts of it's program to (1) assess efficacy of prevention activities and (2) develop and implement prevention programs. (15 points)

c. The extent that the applicant incorporates gathering and using input from persons with bleeding disorders and thrombophilia and their family members, and local consumer and community based organizations, and the applicant's willingness to cooperate with consumers in the development and implementation of prevention services. (5 points)

5. Program management and evaluation (15 Points)

a. The extent that management systems, including types, frequency, and methods of evaluation are used to ensure appropriate implementation of program activities. (5 points)

b. The extent of management experience for recruiting and implementing large public health prevention initiatives. (5 points)

c. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes (1) the proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (2) the proposed justification when representation is limited or absent; (3) a statement as to whether the design of the study is adequate to measure differences when warranted; and (4) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits. (5 points)

6. Budget (Not Scored)

The extent that the budget is reasonable and consistent with the intended use of the cooperative agreement funds.

7. Human Subjects (Not Scored)

Application must adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of—

1. Annual progress reports;
2. Financial status report (FSR), no more than 90 days after the end of the budget period; and
3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–1 Human Subjects Requirements

AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

AR–15 Proof of Non-Profit Status

AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a)[42 U.S.C. 241(a)] and 317(k)(2)[42 U.S.C. 247b9k)(2)] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888 472–6874). You will be asked to leave your name and address and will be instructed to identify the Program Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Merlin Williams, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, MS–K75, Atlanta, GA 30341–4146, Telephone number: 770–488–2765, Email: mqw6@cdc.gov.

For program technical assistance, contact: Sally Crudder, Hemophilia Treatment Center Program, National Center for Infectious Diseases, Centers for Diseases Control and Prevention, 1600 Clifton Road NE, MS–E64, Atlanta, GA 30333, Telephone Number: 404–371–5270, Email: sic4@cdc.gov.

Dated: May 25, 2001.

Henry S. Cassell, III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–13734 Filed 5–31–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01102]

Cancer Surveillance Research With Data Enhancement and Utilization, Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announce the availability of fiscal year (FY) 2001 funds for a cooperative agreement program to support priority cancer surveillance research with data enhancement and utilization activities. This program addresses the ''Healthy People 2010'' priority areas related to Cancer.

The purpose of this program is to utilize data from the National Program of Cancer Registries (NPCR) to perform enhanced surveillance and operational research to include developing, conducting and evaluating cancer surveillance research projects targeting breast, colorectal, prostate, ovarian, and oral/pharyngeal cancers.

Applicants with interest in innovative cancer surveillance research activities are encouraged to apply under this announcement and, if appropriate, to partner with universities.

This program consists of 4 parts:

Part I—Breast/Colorectal/Prostate (BCP) Cancer Patterns of Care (POC), Recurrence, and Survival (Optional Breast Cancer Screening Linkage Component)

The purpose of Part I is to conduct cancer surveillance research by comparing detailed clinical information including stage, diagnostic investigations used to assess stage (determinants of stage), and treatment in large, random samples of patients with female breast, prostate and colorectal cancers.

The purpose of the Optional Breast Cancer Screening Linkage Component is to validate and assess the completeness and accuracy of information contained in the state Breast and Cervical Cancer Early Detection Program (BCCEDP) minimum data elements (MDE's) and to

sample for comparison of treatment of early stage breast cancer.

Part II—Reporting Pathology Protocols (colon and rectum)

The purpose of Part II is to implement The College of American Pathologists (CAP) Reporting Protocol for cancers of the colon and rectum.

Part III—Ovarian Cancer Patterns of Care

The purpose of Part III is to evaluate specific information related to the diagnosis and treatment of ovarian cancer, including: physician specialty, accuracy of staging and treatment data, chemotherapy treatment data, survival rates, and recurrence.

Part IV—Oral/Pharyngeal Cancer: Data Completeness and Quality

The purpose of Part IV is to evaluate the completeness, timeliness and quality of oral and pharyngeal cancer and to apply methods to improve data collection, reliability, and validity.

B. Eligible Applicants

Part I—Eligibility is limited to those population-based cancer registries (hereafter referred to as NPCR registries) listed in Appendix B. Determination of eligibility is based upon silver or gold certification by the North American Association of Central Cancer Registries (NAACCR) (with the exception of the timeliness standard) for diagnosis year 1997. This diagnosis year certification is the most recent available from NAACCR.

Part II—Eligible applicants are limited to NPCR registries which can demonstrate through a letter of support at least one effective partnership with a laboratory or laboratory vendor providing pathologic diagnostic services in a National Cancer Institute (NCI) designated comprehensive cancer or clinical cancer center facility in their state. Eligible states are listed in Appendix C.

Part III—Eligibility for Part III is limited to NPCR registries listed in Appendix B. Determination of eligibility is based upon NAACCR silver or gold certification (with the exception of the timeliness standard) for diagnosis year 1997.

Part IV—Eligibility for Part IV is limited to NPCR registries listed in Appendix B. Determination of eligibility is based upon NAACCR silver or gold certification (with the exception of the timeliness standard) for 1997. Multiple registries may submit a joint application.

C. Availability of Funds

Approximately $3,151,000 is available in FY 2001 to fund the following categories.

Part I—BCP Cancer Patterns of Care, Recurrence, and Survival

Approximately $2,056,000 is available in FY 2001 to fund approximately eight to ten awards. It is expected that the average award will be $293,000, ranging from $260,000 to $325,000.

Part II—Reporting Pathology Protocols

Approximately $300,000 is available in FY 2001 to fund approximately two awards. It is expected that the average award will be $150,000, ranging from $125,000 to $175,000.

Part III—Ovarian Cancer Patterns of Care

Approximately $670,000 is available in FY 2001 to fund approximately three awards. It is expected that the average award will be $235,000, ranging from $200,000 to $270,000.

Part IV—Oral/Pharyngeal Cancer: Data Completeness and Quality

Approximately $125,000 is available in FY 2001 to fund up to two awards. It is expected that the average award will be $92,000, ranging from $60,000 to $125,000.

Applicants may apply for one or more parts depending upon eligibility. It is expected that awards will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports, research progress, and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purposes of Parts I–IV of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

Recipients for all parts will be responsible for the following activities:

a. Collaborate with other successful recipients in part-specific activities.

b. Participate in protocol development to include the design of the study, design of the instruments, development of methods and procedures for the study, collection of the data, analysis and interpretation of the data, and dissemination of results.

c. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

d. Assure and maintain the confidentiality of all study data.

e. Develop technical reports or manuscripts for peer-reviewed publications as appropriate.

Specific activities for each part are as follows:

Part I

a. Participate in a collaborative North American/European project between population-based cancer registries such as Phase 2 of the Concord Study found in Appendix G.

b. Participate in additional studies of patterns of care for cancers of high public health importance in the U.S., including early stage female breast cancer, stage III colon cancer, and prostate cancer.

c. Identify appropriate number of cases as specified in Appendix E.

d. Provide study data to the Data Analysis Centre, located at the Istituto Superiore di Sanita in Rome, Italy, with no direct identifying information, such as name, address or any public identification code.

e. Perform joint analysis with data from other registries and other countries.

Part I (Option)

a. Conduct a probabilistic linkage between the state BCCEDP and the state cancer registry.

b. Resolve potential matched records identified by the probabilistic linkage.

C. Identify appropriate number of cases as specified in Appendix E.

d. Collaborate with other successful recipients of the Part I option in the resolution of data quality issues and conduct special analyses relevant to the linkage of registry and BCCEDP files.

Part II

a. Develop, in collaboration with other successful recipients, strategies to implement the CAP reporting protocols for cancers of the colon and rectum.

b. Develop electronic reporting capacities to relate data from the protocols to an appropriate cancer registry.

c. Implement CAP's reporting protocol for cancers of the colon and rectum.

d. Participate with other successful applicants and other key groups to share expertise and experiences.

e. Provide written feedback and recommendations regarding the protocols to improve the protocols for cancers of the colon and rectum that will meet the needs of pathologists and cancer registries.

Part III

a. Identify a minimum of 1,500 ovarian cancer cases diagnosed between January 1, 1995, and December 31, 1999 within the state.

b. Evaluate medical records to identify information related to the diagnosis and treatment of ovarian cancer, such as: physician specialty, accuracy of staging and treatment data, chemotherapy treatment data, survival rates, and recurrence. chemotherapeutic drugs provided to the patient.

c. Conduct a linkage between the state cancer registry file and the state mortality file to identify deaths that have occurred among ovarian cancer patients diagnosed in 1995–1999.

d. Evaluate differences between cancer stage and treatment data identified during this study and the stage of ovarian cancer and cancer treatment initially reported to the cancer registry.

Part IV

a. Develop a protocol for auditing completeness and quality of oral cancer data, including at a minimum, an assessment of the quality of the following variables: stage at diagnosis, diagnosis year, diagnosis day, date of birth, race, site, subsite, histology, grade, sequence, laterality, gender, and treatment.

b. Determine completeness, timeliness, and quality of the registry data on oral and pharyngeal cancers (defined by ICD–O–2 as C00–C14; ICD–9 as 140–149; or as defined by other codes) at several time intervals.

c. Identify any unique problems associated with reporting and tabulating data on oral and pharyngeal cancers, including assessment of source data and reporting from non-hospital facilities, such as pathology laboratories, dental clinics, and oral surgeons.

d. Estimate the number of oral and pharyngeal cases diagnosed and treated in non-hospital facilities.

e. Evaluate any deficiencies in completeness, timeliness, and quality of oral/pharyngeal cancer data, and the potential effects of such deficiencies on the reliability and validity of incidence and survival estimates. Propose specific solutions to the deficiencies identified.

f. Evaluate potential strategies for collapsing data in order to obtain reliable and stable estimates of incidence, e.g., by combining data for anatomical sites or across years.

g. Identify the resources necessary to maintain completeness, timeliness, and quality of registry data on oral and pharyngeal cancer.

h. Serve as the focal point for the development and dissemination of media releases, reports and publications.

2. CDC Activities

CDC will be responsible for the following activities for all parts:

a. Participate in a post-award meeting for information sharing, problem solving, and research protocol development.

b. Provide ongoing consultation and technical assistance to successful recipients.

c. Collaborate in the design of studies, to include development of sampling procedures, design of the instruments, development of methods and procedures for the studies, collection of data, analysis and interpretation of data, resolution of data quality issues and dissemination of results.

d. Assist in the development of a research protocol for IRB review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

e. Obtain an assurance of confidentiality, clearance from CDC's Office of Management and Budget (OMB), and other clearances as appropriate.

f. Collaborate to produce technical reports or manuscripts for peer-reviewed publications as appropriate.

E. Content

Letter of Intent (LOI)

A LOI is optional for this program. However, a non-binding LOI to apply is requested from potential applicants. The narrative should be no more than 2, single-spaced pages, printed on one side, with one inch margins, and unreduced font. Your letter should include the following information: announcement number, name of the principal investigator, and specifically which Parts the applicant plans to apply for.

Pre-application Conference Call

A pre-application conference call is scheduled for June 20th at 1:00 p.m. Eligible applicants are invited to participate in this conference call. The purpose of the conference call will be to communicate the logistics of the application process and to respond to any questions applicants may have regarding this announcement. Participation in this conference call is optional. A summary of the questions and answers will be made available for those unable to participate. Registration information for this conference call will be sent to all eligible applicants by June 15th.

Applications

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections for Parts I-IV to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative for each Part should be no more than 25 double-spaced pages, printed on one side, with one inch margins, and unreduced font. The original and each copy of the application must be submitted unstapled and unbound. Pages should be clearly numbered and a complete index to the application and any appendices included.

Applicants may apply for support under one or more of the four Parts. Only one application should be submitted. For each Part include a separate and complete narrative, separate budget, and justification that can stand alone as an application for review purposes.

Include funding for staff for Parts I, II, III, and IV to attend (1) a 1-day, post-award meeting in Atlanta; and (2) an additional 2-day meeting in a city to be determined later.

The narrative should consist of, at a minimum, a Plan, Objectives, Methods, Evaluation and Budget.

F. Submission and Deadline

Letter of Intent (LOI)

On or before June 8, 2001, submit the LOI to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Application

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are available in the application kit and at the following Internet address: http://www.cdc.gov/od/pgo/forminfo.htm.

On or before July 1, 2001, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late: Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

Budget (not scored)

The extent to which the budget is reasonable, clearly justified, consistent with the demonstrated need and proposed activities, and likely to lead to program success.

Human Subjects (not scored)

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects? (Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable.)

Specific evaluation criteria for each part are as follows:

Part I

1. Program Need (5 points)

a. The extent to which the applicant demonstrates an effective understanding of the background of the problem (variable quality of patterns of care and validity of stage and treatment data in the registry), a need for the project, and a commitment to its execution. (3 points)

b. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

(1) The proposed plan for the inclusion of both sexes (not applicable for Breast or Prostate sites) and racial and ethnic minority populations for appropriate representation.

(2) The proposed justification when representation is limited or absent.

(3) A statement as to whether the design of the study is adequate to measure differences when warranted.

(4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits. (2 points)

2. Objectives (10 points)

a. The extent to which the applicant demonstrates that the proposed program objectives are measurable, specific, time-phased, and related to the recipient activities, program purpose, and program need. (3 points)

b. The extent to which a description regarding the feasibility of implementing a North American/European study protocol such as the Concord study protocol and U.S. point of contact activities, including collecting and reporting data from medical abstract review and processing and reporting data to the Concord Analytic Data Center in Rome, Italy, and the extent to which feasibility is demonstrated by the description. (7 points)

3. Methods (40 points)

a. The extent to which the applicant describes strengths and limitations for implementing a North American/European study protocol such as the Concord study, the U.S. patterns of care activities, and (optional) breast cancer screening linkage study. (10 points)

b. The extent to which the applicant demonstrates sufficient knowledge, capacity and plans to implement and coordinate data collection, data reporting, and data linkage, given the strengths and limitations described. (20 points)

c. The extent to which the applicant describes appropriate use of technology to apply to the collection, linkage and processing of the data. (5 points)

d. The extent to which plans for collaborative data analysis and manuscript preparation are included. (5 points)

4. Evaluation (20 points)

The extent to which the applicant describes adequate plans for providing on-going communication including feedback and quality control suggestions for improvement and implementation of study protocols.

5. Program Management and Staffing Plan (25 points)

The extent to which proposed staffing, management and organizational structure, staff background and experience, job descriptions and resumes with qualifying experience of key personnel indicate an ability to carry out the project.

Part II

1. Program Need (15 points)

a. The extent to which the applicant demonstrates an effective commitment and understanding to the project, as documented through letters of support, background and need for a standardized pathology report. (5 points)

b. The extent to which a description regarding the impact of using standardized content in the collection and reporting of pathology data in general, and specifically for the targeted cancer sites, colon and rectum, is provided. (5 points)

c. The extent to which a description of the need for standardized, electronic reporting of pathology data for the targeted cancers to cancer registries is provided. (5 points)

2. Plan of Operation (45 points)

a. The extent to which a plan is provided to determine the strengths and limitations for implementation of the SNOMED-encoded CAP protocols for the target sites, for both clinical purposes and cancer surveillance purposes. (5 points)

b. The extent to which the applicant proposes to apply clinical ANSI standards and others, such as HL7, SNOMED and Logical Identifiers, Names, and Codes (LOINC), to the implementation of the protocols and subsequent data reporting for surveillance purposes. (7 points)

c. The extent to which the applicant provides sufficient knowledge, capacity and plans to work with clinical ANSI standards and others, such as HL7, SNOMED and LOINC. (7 points)

d. The extent to which the applicant proposes methodologies for implementation of the protocols, which are standards-based, flexible, and portable for other protocols and data reporting environments. (6 points)

e. The extent to which the applicant addresses the electronic reporting challenges, needs, and strategies to implement the protocol. (6 points)

f. The extent to which the applicant plans to follow through with the electronic reporting of the protocol. (5 points)

g. The extent to which the applicant proposes to use technologies for the implementation of the protocol. (3 points)

h. The extent to which proposed technologies are linked with existing capacities. (4 points)

i. The degree to which the applicant has met the CDC Policy requirements

regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

(1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

(2) The proposed justification when representation is limited or absent.

(3) A statement as to whether the design of the study is adequate to measure differences when warranted.

(4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits. (2 points)

3. Evaluation (20 points)

a. The extent to which the applicant describes plans providing feedback and quality control suggestions to the improvement and implementation of the protocol for the needs of pathologists and cancer registries. (10 points)

b. The extent to which the applicant plans to analyze and document the impact of the protocol on the collection and reporting of timely, complete, accurate, and uniform pathology-related data. (10 points)

4. Project Management and Staffing Plan (20 points)

a. The extent to which proposed staffing, management and organizational structure, staff background and experience, job descriptions and resumes with qualifying experience of key personnel indicate an ability to carry out the project. (10 points)

b. The extent to which the applicant provides appropriate documentation regarding key partners (including pathologists and/or registry personnel) and their involvement in the project. (10 points)

Part III

1. Program Need (5 points)

The extent to which the applicant demonstrates an effective understanding of the background of the problem (variable quality of patterns of care and validity of stage and treatment data in the registry), a need for the project, and a commitment to its execution.

2. Objectives (10 points)

The extent to which the applicant demonstrates that the proposed program objectives are measurable, specific, time-phased, and related to the recipient activities, program purpose, and program need.

3. Methods (40 points)

a. The extent to which the applicant demonstrates sufficient knowledge, capacity and plans to implement and coordinate data collection, data reporting activities, and data linkage, given the strengths and limitations described. (20 points)

b. The extent to which the applicant describes appropriate use of technology to apply to the collection, linkage and processing of the data. (10 points)

c. The extent to which plans for collaborative data analysis and manuscript preparation are included. (5 points)

d. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (5 points)

(1) The proposed plan for the inclusion of racial and ethnic minority populations for appropriate representation.

(2) The proposed justification when representation is limited or absent.

(3) A statement as to whether the design of the study is adequate to measure differences when warranted.

(4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

4. Evaluation (20 points)

The extent to which the applicant provides an evaluation plan that is appropriate for measuring progress toward achieving objectives and identifying contributing factors when objectives are not met.

5. Project Management and Staffing Plan (25 points)

The extent to which proposed staffing, management and organizational structure, staff background and experience, job descriptions and resumes with qualifying experience of key personnel indicate an ability to carry out the project.

Part IV

1. Program Need (15 points)

The extent to which the applicant demonstrates eligibility as required under this program announcement, describes existing strengths and limitations of the registry, and provides evidence of access to adequate numbers of oral and pharyngeal cancer cases by race and gender to support accomplishment of the project purpose.

2. Objectives (15 points)

The extent to which the applicant demonstrates that the proposed program objectives are measurable, specific, time-phased, and related to the recipient activities, program purpose, and program need.

3. Methods (35 points)

a. The extent to which the applicant adequately describes (23 points)

(1) The methods that will be used to accomplish the objectives of the project, including plans to sample an adequate number of cases for assessing completeness and data quality.

(2) Proposed strategies and activities that are appropriate and feasible to achieve the project.

b. The extent to which the timetable incorporates project activities and milestones and is specific, measurable, and realistic. (10 points)

c. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

(1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

(2) The proposed justification when representation is limited or absent.

(3) A statement as to whether the design of the study is adequate to measure differences when warranted.

(4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits. (2 points)

4. Evaluation (15 points)

The extent to which the applicant provides an evaluation plan that is appropriate for measuring accomplishment of project objectives and identifying contributing factors when objectives are not met.

5. Project Management and Staffing Plan (20 points)

The extent to which proposed staffing, management and organizational structure, staff background and experience, job descriptions and resumes with qualifying experience of key personnel indicate ability to carry out the project.

H. Other Requirements

Provide CDC with original plus two copies of

1. an annual progress report, addressing progress toward achieving objectives detailed in the application,

due 90 days after the end of each budget period;

2. a financial status report, no more than 90 days after the end of the budget period; and

3. a final financial and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372 Review
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 399H–399L of the Public Health Service Act, [42 U.S.C. sections 280e–280e–4; Public Law 102–515], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov. Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To obtain business management technical assistance, contact:

Jesse Robertson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Announcement 01102, 2920 Brandywine Road, Room 3000, MS–E18, Atlanta, GA 30341–4146, Telephone number: (770) 488–2747, Email address: jrobertson@cdc.gov

For program technical assistance, contact:

Part I

Hannah Weir, PhD, Cancer Surveillance Branch, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy., NE, MS–K53, Atlanta, GA 30341–3717, Telephone number: (770) 488–3006, Email address: hweir@cdc.gov

Part II

Warren Williams, MPH, Cancer Surveillance Branch, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy., NE, MS–K53, Atlanta, GA 30341–3717, Telephone number: (770) 488–3095, Email address: wwilliams1@cdc.gov

Part III

Pamela Logan, MD, MPH, Cancer Surveillance Branch, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy., NE, MS–K53, Atlanta, GA 30341–3717, Telephone number: (770) 488–4292, Email address: plogan@cdc.gov

Part IV

Claudia Vousden, RN, MPH, Program Services Branch, Division of Oral Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy., NE, MS–F10, Atlanta, GA 30341–3717, Telephone number: (770) 488–6056, Email address: cvousden@cdc.gov

Dated: May 25, 2001.

Henry S. Cassell, III,

Acting Director, Procurement and Grants Office, Center for Disease Control and Prevention (CDC).

[FR Doc. 01–13738 Filed 5–31–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICE

Centers for Disease Control and Prevention

[Program Announcement 01130]

National Program To Promote Physical Activity Among Youth; Notice of Availability of Funds Correction

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Program announcement number; correction.

SUMMARY: The Centers for Disease Control and Prevention published Program Announcement 01030 in the **Federal Register** of May 23, 2001, The Program Announcement number was incorrect.

FOR FURTHER INFORMATION CONTACT: Cynthia R. Collins, 770–488–2757

Correction.

In the **Federal Register** of May 23, 2001, in FR Vol 66, No. 100, Doc. 01–12984, on page 28518, in the third column, correct the ''Program Announcement number'' caption to read: [Program Announcement 011230] as set forth in the heading above.

Dated: May 25, 2001.

Henry S. Cassell III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–13735 Filed 5–31–01; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01053]

An Assessment of Respiratory Health Effects From Exposure to Traffic Particulate Emissions at a U.S.-Canada Border Crossing in Western New York; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a grant project for the Buffalo General Foundation for a project examining the impact of air pollution on asthma rates and respiratory illness. This project addresses the ''Healthy People 2010'' focus areas of Environmental Health and Respiratory Diseases.

B. Eligible Applicant

Assistance will be provided only to the Buffalo General Foundation. No other applications are solicited.

Eligibility is limited to the Buffalo General Foundation because fiscal year 2001 Federal appropriations specifically directs CDC to award this foundation funds to assess the impact of air pollution on asthma rates and respiratory illness.

Note: Title 2 of the United States Code, Chapter 26, section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $200,676 is available in FY 2001 to support this project. It is expected that the award will begin on or about September 1, 2001, and will be made for a 12-month budget period within a one year project period. Funding estimates may change.

D. Where To Obtain Additional Information

To obtain business management technical assistance contact: Michael Smiley, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, MS–E13, Atlanta, GA 30341–4146, Telephone: (770) 488–2694, Email address: znr6@cdc.gov.

For program technical assistance, contact: Liane Hostler, Air Pollution and Respiratory Health Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, Centers for Disease Control and Prevention, 1600 Clifton Road, N.E., MS–E17 Atlanta, GA 30333, Telephone: (404) 639–2503, Email address: lch2@cdc.gov.

Dated: May 25, 2001.

Henry S. Cassell, III,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–13736 Filed 5–31–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0078]

Agency Information Collection Activities; Proposed Collections; Reopening of Comment Period; Direct-to-Consumer Promotion of Prescription Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; Reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period to June 5, 2001, the comment period for the two proposed collections of certain information by the agency. This notice reopens the comment period on surveys of physicians and patients to examine the impact of direct-to-consumer (DTC) promotion of prescription drugs. The purpose of the proposed information collection is to followup on the agency's 1999 patient survey and expand information collection to include physicians.

DATES: Submit written or electronic comments on the collection of information by June 5, 2001.

ADDRESSES: Submit electronic comments on the collection of information to: http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments by June 5, 2001, on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: FDA needs information from physicians and patients about their reactions to, and behaviors that stem from, DTC prescription drug advertising in order to develop policy on appropriate requirements for regulating drug product promotional materials. The agency is reopening the comment period for the proposed collections due to technical problems encountered on the electronic comment submission site during the previous comment period.

Dated: May 29, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–13908 Filed 5–30–01; 11:29 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0232]

Medical Devices Premarket Guidance: Reprocessing and Reuse of Single-Use Devices; Draft Guidance for Industry and FDA Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Premarket Guidance: Reprocessing and Reuse of Single-Use Devices.'' This draft guidance document provides premarket guidance to the medical device industry, including third party and hospital reprocessors, and to Center for Devices and Radiological Health (CDRH) staff, who are responsible for the premarket evaluation of submissions for reprocessed single-use devices (SUDs) or related enforcement activities. This draft guidance is neither final nor is it in effect at this time.

DATES: Submit written comments on the draft guidance by August 30, 2001.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance document entitled, ''Premarket Guidance: Reprocessing and Reuse of Single-Use Devices'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Tim Ulatowski, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8879.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 14, 2000 (65 FR 49583), FDA published a final guidance entitled ''Enforcement Priorities for Single-Use Devices Reprocessed by Third Parties and Hospitals'' (''the Enforcement Priorities document''). The Enforcement Priorities document provides guidance to third parties and hospital reprocessors about their responsibilities as manufacturers engaged in reprocessing devices labeled for SUDs under the Federal Food, Drug, and Cosmetic Act. This draft guidance document entitled ''Premarket Guidance: Reprocessing and Reuse of Single-Use Devices,'' expands upon the summary premarket information in the Enforcement Priorities document.

II. Significance of Guidance

This draft guidance document represents the agency's current thinking on policies and recommendations regarding premarket regulatory and technical issues for reprocessed SUDs. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if

such approach satisfies the applicable statute and regulations.

The agency has adopted good guidance practices (GGPs), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (21 CFR 10.115; 65 FR 56468, September 19, 2000). This draft guidance document is issued as a Level 1 guidance in accordance with the GGP regulations.

III. Electronic Access

In order to receive ''Premarket Guidance: Reprocessing and Reuse of Single-Use Devices'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1331) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. Guidance documents are also available on the Dockets Management Branch Internet site at http://www.fda.gov/ohrms/dockets/default.htm.

IV. Comments

Interested persons may submit to Dockets Management Branch (address above) written comments regarding this draft guidance by August 30, 2001. Submit two copies of any comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 22, 2001.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 01–13731 Filed 5–31–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–906]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, DHHS.

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: Revision of a Currently Approved Collection; *Title of Information Collection:* The National Data Reporting Requirements (NDRR). We are requesting the name of the collection be changed to the Fiscal Soundness Reporting Requirements (FSRR). and Supporting Regulations in 42 CFR 417., .126.478,. 162; *Form No.:* HCFA–906 (OMB# 0938–0469); *Use:* HCFA needs this information to establish an on-going fiscal soundness of the Managed Care Organizations in the Medicare+Choice Program; *Frequency:* Quarterly; *Affected Public:* Business or other for-profit; *Number of Respondents:* 300; *Total Annual Responses:* 300; *Total Annual Hours:* 301.

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: Melissa Musotto, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 17, 2001.

John P. Burke, III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–13762 Filed 5–31–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–10008]

Agency Information Collection Activities: Submission For OMB Review; Comment Request

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, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the 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: Reinstatement, without change, of a previously approved collection for which approval has expired;

Title of Information Collection: Medical Equipment and Supplies Consumer Survey;

Form No.: 10008 (OMB# 0938–0807).

Use: This survey is necessary to collect access, quality, and diversity of product selection information from beneficiaries. These key elements of the evaluation cannot be thoroughly evaluated without a beneficiary survey. The information will be presented to HCFA and to Congress, who will use the results to determine whether the demonstration should be extended to other sites.

Frequency: Annually;

Affected Public: Individuals or households;

Number of Respondents: 2,500;

Total Annual Responses: 2,500;

Total Annual Hours: 725.

To obtain copies of the supporting statement 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 and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 17, 2001.

John P. Burke, III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–13760 Filed 5–31–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–2728]

Agency Information Collection Activities: Submission For OMB Review; Comment Request

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, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the 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 previously approved collection;

Title of Information Collection: End Stage Renal Disease Medical Evidence Report Medicare Entitlement and/or Patient Registration and Supporting Regulations in 42 CFR, 405.2133;

Form No.: HCFA–2728 (OMB# 0938–0046);

Use: To capture the necessary medical information required to determine Medicare eligibility of an end stage renal disease claimant. It also captures the specific medical data required for research and policy decisions on this population as required by law;

Frequency: weekly, monthly, quarterly, semi-annually, and annually;

Affected Public: Individuals or households, business or other for profit, not-for-profit institutions;

Number of Respondents: 60,000;

Total Annual Responses: 60,000;

Total Annual Hours: 25,000.

To obtain copies of the supporting statement 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 and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 17, 2001.

John P. Burke, III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–13761 Filed 5–31–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–3071–N]

Medicare Program; Meeting of the Drugs, Biologics, and Therapeutics Panel of the Medicare Coverage Advisory Committee—June 20, 2001

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting of the Drugs, Biologics, and Therapeutics Panel (the Panel) of the Medicare Coverage Advisory Committee. The Panel provides advice and recommendations to us about clinical issues. The Panel will hear and discuss presentations from interested persons regarding the use of levo-carnitine in end stage renal disease patients.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)).

DATES: *The Meeting:* June 20, 2001 from 8 a.m. until 4:30 p.m. E.D.T.

Deadline for Presentations and Comments: June 13, 2001, 5 p.m., E.D.T.

Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires other special assistance or accommodations, are asked to notify the Executive Secretary by June 6, 2001 (*see* **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES: *The Meeting:* The meeting will be held at The Baltimore Convention Center, Rooms 321 and 322, One West Pratt Street, Baltimore, MD 21201.

Presentations and Comments: Submit formal presentations and written comments to Kimberly A. Long, Executive Secretary; Office of Clinical Standards and Quality; Health Care Financing Administration; 7500 Security Boulevard; Mail Stop S3–02–01; Baltimore, MD 21244.

Website: You may access up-to-date information about this meeting at www.hcfa.gov/coverage.

Hotline: You may access up-to-date information about this meeting on the HCFA Advisory Committee Information Hotline, 1–877–449–5659 (toll free) or in the Baltimore area (410) 786–9379.

FOR FURTHER INFORMATION CONTACT: Kimberly A. Long, Executive Secretary, 410–786–5702.

SUPPLEMENTARY INFORMATION: On August 13, 1999, we published a notice (64 FR

44231) announcing an earlier meeting of the Drugs, Biologics, and Therapeutics Panel (the Panel) and also describing the Medicare Coverage Advisory Committee (MCAC), which provides advice and recommendations to us about clinical issues. This notice announces the June 20, 2001 public MCAC meeting of the Drugs, Biologics, and Therapeutics Panel.

Current Panel Members

Thomas V. Holohan, M.A., M.D., FACP; Leslie P. Francis, JD, Ph.D.; Judith A. Cahill, M.A.; Michael L. Friedland, M.D.; Kathy J. Helzlsouer, M.D., M.H.S.; Robert C. Johnson, M.S.; Ronald P. Jordan, R.Ph.; Mitchell Sugarman, M.B.A., M.S.; Cathleen M. Dooley, M.A.; Christine M. Grant, JD.

Meeting Topic

The Panel will hear and discuss presentations from interested persons regarding the use of levo-carnitine in end stage renal disease patients.

Procedure and Agenda

This meeting is open to the public. The Panel will hear oral presentations from the public for approximately 2.5 hours. The Panel may limit the number and duration of oral presentations to the time available. If you wish to make formal presentations you must notify the Executive Secretary named in the **FOR FURTHER INFORMATION CONTACT** section of this notice. In addition, you must submit the following by the Deadline for Presentations and Comments date listed in the **DATES** section of this notice: a brief statement of the general nature of the evidence or arguments you wish to present and the names and addresses of proposed participants; and a written copy of your presentation to the Executive Secretary before the meeting. We will request that you declare at the meeting whether or not you have any financial involvement with manufacturers of any items or services being discussed (or with their competitors).

After the public and our presentations, the Panel will deliberate openly on the topic. Interested persons may observe the deliberations, but the Panel will not hear further comments during this time except at the request of the chairperson. The Panel will also allow approximately a 30-minute open public session for any attendee to address issues specific to the topic. At the conclusion of the day, the members will vote and the Panel will make its recommendation.

Authority: 5 U.S.C. App. 2, section 10(a)(1) and (a)(2).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 25, 2001.

Jeffrey L. Kang, M.D.,

Director, Office of Clinical Standards and Quality, Health Care Financing Administration.

[FR Doc. 01–13846 Filed 5–31–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This Notice is also available on the internet at the following website: *http://www.health.org/workplace.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014, Fax: (301) 443–3031.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection.

To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016 (Formerly: Bayshore Clinical Laboratory)

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931 / 334–263–5745

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000 (Formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866 / 800–433–2750

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)]

Clinical Laboratory Partners, LLC, 129 East Cedar St., Newington, CT 06111, 860–696–8115 (Formerly: Hartford Hospital Toxicology Laboratory)

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652 / 417–269–3093 (Formerly: Cox Medical Centers)

Dept. of the Navy, Drug Screening Laboratory, Great Lakes, IL, Building 38–H, P. O. Box 88–6819, Great Lakes,

IL 60088–6819, 847–688–2045 / 847–688–4171

Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200 / 800–735–5416

Doctors Laboratory, Inc., PO. Box 2658, 2906 Julia Dr., Valdosta, GA 31602, 912–244–4468

DrugProof, Division of Dynacare/ Laboratory of Pathology, LLC 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104 206–386–2672 / 800–898–0180 (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

Dynacare Kasper Medical Laboratories,* 14940–123 Ave., Edmonton, Alberta, Canada T5V1B4, 780–451–3702/800–661–9876

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 662–236–2609

Express Analytical Labs, 1301 18th Ave. NW., Suite 110, Austin, MN 55912, 507–437–7322

Gamma-Dynacare Medical Laboratories,* A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ONT, Canada N6A 1P4, 519–679–1630

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Integrated Regional Laboratories, 5361 NW 33rd Avenue, Fort Lauderdale, FL 33309, 954–777–0018, 800–522–0232 (Formerly: Cedars Medical Center, Department of Pathology)

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Laboratory Specialists, Inc.)

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/ 800–728–4064 (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/ 800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChemLaboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Stateline Road West, Southaven, MS 38671, 866–827–8042/ 800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc., MedExpress/National Laboratory Center)

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734

MAXXAM Analytics Inc.*, 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555 (Formerly: NOVAMANN (Ontario) Inc.)

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699, 419–383–5213

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515

Northwest Drug Testing, a division of NWT Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 801–293–2300/ 800–322–3361, (Formerly: NWT Drug Testing, NorthWest Toxicology, Inc.)

One Source Toxicology Laboratory, Inc., 1705 Center Street, Deer Park, TX 77536, 713–920–2559 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134

Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818–598–3110/800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Pathology Associates Medical Laboratories, 11604 E. Indiana Ave., Spokane, WA 99206, 509–926–2400/ 800–541–7891

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–215–8800 (Formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627

Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 858–279–2600/800–882–7272

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 248–373–9120/800–444–0106 (Formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–842–6152 (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 801 East Dixie Ave., Suite 105A, Leesburg, FL 34748, 352–787–9006x4343 (Formerly: SmithKline Beecham Clinical Laboratories, Doctors & Physicians Laboratory)

Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/800–877–7484 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010 (Formerly: SmithKline Beecham Clinical Laboratories, International Toxicology Laboratories)

Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 619–686–3200/800–446–4728 (Formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590 (Formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520 / 800–877–2520 (Formerly: SmithKline Beecham Clinical Laboratories)

Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176

Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507/800–279–0027

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520 (Formerly: St. Lawrence Hospital & Healthcare System)

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260

Universal Toxicology Laboratories, LLC, 9930 W. Highway 80, Midland, TX 79706, 915–561–8851/888–953–8851

The following laboratory voluntarily withdrew from the National Laboratory Certification Program on May 31, 2001:

PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025 650–328–6200/800–446–5177

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (**Federal Register**, 16 July 1996) as meeting the minimum standards of the ''Mandatory Guidelines for Workplace Drug Testing'' (59 **Federal Register**, 9 June 1994, Pages 29908–29931). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–13733 Filed 5–31–01; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–39]

Notice of Submission of Proposed Information Collection to OMB; Minimum Property Standards for Housing

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 2, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0321) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Minimum Property Standards for Housing.

OMB Approval Number: 2502–0321.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: Information on local property standards for assisted multifamily housing and care-type facilities is collected from State and local governments to assess the equivalency of their existing housing standards in meeting HUD's minimum requirements. If such State or local codes are deemed equivalent, HUD assisted properties need only comply with such equivalent codes.

Respondents: State, Local or Tribal Government.

Frequency of Submission: On occasion.

Reporting Burden	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
	1,350		1		8		10,800

Total Estimated Burden Hours: 10,800.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 22, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–13718 Filed 5–31–01; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–40]

Notice of Submission of Proposed Information Collection to OMB; Mortgage Record Change

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 2, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0422) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department. This Notice also lists the following information:

Title of Proposal: Mortgage Record Change.

OMB Approval Number: 2502–0422.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: The Mortgage Record Change information is provided by FHA-approved mortgagees to comply with HUD requirements for reporting the sale of a mortgage between investors and/or the transfer of the mortgage servicing responsibility, as appropriate.

Respondents: State, Local or Tribal Government.

Frequency of Submission: Quarterly.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	6,000		467		0.1		62,000

Total Estimated Burden Hours: 262,000.

Status: Reinstatement of a previously approved collection for which approval has expired.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 23, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–13719 Filed 5–31–01; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–22]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: June 1, 2001.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless.

Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: May 24, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 01–13573 Filed 5–31–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Reservation for the Pueblo of Isleta Indians in New Mexico

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reservation proclamation.

SUMMARY: This notice announces that the Assistant Secretary—Indian Affairs proclaimed approximately 58 acres, more or less, as an addition to the reservation of the Pueblo of Isleta on May 22, 2001.

FOR FURTHER INFORMATION CONTACT: Larry E. Scrivner, Deputy Director, Office of Trust Responsibilities, MS–4510/MIB/Code 220, 1849 C Street, NW., Washington, DC 20240, telephone (202) 208–7737.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), for the tract of land described below. The land was proclaimed to be an addition to and part of the reservation of the Pueblo of Isleta for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

Tract Lettered ''B,'' Lands of Brown Construction Co., within section 6, Township 8 North, Range 3 East, N.M.P.M., and on M.R.G.C.D. Map No. 59, as the same is shown and designated on said plat thereof, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on December 16, 1985,

Together with all buildings, structures, and other existing improvements upon any part of the foregoing-described real estate in their ''as is'' and ''where is'' condition, with all faults, and without warranties, express or implied, concerning suitability or fitness for use or other warranties of any type, except, and carrying, warranty of title;

Including all appurtenances, rights including reversionary rights, water rights, easements, and privileges belonging to or running with the foregoing-described real estate, including without limitation all of the Grantor's right, title, and interest, if any, in and to any and all land, lying in the bed of any street, road, cul-de-sac, alley, or access way, open or closed, existing, vacated, or proposed, adjoining, adjacent to, or contiguous to the foregoing-described real estate;

Subject to Reservations in Patent from the United State of America, recorded in Book 31, page 573, records of Bernalillo County, New Mexico;

Subject to that certain easement in favor of Public Service Company of New Mexico and Mountain States Telephone and Telegraph Company by document dated October 27, 1975, filed December 30, 1975, in Book Misc. 456, page 190, as Document No. 75–1947A, records of Bernalillo County, New Mexico, and as shown and provided for on the recorded plat of said Addition;

Subject to that certain easement in favor of Public Service Company of New Mexico and Mountain States Telephone and Telegraph Company by document dated November 12, 1976, filed December 17, 1976, in Book Misc. 511, page 35, as Document No. 76–66732, records of Bernalillo County, New Mexico, affecting the southerly seven feet (7′) of the premises, and as shown and provided for on the recorded plat of said Addition;

Subject to all taxes and other assessments for the current year by the County of Bernalillo or State of New Mexico, with warranty covenants. Containing 58 acres, more or less.

This proclamation does not affect title to the land described above, nor does it affect any valid existing easements for public roads and highways, for public utilities and for railroads and pipelines and any other rights-of-way or reservations of record.

Dated: May 22, 2001.

James H. McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

[FR Doc. 01–13823 Filed 5–31–01; 8:45 am]

BILLING CODE 4310–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–739 (Review)]

Clad Steel Plate From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on clad steel plate from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is July 23, 2001. Comments on the adequacy of responses may be filed with the Commission by August 15, 2001. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: June 1, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

On July 2, 1996, the Department of Commerce issued an antidumping duty order on imports of clad steel plate from Japan (61 FR 34421). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 01–5–062, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Japan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as all clad steel plate coextensive with Commerce's scope of the investigation, i.e., all clad steel plate of a width of 600mm or more and a composite thickness of 4.5mm or more, regardless of cladding alloy.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as producers of clad steel plate of a width of 600mm or more and a composite thickness of 4.5mm or more.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is July 2, 1996.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. § 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 23, 2001. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is August 15, 2001. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to this Notice of Institution

As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which

your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1995.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2000 (report quantity data in short tons and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2000 (report quantity data in short tons and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2000 (report quantity data in short tons and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: May 21, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–13685 Filed 5–31–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–365–366 (Review) and 731–TA–734–735 (Review)]

Certain Pasta From Italy and Turkey

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing and antidumping duty orders on certain pasta from Italy and Turkey.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing and antidumping duty orders on certain pasta from Italy and Turkey would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 01–5–063, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

consideration, the deadline for responses is July 23, 2001. Comments on the adequacy of responses may be filed with the Commission by August 15, 2001. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: June 1, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, the Department of Commerce issued countervailing and antidumping duty orders on imports of certain pasta from Italy and Turkey (61 FR 38544). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts [available, which may include information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Italy and Turkey.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission defined the Domestic Like Product as all dry pasta. One Commissioner defined the Domestic Like Product differently.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the Domestic Industry as producers of dry pasta. One Commissioner defined the Domestic Industry differently.

(5) The *Order Date* is the date that the countervailing and antidumping duty orders under review became effective. In these reviews, the Order Date is July 24, 1996.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect] to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 23, 2001. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is August 15, 2001. All written

submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing and antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1995.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2000 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2000 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2000 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in each Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production

methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in each Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

May 21, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–13684 Filed 5–31–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Resource Conservation and Recovery Act and the Clean Water Act

Notice is hereby given that on May 14, 2001, a proposed consent decree in *United States* v. *A&S Tribal Industries,* Civil Action No. CV–01–96M–DWM, was lodged with the United States District Court for the District of Montana.

In this action, the United States sought injunctive relief and the payment of civil penalties for A&S Tribal Industries' alleged violations of the hazardous waste generator and treatment, storage and disposal requirements of the Resource Conservation and Recovery Act (''RCRA'', and the pretreatment requirements of the Clean Water Act, at its facility located near Poplar, Montana. Under the proposed decree, the defendant A&S Tribal Industries will pay the sum of $40,000 over a three year period. The settlement sum is based upon the financial inability of A&S Tribal Industries to pay more. The proposed decree also requires that A&S Tribal Industries take specified injunctive measures to prevent RCRA generator and waste storage violations in the future and to perform initial sampling at facility locations where hazardous waste releases have occurred. The proposed decree also requires that A&S Tribal Industries install, operate and maintain pretreatment equipment necessary to achieve applicable discharge limits.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States.* v. *A&S Tribal Industries,* D.J. Ref. 90–7–1–06092.

The proposed consent decree may be examined at the Office of the United States Attorney, 2929 3rd Avenue North, Suite 400, Billings, Montana 59103; and at U.S. EPA Region VIII, 999 18th Street, Denver, Colorado 80202. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy, please enclose a check in the amount of $12.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Robert D. Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–13773 Filed 5–31–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—the Asymmetrical Digital Subscriber Line Forum

Notice is hereby given that, on April 17, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Asymmetrical Digital Subscriber Line Forum (''ADSL'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Hitachi, Kanagawa, JAPAN, BRECIS Communications, San Jose, CA; Charles Industries, Rolling Meadows, IL; State Farm Insurance, Bloomington, IL; Energis Communications, Reading, Berkshire, England, UNITED KINGDOM; International Engineering Consortium, Chicago, IL; Symmetricom, San Jose, CA; Knowledge Junction, Coquitlam, British Columbia, CANADA; Telekom Austria, Vienna, AUSTRIA; AccessLan Communications, San Jose, CA; Verilink, Huntsville, AL; VDSL Systems, Oy, Espoo, FINLAND; Avaya, Inc., Whippany, NJ; Bulldog Communications, London, England, UNITED KINGDOM; e-Site, Tustin, CA; Actiontec Electronics, Orange, CA; DETEL, Taipei, TAIWAN; BroadMAX Technologies, Delray Beach, FL; TUV Rheinland of N.A., Pleasanton, CA; Incognito Software, Vancouver, British Columbia, CANADA; Comtest Networks, Ottawa, Ontario, CANADA; UAT, Taipei, TAIWAN; riodata AG, Zurich, SWITZERLAND; and TEG Worldwide Media, Irving, TX have been added as parties to this venture.

The following parties have changed their names: Mitel Corporation, Kanata, Ontario, CANADA is now Mitel Networks; GTS Network Systems, Hoeilaart, BELGIUM is now EBONE; Eicon Technology, Montreal, Quebec, CANADA is now Eicon Networks; Fluke Corporation, Everett, WA is now Fluke Networks, Inc.; First Telecom, Frankfurt, GERMANY is now Atlantic Telecom; Clare Remtech, San Diego, CA is now Sumida; Cable & Wireless HKT, Hong Kong, HONG KONG–CHINA is now Pacific Century Cyberworks; and Ericsson Aheadcom, Vienna, AUSTRIA is now Ahead Communications.

In addition, Silicon Spice, Mountain View, CA has been acquired by Broadcom, Irvine, CA; and Chiplogic, Santa Clara, CA has merged with Analog Devices, Inc., Wilmington, MA.

Also, Belgacom, Brussels, BELGIUM; Bintec Corporation, Nurnberg, GERMANY; Pliant Systems, Research Triangle Park, NC; Digi International, Minnetonka, MN; Edgcumbe Instruments, Glasgow, Scotland, UNITED KINGDOM; ITRI, Taejon, TAIWAN; Fantastic Corporation, Zug, SWITZERLAND; Iceland Telecom, Reykjavik, ICELAND; Interlink, Seoul, REPUBLIC OF KOREA; INTERSPEED, North Andover, MA; Inverness Systems, Marlborough, MA; IPM Datacom, Frattamaggiore Napol, ITALY; Italtel, Settimo Milanese, ITALY; Jato Communications, Denver, CO; Katron Technologies, Taipei, TAIWAN; Korea Telecom, Taejon, REPUBLIC OF KOREA; LASAT Networks, Nibe,

DENMARK; Northpoint Communications, San Francisco, CA; Promatory Communications, Fremont, CA; Quokka Sports, San Francisco, CA; Raychem, Menlo Park, CA; Secre Composants S.A., Pontault-Combault, FRANCE; tdSoft Communications, Hezeliys, ISRAEL; Telamon Corporation, Martinsville, IN; Telefonica de Espana, Madrid, SPAIN; Universal Microelectronics, Torrance, CA; University of Pretoria, Pretoria, SOUTH AFRICA; Acterna, Salem, VA; Xecom, Milpitas, CA; Xstreamis plc, Oxford, England, UNITED KINGDOM; DETECON, Bonn, GERMANY; Fidelity Investments, Boston, MA; KPMG, Uxbridge, Middlesex, England, UNITED KINGDOM; Swisscom Ltd, Geneva, SWITZERLAND; FirstWorld Communications, San Diego, CA; Audiocodes, Yehud, ISRAEL; Infinitec Communications, Tulsa, OK; Netcom Systems, Chatsworth, CA; Turk Telekom, Ankara, TURKEY; Larscom, Research Triangle Park, NC; HUB Fabricating Company, Reading, PA; Fastcomm Communications, Dulles, VA; Tecate Industries, Poway, CA; Intera Systems, Los Gatos, CA; Elastic Networks, Alpharetta, GA; Ezenia!, Marlborough, MA; cFos, Lueders/Winkler, Bonn, GERMANY; Telewest, Bradford, West Yorkshire, England, UNITED KINGDOM; Tachion Networks, West Long Branch, NJ; Sonoma Systems, Marlborough, MA; Metrodata, Egham, Surrey, England, UNITED KINGDOM; Nbase-Xyplex, Littleton, MA; KYE Systems, Taipei, TAIWAN; E & E Magnetic products, Hong Kong, HONG KONG–CHINA; New Edge Networks, Vancouver, WA; Angeles Design Systems, Inc., Los Angeles, CA; EmpowerTel Networks, Milpitas, CA; Silicon Labs, Austin, TX; MEDIACENTERS.COM, Chantilly, VA; On2.com, New York, NY; DiscoveryCom, Inc., Huntsville, AL; DSL.com, Inc., Westfield, IN; Telefonica CTC Chile, Santiago, CHILE; Dorado Software, El Dorado Hills, CA; Northcoit.com, West Palm Beach, FL; Dresdner Kleinwort Benson, New York, NY; Recsol I&C, Seoul, REPUBLIC OF KOREA; Telint Global, Potsdam, GERMANY; webMethods, Fairfax, VA; Belenos, Boston, MA; imajet.com, Singapore, SINGAPORE; DXO Telecom, Seoul, REPUBLIC OF KOREA; Access Conferences International, London, England, UNITED KINGDOM; Kasenna, Mountain View, CA; Xpeed Networks, San Jose, CA; @Link Networks, Louisville, CO; and Valence Semiconductor, Tustin, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ADSL intends to file additional written notifications disclosing all changes in membership.

On May 15, 1995, ADSL filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 25, 1995 (60 FR 38058).

The last notification was filed with the Department on January 25, 2001. A notice for this filing has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13769 Filed 5–31–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Coalition for Healthcare Estandards, Inc.

Notice is hereby given that, on February 14, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Coalition for Healthcare eStandards, Inc. (The ''Coalition'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objective of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties are: Consorta, Rolling Meadows, IL; empactHealth.com, Nashville, TN; Global Healthcare Healthcare Exchange, Westminister, CO; HealthTrust Purchasing Group, Nashville, TN; MedAssets.com, Alpharetta, GA; MedCenterDirect.com, Atlanta, GA; Medibuy.com, San Diego, CA; Neoforma.com, Inc., San Jose, CA; The New Health Exchange, St. Louis Park, MN; Novation, LLC, Irving, TX; and Premier, Inc., San Diego, CA.

The general area of planned activity is to promote the development and adoption of uniform, open standards for supply chain transactions made over the Internet (''Standards''); to promote such Standards worldwide; and to undertake such other activities as may from time to time be appropriate to further the purposes and achieve these goals.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 01–13770 Filed 5–31–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Inter Company Collaboration for Aids Drug Development

Notice is hereby given that, on March 6, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Inter Company Collaboration for AIDS Drug Development (the ''Collaboration'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, although no changes have been made in the membership of the Collaboration, members Glaxo Wellcome plc, Research Triangle Park, NC; and SmithKline Beecham plc, Philadelphia, PA have merged by agreeing to be acquired by a common parent company, GlaxoSmithKline plc., Research Triangle Park, NC.

No other changes have been made in either the membership or planned activity of the Collaboration. Membership in the Collaboration remains open, and the Collaboration intends to file additional written notification disclosing all changes in membership.

On May 27, 1993, the Collaboration filed its original notification pursuant to Section 6 (a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6 (b) of the Act on July 6, 1993 (58 FR 36223).

The last notification was filed with the Department on August 18, 2000. A notice was published in the **Federal Register** pursuant to Section 6 (b) of the Act on October 6, 2000, (65 FR 59874).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13771 Filed 5–31–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Spray Drift Task Force

Notice is hereby given that, on May 1, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Spray Drift Task Force has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Novartis Crop Protection, Inc., Greensboro, NC and Zeneca Ag Products, Inc., Wilmington, DE have merged to form Syngenta Crop Protection, Inc., Greensboro, NC. Also, Nihon Nohyaku America, Inc., Hockessin, DE has changed its name to Nichino America, Inc.; and Elf Atochem North America, Inc., Philadelphia, PA has changed its name to Cerrexagri, Inc.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Spray Drift Task Force intends to file additional written notification disclosing all changes in membership.

On May 15, 1990, Spray Drift Task Force filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 15, 1990 (55 FR 27701).

The last notification was filed with the Department on January 12, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 27, 2001 (66 FR 12565).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 01–13772 Filed 5–31–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review: Extension of a currently approved collection.

Prison Population Reports Midyear Population Counts and Advance Year-End Population Counts—National Prisoner Statistics

The Department of Justice, Office of Justice Programs, Drug Courts Program Office, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until July 31, 2001.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the 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 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.

If you have additional comments, suggestions, or additional information, especially regarding the estimated public burden and associated response time, please write to Lawrence Greenfeld, Acting Director, Bureau of Justice Statistics, 810 Seventh St. NW, Washington, DC 20531. If you need a copy of the collection instruments with instructions, or have additional information, please contact Paige Harrison at (202) 514–0809, or via facsimile at 202–307–1463.

Overview of this information collection:

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the Form/Collection:* Prision Population Reports Midyear Counts; and Prison Population Report Advance Year-end Counts—National Prisoner Statistics.

(3) *The agency form number and the applicable component of the Department sponsoring the collection. Form:* NPS–1A; and NPS–1B. Corrections Statistics, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract: Primary:* State Departments of Corrections. *Others:* The Federal Bureau of Prisons. For the NPS–1A form, 52 central reports (one from each State, the District of Columbia, and the Federal Bureau of Prisons) responsible for keeping records on inmates will be asked to provide information for the following categories: (a) As of June 30, the number of male and female inmates under their jurisdiction with maximum sentences of more than one year, one year or less; and unsentenced inmates; and (b) As of June 30, the number of male and female inmates in their custody with maximum sentences of more than one year, or year or less; and unsentenced inmates; and (c) As of June 30, the number of male and female inmates under their jurisdiction housed in privately-operated facility, either in state or out of state; and (d) As of June 30, the number of male and female inmates in their custody by race and Hispanic origin.

For the NPS–1B form, 52 central reporters (one from each State, the District of Columbia, and the Federal Bureau of Prisons) responsible for keeping records on inmates will be asked to provide information for the following categories: (a) As of December 31, the number of male and female inmates under their jurisdiction with maximum sentences or more than one year, one year or less; and unsentenced inmates; and (b) The number of inmates housed in county or other local authority correctional facilities, or in other state or Federal facilities on December 31, solely to ease prison crowding; and (c) As of the direct result of state prison crowding during 2001, the number of inmates released via court order, administrative procedure or statute, accelerated release, sentence reduction, emergency release, or other expedited release; and (d) The aggregate rated, operational, and design capacities, by sex, of each State's correctional facilities at year-end.

The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

(5) An estimate of the total number of respondents and the amount of time needed for an average respondent to

respond: 52 respondents each taking an average 3.0 hours to respond.

(6) An estimate of the total public burden (in hours) associated with the collection: 156 annual burden hours.

If additional information is required, contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1220, 1331 Pennsylvania Ave., NW, National Place Building, Washington, DC 20530.

Dated: May 25, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 01–13724 Filed 5–31–01; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

DEPARTMENT OF LABOR

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[OJP(OJP)–1320]

The Young Offender Initiative: Reentry Grant Program

AGENCY: Employment and Training Administration (ETA), Labor; Corrections Program Office (CPO), Office of Justice Programs (OJP), Justice; Center for Substance Abuse Treatment (CSAT) and Center for Mental Health Services (CMHS), Substance Abuse and Mental Health Services Administration (SAMSHA), Health and Human Services.

ACTION: Notice of funding availability.

SUMMARY: The Departments of Labor, Justice, and Health and Human Services are requesting applications for the Young Offender Initiative: Reentry Grant Program to enhance community safety through the successful reintegration to the community of offenders ages 14 to 35, who have been confined for a minimum of 12 consecutive months for adults or 6 consecutive months for juveniles, through a coordinated and comprehensive continuum of supervision, programs, and services. Approximately $79 million is available to fund approximately 25 grants of up to $3.1 million each to applicants that demonstrate a collaborative effort and broad-based community support.

DATES: Applications must be received by October 1, 2001, by 5:30 p.m. Eastern Standard Time.

ADDRESSES: All applications must be mailed or delivered to the Corrections Program Office, Office of Justice Programs, 810 7th Street, NW., 8th Floor, Washington, DC 20531. Faxed or e-mailed applications will not be accepted. Interested applicants may obtain general information about the *Young Offender Initiative: Reentry Grant Program Application Package,* which includes the Program Announcement, required forms, and instructions on how to apply, from the U.S. Department of Justice Response Center at 1–800–421–6770. The *Application Package* is also available at: OJP's Web site at *http://www.ojp.usdoj.gov/fundopps.htm;* DOL's Web site at *http://wdsc.doleta.gov/sga;* and SAMHSA's Web site at *http://www.samhsa.gov/funding/funding.html.* For general information, contact the DOJ Response Center at 1–800–421–6770. In addition, the partnering agencies may be contacted for substantive assistance:

- For justice-related issues, contact Naydine Fulton-Jones, CPO/OJP, 1–800–638–8736, ext. 46661, e-mail: jonesn@ojp.usdoj.gov;
- For workforce-related issues, contact Susan Rosenblum, DOL, (202) 693–3597, e-mail: srosenblum@doleta.gov;
- For mental health-related issues, contact David Morrissette, CMHS, SAMHSA, (301) 443–2826, e-mail: dmorriss@SAMHSA.gov;
- For substance abuse treatment-related issues, contact Bruce Fry, CSAT, SAMHSA, (301) 443–0128, e-mail: *bfry@SAMHSA.gov.*

[The last three listings are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: The OJP role in the Young Offender Initiative: Reentry Grant Program is authorized in DOJ by P.L. 106–553, 114 Stat. 2762A–65 (2000); in SAMHSA by 509 and 520A of the P.H.S. Act, as amended; and in DOL by §§ 171 and 172 of P.L. 105–220, 112 Stat. 936 (1998). The program is designed to enhance community safety by successfully reintegrating young offenders into the community by helping them:

- Become productive, responsible, and law-abiding citizens;
- Obtain and retain long-term employment;
- Maintain a stable residence; and
- Successfully address their substance abuse issues and mental health needs.

Grantees may receive up to $3.1 million in funding and technical assistance to establish diverse, public-private partnerships that help young offenders attain these goals. Eligible applicants must be State or local agencies or units of government, Tribal governments, public or private nonprofit entities designated as 501(c)(3) (examples of which are community-based organizations or faith-based organizations), or local Workforce Investment Boards that have formed partnerships with State and local agencies as identified in the *Young Offender Initiative: Reentry Grant Program Application Package.* Applicants must target a population of young offenders within the age range of 14 to 35 years old who are returning to the community from incarceration (minimum of 12 consecutive months for adults, 6 consecutive months for juveniles) who pose a risk to community safety. Additional guidance regarding the identification of the target population and the composition and responsibilities of the applicant partnerships is provided in the *Application Package.*

This solicitation is one of two dealing with young offenders. The other solicitation under The Young Offender Initiative is the Demonstration Grant Program which will fund separate awards totaling up to $11.5 million for communities to target young offenders ages 14–24 who are either already involved in the criminal justice system, gang members, or at risk of gang or criminal involvement. This other solicitation will be published in the **Federal Register** and available on DOL's Web site, *http://wdsc.doleta.gov/sga/.* Applicants may apply for both solicitations, but are eligible to receive only one award for the same or similar populations.

Note: A Pre-Application Workshop will be held on Wednesday, June 6, 2001, at the Radisson Hotel and Suites Downtown St. Louis, 200 North Fourth Street, St. Louis, MO 63102, (314) 621–8200, to review both the reentry and demonstration grant program applications and discuss reentry programs in general. For more information about this workshop, contact Mary Johnson, KRA, Inc., (301) 562–2300, fax (301) 495–9410, mjohnson@kra.com.

Dated: May 29, 2001.

Mary Lou Leary,

Acting Assistant Attorney General, Office of Justice Programs.

Dated: May 25, 2001.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services.

Raymond J. Uhalde,

Deputy Assistant Secretary of Labor, Employment and Training Administration, U.S. Department of Labor.

[FR Doc. 01–13822 Filed 5–31–01; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission of OMB Review; Comment Request

May 23, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for OSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Student Data Form.

OMB Number: 1218–0172.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Frequency: On occasion.

Number of Respondents: 5,000.

Number of Annual Responses: 5,000.

Estimated Time Per Response: 5 minutes.

Total Burden Hours: 417.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The form OSHA 182 is used to collect student group and emergency information from Training Institutes students. This information is used to contact designated persons in the event of an emergency; for student group data reports; and for tuition receipt.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–13785 Filed 5–31–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of a Change in Status of an Extended Benefit (EB) Period for Alaska

This notice announces a change in benefit period eligibility under the EB Program for Alaska.

Summary

The following change has occurred since the publication of the last notice regarding the State's EB status:

- June 2, 2001—Alaska's 13-week insured unemployment rate for the week ending April 28, 2001, fell below 6.0 percent and was less than 120 percent of the average for the corresponding period for the prior two years, causing Alaska's EB period that began March 4, 2001 to trigger ''off'' effective June 2, 2001.

Information for Claimants

The duration of benefits payable in the EB Program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the States by the U.S. Department of Labor. In the case of a State ending an EB period, the State employment security agency will furnish a written notice to each individual who is currently filing a claim for EB of the forthcoming end of the EB period and its effect on the individual's rights to EB (30 CFR 615.13(c)(4)).

Signed at Washington, DC, on May 23, 2001.

Raymond J. Uhalde,

Deputy Assistant Secretary of Labor for Employment and Training.

[FR Doc. 01–13784 Filed 5–31–01; 8:45 am]

BILLING CODE 5670–30–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify that basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determination in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be

impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notices of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut
CT010001 (Mar. 02, 2001)
CT010002 (Mar. 02, 2001)
CT010004 (Mar. 02, 2001)
CT010005 (Mar. 02, 2001)

Maine
ME010001 (Mar. 02, 2001)
ME010002 (Mar. 02, 2001)
ME010006 (Mar. 02, 2001)
ME010008 (Mar. 02, 2001)

New Jersey
NJ010001 (Mar. 02, 2001)
NJ010002 (Mar. 02, 2001)
NJ010003 (Mar. 02, 2001)
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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscription may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 24th day of May, 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–13647 Filed 5–31–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Training Plans

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before July 31, 2001.

ADDRESSES: Send comments to Brenda C. Teaster, Acting Chief, Records Management Division, 4015 Wilson Boulevard, Room 709A, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to bteaster@msha.gov, along with an original printed copy.

Ms. Teaster can be reached at (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

FOR FURTHER INFORMATION CONTACT: Brenda C. Teaster, Acting Chief, Records Management Division, U.S. Department of Labor, Mine Safety and Health Administration, Room 709A, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Ms. Teaster can be reached at bteaster@msha.gov (Internet E-mail), (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Mine Safety and Health Act of 1977 (Mine Act), recognizes that the role of education and training in the improvement of miner health and safety is an important element of federal efforts to make the nation's mines safer places in which to work. Section 115(a) of the Mine Act states that ''each operator of a coal or other mine shall have a health and safety program which shall be approved by the Secretary.'' Title 30, C.F.R. 48.3 and 48.23 specifically address the requirements for training plans. The standards are intended to ensure that miners will be effectively trained in matters affecting their health and safety, with the ultimate goal being the reduction of frequency and severity of the injuries in the nation's mines.

II. Desired Focus of Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to Training Plans. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

A copy of the proposed information collection request may be viewed on the Internet by accessing the MSHA Home Page (*http://www.msha.gov*) and selecting ''Statutory and Regulatory Information'' then ''Paperwork Reduction Act submission (*http://www.msha.gov/regspwork.htm*)'', or by contacting the employee listed above in the **FOR FURTHER INFORMATION CONTACT**.

III. Current Actions

Approved training plans are used to implement training programs for training new miners, training newly employed experienced miners, training miners for new tasks, annual refresher training, and hazard training. The plans are also used by MSHA to ensure that all miners are receiving the training necessary to perform their jobs in the safest manner possible.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Training Plans.

OMB Number: 1219–0009.

OMB Number: 1219–0009.

Affected Public: Business or other for-profit.

Frequency: On Occasion.

Cite/Reference/Form/etc.: 30 CFR 48.3 and 48.23.

Total Respondents: 1,294.

Total Responses: 1,294.

Average Time per Response: 8 hours.

Estimated Total Burden Hours: 10,352 hours.

Total Annualized Capital/Startup Costs: $0.

Total Operating and Maintenance Costs: $2,588.

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: May 23, 2001.

Brenda C. Teaster,

Acting Chief, Records Management Division.

[FR Doc. 01–13782 Filed 5–31–01; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Escape and Evacuation Plan

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before July 31, 2001.

ADDRESSES: Send comments to Brenda C. Teaster, Acting Chief, Records

Management Division, 4015 Wilson Boulevard, Room 709A, 4015, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to bteaster@msha.gov, along with an original printed copy. Ms. Teaster can be reached at (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

FOR FURTHER INFORMATION CONTACT: Brenda C. Teaster, Acting Chief, Records Management Division, U.S. Department of Labor, Mine Safety and Health Administration, Room 709A, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Ms. Teaster can be reached at bteaster@msha.gov (Internet E-mail), (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Title 30, CFR 57.11053 requires the development of an escape and evacuation plan specifically addressing the unique conditions of each underground metal and nonmetal mine. Section 57.11053 also requires that revisions be made as mining progresses. The plan must be available to the inspector and conspicuously posted for the benefit of affected miners. The plan is required to be reviewed jointly by the operator and MSHA once every 6 months.

II. Desired Focus of Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Escape and Evacuation Plan. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request may be viewed on the Internet by accessing the MSHA Home Page (*http://www.msha.gov*) and selecting ''Statutory and Regulatory Information'' then ''Paperwork Reduction Act Submissions *(http://www.msha.gov/regspwork.htm)*'', or by contacting the employee listed above in the **FOR FURTHER INFORMATION CONTACT** section of this notice for a hard copy.

III. Current Actions

An accurate, up-to-date plan is vital to the safety of the miners and rescue personnel in the event of an emergency. The plans are monitored by MSHA to ensure that plans are updated as mining progresses and that the escape routes are still effective.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Escape and Evacuation Plan.

OMB Number: 1219–0046.

Affected Public: Business or other for-profit institutions.

Frequency: On occasion.

Cite/Reference/Form/etc: 30 CFR 57.11053.

Total Respondents: 284.

Total Responses: 568.

Average Time per Response: 8 hours.

Estimated Total Burden Hours: 4,544 hours.

Total Annualized Capital/Startup Costs: $0.

Total Operating and Maintenance Costs: $1,704.

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: May 23, 2001.

Brenda C. Teaster,

Acting Chief, Records Management Division.

[FR Doc. 01–13783 Filed 5–31–01; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0186(2001)]

Cadmium in Construction Standard (29 CFR 1926.1127); Extension of the Office of Management and Budget's (OMB) Approval of the Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning its request to increase the existing burden-hour estimates for, and to extend OMB approval of, the collection-of-information requirements of the Cadmium in Construction Standard (29 CFR 1926.1127).

DATES: Submit written comments on or before July 31, 2001.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0186(2001), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitutional Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Policy, OSHA, U.S. Department of Labor, Room N–3641, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2444. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified in the Cadmium in Construction Standard is available for inspection and copying in the Docket Office or by requesting a copy from Todd Owen at (202) 693–2444. For electronic copies of the ICR contact OSHA on the Internet at *http://www.osha.gov/comp-links.html,* and select ''Information Collection Requests.''

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct. The Occupational Safety and Health Act of the 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The information-collection requirements specified in the Cadmium in Construction Standard (§ 1926.1127) protect employees from the adverse health effects that may result from

occupational exposure to cadmium. The major information-collection requirements in § 1926.1127 include conducting employee exposure monitoring, notifying employees of their cadmium exposures, implementing a written compliance program, implementing a written emergency plan for managing inadvertent and substantial releases of airborne cadmium, implementing medical surveillance of employees, providing examining physicians with specific information, ensuring that employees receive a copy of their medical-surveillance results, maintaining employees' exposure-monitoring and medical records for specific periods, and providing access to these records by OSHA, the National Institute for Occupational Safety and Health, the affected employees, and their authorized representatives.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

III. Proposed Actions

OSHA is requesting to increase the existing burden-hour estimate for, and to extend OMB approval of, the collection-of-information requirements specified in § 1926.1127. In this regard, the Agency is requesting to increase the current burden-hour estimate from 36,388 hours to 36,631 hours, a total increase of 243 hours. This increase results mainly from reestimating the burden hours required for employers to determine if cadmium is present in the workplace and, if so, whether employee exposure above the action level is possible. OSHA will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of this information-collection requirements.

Type of Review: Extension of currently approved information-collection requirements.

Title: Cadmium in Construction.

OMB Number: 1218–0186.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local or tribal governments.

Number of Respondents: 10,000.

Frequency of Response: Occasionally.

Average Time per Response: From 5 minutes (.08 hour) to maintain an employee's medical or exposure record to 1.5 hours to administer an employee medical examination.

Estimated Total Burden Hours: 36,631 hours.

Estimated Cost (Operation and Maintenance): $2,232,500.

IV. Authority and Signature

R. Davis Layne, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC on May 29, 2001.

R. Davis Layne,

Acting Assistant Secretary of Labor.

[FR Doc. 01–13924 Filed 5–31–01; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: Under the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3501 et seq.), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public and other Federal agencies to comment on this proposed information collection. This is the second notice for public comment; the first was published in the **Federal Register** at 66 FR 2943 and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Comments regarding these information collections are best assured of having their full effect if received by OMB within 30 days of publication in the **Federal Register**.

ADDRESSES: 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 Anita Eisenstadt, Assistant General Counsel, through surface mail (National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230); email (*aeisenst@nsf.gov*) or fax (703–292–9041). Copies of the submission(s) may be obtained by calling 703–292–8060.

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.

FOR FURTHER INFORMATION CONTACT: Call or write Anita Eisenstadt, Assistant General Counsel, at the National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230; call (703) 292–8060, or send email to *aeisenst@nsf.gov.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Antarctic emergency response plan and environmental protection information.

Abstract: The NSF, pursuant to the Antarctic Conservation Act of 1978 (16 U.S.C. 2401 *et seq.*) (''ACA'') regulates certain non-governmental activities in Antarctica. The ACA was amended in 1996 by the Antarctic Science, Tourism, and Conservation Act. On June 4, 1998, NSF published a proposed rule in the **Federal Register** (63 FR 30438) to implement certain of these statutory amendments. The proposed rule would require non-governmental Antarctic expeditions using non-U.S. flagged vessels to ensure that the vessel owner has an emergency response plan. The

proposed rule would also require persons organizing a non-governmental expedition to provide expedition members with information on their environmental protection obligations under the Antarctic Conservation Act. The notice of proposed rule stated that the rule was not subject to the Paperwork Reduction Act because of the small number of U.S. operators subject to the rule. Based upon comments received on the proposed rule and the slight increase in applicable tour operators, NSF has determined that it will issue this information collection notice to satisfy the requirements of the Paperwork Reduction Act of 1995, prior to issuing the final rule.

Expected Respondents. Respondents may include non-profit organizations and small and large businesses. The majority of respondents are anticipated to be U.S. tour operators, currently estimated to number twelve.

Burden on the Public. The Foundation estimates that a one-time paperwork and recordkeeping burden of 40 hours or less, at a cost of $500 to $1400 per respondent, will result from the emergency response plan requirement contained in the proposed rule. Presently, all respondents have been providing expedition members with a copy of the Guidance for Visitors to the Antarctic (prepared and adopted at the Eighteenth Antarctic Treaty Consultative Meeting as Recommendation XVIII–1). Because this Antarctic Treaty System document satisfies the environmental protection information requirements of the proposed rule, no additional burden shall result from the environmental information requirements in the proposed rule.

Dated: April 18, 2001.

Lawrence Rudolph,

General Counsel.

[FR Doc. 01–13768 Filed 5–31–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 19, ''Notices, Instructions, and Reports to Workers: Inspection and Investigations''.

3. *The form number if applicable:* N/A.

4. *How often the collection is required:* As necessary in order that adequate and timely reports of radiation exposure be made to individuals involved in NRC-licensed activities.

5. *Who is required or asked to report:* Licensees authorized to receive, possess, use, or transfer material licensed by the NRC.

6. *The estimated number of annual responses:* 395,221.

7. *The number of annual respondents:* 6000.

8. *The number of hours needed annually to complete the requirement or request:* 43,037 reporting hours.

9. *An indication of whether section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* Title 10 of the Code of Federal Regulations, Part 19, requires licensees to advise workers on an annual basis of any radiation exposure they may have received as a result of NRC-licensed activities or when certain conditions are met. These conditions apply during termination of the worker's employment, at the request of a worker, former worker, or when the worker's employer (the NRC licensee) must report radiation exposure information on the worker to the NRC. Part 19 also establishes requirements for instructions by licensees to individuals participating in licensed activities and options available to these individuals in connection with Commission inspections of licensees to ascertain compliance with the provisions of the Atomic Energy Act of 1954, as amended, Title II of the Energy Reorganization Act of 1974, and regulations, orders and licenses thereunder regarding radiological working conditions.

The worker should be informed of the radiation dose he or she receives because: (a) that information is needed by both a new employer and the individual when the employee changes jobs in the nuclear industry; (b) the individual needs to know the radiation dose received as a result of an accident or incident (if this dose is in excess of the 10 CFR Part 20 limits) so that he or she can seek counseling about future work involving radiation, medical attention, or both, as desired; and (c) since long-term exposure to radiation may be an adverse health factor, the individual needs to know whether the accumulated dose is being controlled within NRC limits. The worker also needs to know about health risks from occupational exposure to radioactive materials or radiation, precautions or procedures to minimize exposure, worker responsibilities and options to report any licensee conditions which may lead to or cause a violation of Commission regulations, and individual radiation exposure reports which are available to him.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 2, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Amy Farrell, Office of Information and Regulatory Affairs (3150–0044), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Dated at Rockville, Maryland, this 24th day of May , 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–13742 Filed 5–31–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255]

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–

20, held by Nuclear Management Company, LLC (the licensee), for operation of the Palisades Plant located in Van Buren County, Michigan.

The proposed amendment would change the limiting conditions for operation (LCOs), surveillance requirements (SRs), and design features in the Technical Specifications (TSs) to provide more flexible fuel loading constraints for the Palisades fuel storage racks and accommodate future core designs. The changes affect TS Sections 3.7.15, ''Spent Fuel Pool (SFP) Boron Concentration,'' 3.7.16, ''Spent Fuel Assembly Storage,'' and 4.3, ''Design Features—Fuel Storage.'' Allowed uranium enrichments for storage would be increased. Enrichment limits for new fuel storage racks (currently limited to fuel assemblies having a maximum average planar uranium-235 (U-235) enrichment of 4.20 weight percent) would be increased to allow storage of 24 unirradiated fuel assemblies having a maximum planar average U-235 enrichment of 4.95 weight percent, subject to proposed loading pattern constraints (e.g., the center row being empty if stored fuel exceeds 4.05 percent U-235 enrichments). Similarly, the new fuel storage racks could contain 36 unirradiated fuel assemblies having a maximum planar average U-235 enrichment of 4.05 weight percent, subject to similar proposed loading pattern constraints not necessarily requiring the center row to be empty. Region I fuel storage racks (currently limited to a maximum enrichment of 4.40 weight percent) would be changed to allow storage of unirradiated or irradiated fuel up to 4.95 weight percent enrichment on the basis of revised criticality analyses that assume no credit for soluble boron in the pool under normal conditions, but which take credit for 1350 ppm of soluble boron under accident conditions. Enrichment requirements for Region II fuel storage racks (currently limited to 3.27 weight percent) would be changed to allow storage of unirradiated fuel up to 1.14 weight percent and irradiated fuel of equivalent reactivity up to 4.6 weight percent initial enrichment on the basis of criticality analyses that take credit for 850 ppm of soluble boron in the pool under normal conditions and 1350 ppm of soluble boron under accident conditions. The TSs (e.g., proposed Table 3.7.16–1) for allowable enrichments for fuel storage in Region II of the spent fuel pool or the north tilt pit would continue to be based upon a combination of initial enrichment and burnup, but the proposed change would also add decay time to this combination. The existing limitations that Region I spent fuel racks may contain only ''new or partially spent'' fuel assemblies, and that Region II spent fuel racks may contain only ''partially spent'' fuel assemblies, would be changed to ''new or irradiated fuel assemblies which meet the initial enrichment, burnup, and decay time requirements of [the proposed revision to] Table 3.7.16–1.'' The existing requirements that fuel assemblies in new or Region I fuel storage racks must contain ''216 rods which are either UO_2, $Gd_2O_3UO_2$, or solid metal'' would be deleted. TS 3.7.15 would continue to require that the spent fuel pool boron concentration be equal to or greater than 1720 ppm whenever fuel is stored in the spent fuel pool, and be verified weekly; however, the optional Action statement A.2.2 to immediately initiate action to perform a spent fuel pool verification when the concentration is not within limits would be deleted (as would a related portion of the applicability statement regarding verification). The licensee also included changes to the associated TS Bases.

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 July 2, 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 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, 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 Arunas T. Udrys, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, MI 49201, 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 March 2, 2001, as supplemented by letter dated March 29, 2001, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 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 24th day of May 2001.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Senior Project Manager, Section I, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–13740 Filed 5–31–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–272 and 50–311]

PSEG Nuclear LLC; Salem Nuclear Generating Station, Unit Nos. 1 and 2; Exemption

1.0 Background

PSEG Nuclear LLC (PSEG or the licensee) is the holder of Facility Operating License Nos. DPR–70 and DPR–75 that authorize operation of the Salem Nuclear Generating Station, Unit Nos. 1 and 2. The licenses provide, 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 two pressurized water reactors located at the licensee's site on the southern end of Artificial Island in Lower Alloways Creek Township, Salem County, New Jersey. Salem, New Jersey, is located approximately 7.5 miles northeast of the site.

2.0 Purpose

Title 10 of the Code of Federal Regulations (10 CFR) Part 50, Appendix G requires that pressure-temperature (P–T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR Part 50, Appendix G states that ''[t]he appropriate requirements on * * * the pressure-temperature limits and minimum permissible temperature must be met for all conditions.'' Appendix G to 10 CFR Part 50 also specifies that the requirements for these limits are the American Society of Mechanical Engineers (ASME) Code, Section XI, Appendix G Limits. In Generic Letter 88–11, the NRC staff advised licensees that the staff would use Regulatory Guide (RG) 1.99, Revision 2, to review P–T limit curves. RG 1.99, Revision 2, provides guidance for implementing 10 CFR Part 50, Appendix G, and contains conservative methodologies for determining the increase in transition temperature and the decrease in upper-shelf energy (USE) resulting from neutron radiation.

In order to address provisions of amendments to the Technical Specifications (TS) P–T limit curves, the licensee requested in its application dated November 10, 2000, that the staff exempt, as permitted by 10 CFR 50.60(b), Salem, Unit Nos. 1 and 2, from application of specific requirements of 10 CFR 50.60(a) and 10 CFR Part 50, Appendix G, and substitute use of ASME Code Case N–640. Code Case N–640 provides an alternate reference fracture toughness methodology for reactor vessel materials for use in determining the P–T limits. The proposed action is in accordance with PSEG's application for exemption contained in its November 10, 2000, letter, as supplemented by letters dated March 28 and April 2, 2001. The proposed action is needed to support PSEG's license amendment request to increase thermal power levels by 1.4% submitted under the same application (the final revision of the proposed P–T limit curves was submitted by the licensee by letter dated March 28, 2001). The proposed license amendment will, in part, revise the P–T limits for heatup, cooldown, core criticality, and hydrostatic/leak test limitations for the reactor coolant system (RCS) to 32 effective full power years (EFPYs).

Code Case N–640

The licensee has proposed an exemption to allow the use of Code Case N–640, in conjunction with ASME Section XI, Appendix G, 10 CFR 50.60(a), and 10 CFR Part 50, Appendix G, to determine the P–T limits, and stated that this proposed alternative meets the underlying intent of the NRC's regulations.

Standard Review Plan (NUREG–0800) Section 5.3.2 provides an acceptable method for determining the P–T limit curves for ferritic materials in the beltline of the RPV based on the linear elastic fracture mechanics (LEFM) methodology of Appendix G to Section XI of the Code. The basic parameter of this methodology is the stress intensity factor K_I, which is a function of the stress state and flaw configuration. Appendix G requires a safety factor of 2.0 on stress intensities resulting from reactor pressure during normal and transient operating conditions, and a safety factor of 1.5 on the same stresses for hydrostatic testing curves. The methods of Appendix G postulate the existence of a sharp surface flaw in the RPV that is normal to the direction of the maximum stress. This flaw is postulated to have a depth that is equal to 1/4 of the RPV beltline thickness and a length equal to 1.5 times the RPV beltline thickness. The critical locations in the RPV beltline region for calculating heatup and cooldown P–T curves are the 1/4 thickness (1/4T) and 3/4 thickness (3/4T) locations, which correspond to the maximum depth of the postulated inside surface and outside surface defects, respectively.

The methodology provided in Appendix G to Section XI of the ASME Code requires that licensees determine

the adjusted reference temperature (ART or adjusted RT_{NDT}). The ART is defined as the sum of the initial (unirradiated) reference temperature (initial RT_{NDT}), the mean value of the adjustment in reference temperature caused by irradiation (ΔRT_{NDT}), and a margin (M) term by application of RG 1.99, Revision 2. The ΔRT_{NDT} is a product of a chemistry factor and a fluence factor. The chemistry factor is dependent upon the amount of copper and nickel in the material and may be determined from tables in RG 1.99, Revision 2, or from surveillance data. The fluence factor is dependent upon the neutron fluence at the maximum postulated flaw depth. The margin term is dependent upon whether the initial RT_{NDT} is a plant-specific or a generic value and whether the chemistry factor (CF) was determined using the tables in RG 1.99, Revision 2, or surveillance data. The margin term is used to account for uncertainties in the values of the initial $RT_{NDT,}$ the copper and nickel contents, the fluence and the calculational procedures. RG 1.99, Revision 2, describes the methodology to be used in calculating the margin term.

The Pressurized Thermal Shock (PTS) rule, 10 CFR 50.61, requires that licensees demonstrate that facility RPV materials will continue to possess an adequate level of fracture resistance to protect the RPV from potential failure as a result of PTS events. Each material's PTS reference temperature, $RT_{PTS,}$ is determined in a manner like that used to determine ART, except that the neutron fluence at the clad-to-base metal interface at end of license (EOL) conditions is used in lieu of either the 1/4T or 3/4T fluence. Each material's RT_{PTS} value is then compared to the screening limits given in 10 CFR 50.61, 270 °F for plates, forging, and axial welds, and 300 °F for circumferential welds. Provided that all RPV materials' RT_{PTS} values remain below these screening limits, the fracture resistance of the RPV is demonstrated to be adequate to meet the requirements of 10 CFR 50.61 through end of life.

The proposed license amendments to revise the P–T limits for Salem, Unit Nos. 1 and 2, rely in part on the requested exemption. These revised P–T limits have been developed using the K_{Ic} fracture toughness curve shown in ASME Section XI, Appendix A, Figure A–2200–1, in lieu of the K_{Ia} fracture toughness curve of ASME Section XI, Appendix G, Figure G–2210–1, as the lower bound for fracture toughness. The other margins involved with the ASME Section XI, Appendix G process for establishing P–T limit curves remain unchanged.

Use of the K_{Ic} curve in determining the lower bound fracture toughness in the development of P–T operating limit curves is more technically correct than the K_{Ia} curve. The K_{Ic} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The licensee stated that the use of the K_{Ia} curve, with its initial conservatism, was justified when the curve was codified in 1974. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, additional knowledge has been gained about RPV materials, that demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. In addition, P–T curves based on the K_{Ic} curve will enhance overall plant safety by opening the P–T operating window with the greatest safety benefit in the region of low temperature operations. The operating window through which the operator heats up and cools down the RCS is determined by the difference between the maximum allowable pressure determined by Appendix G of ASME Section XI, and the minimum required pressure for the reactor coolant pump (RCP) seals adjusted for instrument uncertainties.

Since the RCS P–T operating window is defined by the P–T operating and test limit curves developed in accordance with the ASME Section XI, Appendix G procedure, continued operation of Salem, Unit Nos. 1 and 2, with these P–T curves without the relief provided by ASME Code Case N–640 may unnecessarily restrict the P–T operating window, especially at low temperature conditions. The operating window becomes more restrictive with continued reactor vessel service. Implementation of the proposed P–T curves, as allowed by ASME Code Case N–640, does not significantly reduce the margin of safety. Thus, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the regulation will continue to be served.

In summary, the ASME Section XI, Appendix G procedure was conservatively developed based on the level of knowledge existing in 1974 concerning RPV materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded. The NRC staff concurs that this increased knowledge permits relaxation of the ASME Section XI, Appendix G requirements by application of ASME Code Case N–640, while maintaining, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the ASME Code and NRC regulations to ensure an acceptable margin of safety.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.'' The staff accepts the licensee's determination that an exemption would be required to approve the use of Code Case N–640. The staff examined the licensee's rationale to support the exemption request and concurred that the use of the code case would also meet the underlying intent of these regulations. Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of 10 CFR Part 50, Appendix G; Appendix G of the ASME Code; and RG 1.99, Revision 2, the staff concluded that application of the code case as described would provide an acceptable margin of safety against brittle failure of the RPV.

Therefore, since strict compliance with the requirements of 10 CFR Part 50, Appendix G, is not necessary to serve the underlying purpose of the regulation, the staff concludes that application of Code Case N–640 to the P–T limit calculations meets the special circumstance provisions stated in 10 CFR 50.12(a)(2)(ii), for granting this exemption to the regulation, and that the methodology of Code Case N–640 may be used to revise the P–T limits for Salem, Unit Nos. 1 and 2.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants PSEG Nuclear LLC an exemption from the requirements of 10 CFR Part 50, Section 50.60(a) and 10 CFR Part 50, Appendix G, for Salem, Unit Nos. 1 and 2.

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 24410).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 25th day of May 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–13741 Filed 5–31–01; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., Section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 2001, shall be at the rate of 26 cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning July 1, 2001, 38.6 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 61.4 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: May 24, 2001.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 01–13766 Filed 5–31–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44341; File No. SR–Amex–2001–17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Increasing Regular Memberships and Creating Two-Year Permits

May 23, 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 March 19, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Exchange submitted Amendment Nos. 1, 2, and 3 to the proposed rule change on May 3, 2001,[3] May 16, 2001,[4] and May 18, 2001,[5] respectively. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to increase the number of regular memberships and create 25 two-year permits as a result of a Regular Seat and Two-Year Permit Offering Plan (the ''Plan''). The text of the proposed rule change is set forth below. New language is in italics. Deletions are in brackets.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Ivonne Natal, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated April 30, 2001 (''Amendment No. 1''). Amendment No. 1 states that on April 30, 2001, a majority of the regular and options principal members, voting as a single class, voted in favor of the proposed rule change.

[4] Letter from Ivonne Natal, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated May 14, 2001 (''Amendment No. 2''). Amendment No. 2 requests the Commission to consider the Plan on a pilot basis for a minimum of two years and a maximum of four years, in the event the Seat Fund Committee exercises its discretion to extend the Plan. Amendment No. 2 also states that there are approximately 300 members trading equities on the Exchange floor.

[5] Letter from Ivonne Natal, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated May 17, 2001 (''Amendment No. 3''). Amendment No. 3 clarifies that the administrative fee that the Amex would receive for administering the Plan would be $750.00 per sale/lease and that the administrative fee will be collected out of the sale proceeds, prior to their distribution to the members. Amendment No. 3 also states that Amex members and the Board of Governors have approved this fee.

AMERICAN STOCK EXCHANGE CONSTITUTION

Article IV

Admission to Membership

Number of Regular Memberships

SEC. 1(a)(1) Regular Membership—There shall be up to *889*[864] regular memberships in the Exchange, inclusive of any regular memberships created through the options principal membership upgrade program. The number of regular memberships shall be increased only if the Board of Governors requests The Amex Membership Corporation to issue additional regular memberships. Any such issuance of additional regular memberships shall require the approval of a majority of the regular and options principal members voting together as a single class at a meeting called for the purpose of considering the request that new regular memberships be issued.

(2)–(3) No change.

(b)–(h) No change.

(i) Two-Year Permits

(1) There shall be maximum of twenty-five two-year permits. Two-year permits shall expire two years from the effective date of the membership, but may be renewed for an additional two years at the discretion of the Exchange's Seat Fund Committee. Two-year permits are non-transferable. The price for two-year permits will be determined by the Exchange's Seat Fund Committee at the beginning of a 120-day offering period, but shall not be less than $14,000. A two-year permit will automatically terminate in the event the holder goes out of business or is delinquent in payment of dues, fines, fees, charges and any other financial responsibility owed to the Exchange for more than thirty (30) consecutive days. In the event a two-year permit holder goes out of business, any monies for unpaid dues, fines, fees, charges and any other financial responsibility due to the Exchange or any other creditor, will be collected by the Exchange out of the proceeds of the sale of the two-year permits.

(2) Requirements for Issuance

A two-year permit holder must:

(i) be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business:

(ii) agree that his primary occupation will be the transaction of business on the Floor of the Exchange in his capacity as a permit holder; and

(iii) obtain a waiver letter from their clearing firms waiving their right to file a claim against the permit should the permit holder owe them money or,

alternatively, a guarantee from another member acceptable to the Exchange's Seat Fund Committee; and

(iv) meet such other qualifications as may be specified in the plan approved by the regular members of the Exchange providing for the offering of such permits. Applications must be approved by the Exchange in accordance with the provisions of Section 1(g) of this Article IV. No person whose application for a permit has been approved by the Exchange shall be admitted to the privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he shall pledge himself to abide by the Constitution as the same has been or shall be from time to time amended and by all rules, regulations, requirements, orders, directions or decisions adopted or made in accordance therewith.

(3) Rights and Obligations

A two-year permit holder shall have all the rights, privileges and obligations of a regular member, but shall have no distribution or voting rights.

(j) [i] Class C Trading Rights

No change.

(k) [j] New Trading Rights

No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

During the last few years, volume on the trading floor of the Exchange has increased dramatically, while memberships have remained unchanged. Exchange members have identified a need for the issuance of additional seats.

In response to the apparent need for additional seats and to allow Exchange members to remain competitive and afford customers an optimal level of service, the Exchange is proposing to issue 25 additional regular seats and 25 two-year permits pursuant to the Plan, to be allocated as determined by the Exchange's Seat Fund Committee (''Committee''). The Committee would determine the sale price for regular seats and two-year permits and the effective date of the Plan. The price for regular seats would be at least $600,000. The price for two-year permits would be at least $14,000, per month. Authority to resolve and reach a final determination on any and all issues relating to the administration of the Plan would be vested in the Committee.

The Committee would be able to renew the two-year permits once for an additional two years, but the permits would be non-transferable. A two-year permit would terminate if the holder went out of business. Monies owed to the Exchange by a two-year permit holder who went out of business would be collected by the Exchange out of the proceeds of sale of regular seats and two-year permits under the Plan. Any regular seats offered but not sold would be permitted to be converted into two-year permits as determined by the Committee. The two-year permits would have no distribution or voting rights.

All prospective seat and/or permit holders would be required to be approved by the Exchange prior to the sale of a seat or the transfer of a permit. The Exchange would receive a $750 administrative fee for each seat/permit for administering the sale/transfer for prospective seat/permit owners.

Prior to any seat sale or permit transfer, a non-member or a person/organization that was not currently the owner of a regular membership would be required to meet all requirements currently applicable to regular or two-year permit holders. If the purchaser of a seat intended to lease the seat pursuant to a special transfer agreement or transfer the seat to a nominee, the lessee or nominee would also be required to meet all Exchange requirements. All applicable fees due by persons/organizations that are not owners of regular memberships or members of the Exchange would be required to be paid before the sale of any seat or transfer of any permit.

Sale proceeds will be distributed to all seat owners at a date to be determined by the Committee. The Ex-date for determining distribution of sale proceeds to owners would be the date of approval of the Plan by the Commission.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act[6] in general and furthers the objectives of section 6(b)(2)[7] in particular in that it is designed to provide that any registered broker or dealer or natural person associated with a registered broker or dealer may become a member of such exchange and any person may become associated with a member thereof.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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

The Exchange did not solicit or receive written comments on the proposed rule change.

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 Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(2).

Room. Copies of the filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the File No. SR–Amex–2001–17 and should be submitted by June 22, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–13754 Filed 5–31–01; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, DC. 20503

(SSA)

Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–4145, or by writing to him at the address listed above.

1. Contact with the Representative Payee and Contact with Beneficiary—0960–NEW. SSA will use the SSA–L4945, Contact with the Representative Payee, and SSA–L4947, Contact with Beneficiary, to inform respondents and conduct quality reviews of payments made under the titles II and XVI (Old-Age, Survivors and Disability Insurance/Supplemental Security Income) programs. Cases for the review will be selected randomly and the information solicited will be used for verification of payment data on record in the claims folder and SSA's Master Beneficiary Record. Form SSA–L4945 will be used to notify Representative Payees who have the responsibility of managing payments for an SSA Beneficiary that the case has been selected for the review process and to request the required information. Form SSA–L4947 will be used to notify beneficiaries that their case has been selected for the review process and request the needed information. Both letters contain information that must be verified and returned to SSA under the review process. The respondents are beneficiaries and representative payees for beneficiaries receiving title II and title XVI benefits.

Number of Respondents: 200.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 50 hours.

2. RSI/DI Quality Review Case Analysis-Sampled Number Holder, Auxiliaries/Survivors-Parent, Stewardship AET Workbook—0960–0189. SSA uses the information collected on forms SSA–2930, 2931 and 2932 to establish a national payment accuracy rate for all cases in payment status; measure the accuracy rate for newly adjudicated claims for beneficiaries receiving old-age, survivors, or disability insurance; and to serve as a source of information regarding problem areas in the RSI/DI programs. Form SSA–4659 is used to evaluate and determine the effectiveness of the annual earnings test and to use the results in developing ongoing improvements in the process. The respondents are beneficiaries and representative payees for beneficiaries receiving old age, survivors, or disability insurance.

	Respondents	Frequency of response	Average burden per response	Estimated annual burden (hours)
SSA–2930	3,000	1	30	1,500
SSA–2931	1,500	1	30	750
SSA–2932	650	1	20	217
SSA–4659	325	1	10	54
Total Burden				2,521

3. Request for Change in Time/Place of Disability Hearing—0960–0348. The information on Form SSA–769 is used by SSA and the State Disability Determination Services to provide claimants with a structured format to exercise their right to request a change in the time or place of a scheduled disability hearing. The information is be used as a basis for granting or denying requests for changes and for rescheduling hearings. The respondents are claimants who wish to request a change in the time or place of their disability hearing.

Number of Respondents: 7,483.

Frequency of Response: 1.

Average Burden Per Response: 8 minutes.

Estimated Annual Burden: 998 hours.

4. Request for Reconsideration—Disability Cessation—0960—0349. The information collected on form SSA–789 is used by SSA to schedule hearings, and to develop additional evidence for claimants who have received an initial or revised determination that a disability did not exist or has ceased. The collected information also indicates whether an interpreter is needed. The respondents are disability beneficiaries who file a claim for reconsideration.

Number of Respondents: 49,000.

Frequency of Response: 1.

Average Burden Per Response: 12 minutes.

[8] 17 CFR 200.30–3(a)(12).

Estimated Annual Burden: 9,800 hours.

5. Agency/Employer Government Pension Offset Questionnaire—0960–0470. The Information collected on Form SSA–L4163 will provide SSA with accurate information from the agency paying the pension, for purposes of applying the pension-offset provision. The form will only be used when (1) the claimant does not have the information and (2) the pension-paying agency has not cooperated with the claimant. The respondents are Federal, State, or local government agencies that have information needed by SSA to determine whether the Government Pension Offset provisions apply and the amount of offset.

Number of Respondents: 1,000.

Frequency of Response: 1.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 50 hours.

6. Child-Care Dropout Questionnaire—0960–0474. The information collected on Form SSA–4162 is used by SSA to determine whether an individual qualifies for a child care exclusion in computing the individual's disability benefit amount. The respondents are applicants for disability benefits.

Number of Respondents: 2,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 167 hours.

7. Authorization for the Social Security Administration to Obtain Account Records from a Financial Institution—0960–0293. Form SSA–4641–U2 provides financial institutions with the customer's authorization to disclose records, as required by Public Law 95–630. Responses to the questions are used, in part, to determine whether resource requirements are met in the Supplemental Security Income program. The respondents are financial institutions (banks, savings and loans, credit unions, etc.).

Number of Respondents: 500,000.

Frequency of Response: 1.

Average Burden Per Response: 6 minutes.

Estimated Annual Burden: 50,000 hours.

8. Request for Social Security Earnings Information—0960–0525. The Social Security Act provides that a wage earner, or someone authorized by a wage earner, may request Social Security earnings information from the Social Security Administration, using form SSA–7050. SSA uses the information collected on the form to verify that the requestor is authorized to access the earnings record and to produce the earnings statement. The respondents are wage earners and organizations and legal representatives authorized by the wage earner.

Number of Respondents: 61,494.

Frequency of Response: 1.

Average Burden Per Response: 11 minutes.

Estimated Annual Burden: 11,274 hours.

9. Statement of Household Expenses and Contributions—0960–0456. Eligibility for Supplemental Security Income (SSI) is based on need. A factor for determining need is whether an individual receives in-kind support and maintenance in the form of food and shelter provided by other persons. SSA collects information on form SSA–8011–F3 to determine the existence and amount of in-kind support and maintenance received by a claimant/beneficiary of SSI. SSA uses the information to determine eligibility and payment amount under this program. The respondents are members of SSI claimants'/beneficiaries' households.

Number of Respondents: 400,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 100,000 hours.

10. Payment of Certain Travel Expenses—0960–0434. This regulation (20 C.F.R. 404.999(d) and 416.1499) provides for travel expense reimbursement by the State agency or Federal agency for claimants traveling to a consultative examination, or for claimants, their representative and unsubpoenaed witnesses traveling over 75 miles to appear at a disability hearing. State and Federal personnel review the listing and the receipts to verify the amount to be reimbursed to the claimant. The respondents are claimants for Title II/XVI benefits.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 8,333 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed above.

1. Student's Statement Regarding Resumption of School Attendance—0960–0143. The information on Form SSA–1386 is used by SSA to verify full-time attendance at educational institutions and to determine eligibility for student benefits. The respondents are student beneficiaries currently receiving SSA benefits.

Number of Respondents: 133,000.

Frequency of Response: 1.

Average Burden Per Response: 6 minutes.

Estimated Annual Burden: 13,300 hours.

2. Subpoena—Disability Hearing—0960–0428. The information on Form SSA–1272–U4 is used by SSA to subpoena evidence or testimony needed at disability hearings. The respondents comprise officers from Federal and State DDSs.

Number of Respondents: 36.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 18 hours.

3. Quiz Show—Internet Edition—0960–NEW.

Background

As stated in the 1997 Agency Strategic Plan, one of the SSA's five major goals is ''To Strengthen Public Understanding of the Social Security Programs'' so the public will understand what benefits are valuable to them personally. Accordingly, the public will be able to more effectively plan for retirement security. Under this goal, SSA established a strategic objective that, by 2005, 90% of the public will be knowledgeable about SSA programs. In establishing this goal SSA recognized the need to develop innovative methods to help educate and continually measure the public's knowledge of SSA programs.

The Collection—''Quiz Show''

SSA intends to implement an online interactive educational game entitled ''Quiz Show—Internet Edition''. The purpose of Quiz Show is to help support the Agency's goal of increasing the public's understanding of Social Security programs.

Quiz Show will consist of 10 questions, which are based on 8 key messages about SSA programs that the Agency wants the public to understand. Participation in the online game will be strictly voluntary. Data collected through each Quiz Show question will measure the overall responses for the purpose of gauging the public's knowledge of each key Social Security message.

SSA will implement Quiz Show in stages, with the initial stage providing performance feedback to the user. However, eventually SSA will use Quiz Show to collect performance data and

demographic data. SSA will not require users to provide demographic data to play the game. Rather, users would be asked to provide this data voluntarily. Questions related to demographics are for the sole purpose of identifying audiences to whom specific key messages should be targeted to increase their knowledge. Respondents to Quiz Show will be individuals who visit SSA's website, Social Security Online, and elect to play the online game.

Number of Respondents: 12,000.

Frequency of Response: 1.

Average Burden Per Response: 8 minutes.

Estimated Annual Burden: 1,600 hours.

4. Work History Report—0960–0578. The information collected on form SSA–3369 is needed to determine disability by the State DDSs. The information will be used to document an individual's past work history. The respondents are applicants for disability benefits.

Number of Respondents: 1,000,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 500,000 hours.

5. Notification of Projected Completion Date—0960–0429. Form SSA–891 is used by SSA and State Disability Determination Services (DDS) to inform disability hearing units whenever a hearing case will not be completed and forwarded to the hearing unit as expected. This information is necessary to enable the hearing units to schedule hearings as promptly and efficiently as possible. The respondents are State DDS and SSA components that make disability determinations for the Agency.

Number of Respondents: 100.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 8 hours.

6. Real Property Current Market Value Estimate—0960–0471. This form is used to obtain current market value estimates of real property owned by applicants for, or beneficiaries of, Supplemental Security Income (SSI) benefits (or a person whose resources are deemed to such an individual). The value of an individual's resources, including non-home real property, is one of the eligibility requirements for SSI benefits. The respondents are individuals with knowledge of local real property values.

Number of Respondents: 5,438.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 1,813 hours.

7. Information about Joint Checking/Savings Account—0960–0461. Form SSA–2574 is used to collect information from the claimant and the other account holder(s) when a Supplemental Security Income (SSI) applicant/recipient objects to the assumption that he/she owns all or part of the funds in a joint account bearing his or her name. These statements of ownership are required to determine whether the account is a resource of the SSI claimant. The respondents are applicants for and recipients of SSI payments and individuals who are joint owners of financial accounts with SSI applicants.

Number of Respondents: 200,000.

Frequency of Response: 1.

Average Burden Per Response: 7 minutes.

Estimated Annual Burden: 23,333 hours.

8. Response to Notice of Revised Determination—0960–0347. Form SSA–765 is used by claimants to request a disability hearing and/or to submit additional evidence before a revised reconsideration determination is issued. The respondents are claimants who file for a disability hearing in response to a notice of revised determination for disability insurance and/or SSI under titles II and XVI.

Number of Respondents: 1,925.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 963 hours.

9. Function Report, Child (Birth to 1st, Age 1 to 3rd, Age 3 to 6th, Age 6 to 12th, Age 12 to 18th Birthday)—0960–0542. State Agency adjudicative teams will use the information gathered on the appropriate version of these forms, in connection with other medical function evidence, to form a complete picture of the child's ability to function. This information assists with determining whether a child is disabled, or each case in which disability cannot be found on medical grounds alone. The respondents are applicants for Title XVI childhood disability benefits, and child caregivers.

Number of Respondents: 750,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 250,000 hours.

10. Wage Reports and Pension Information—0960–0547. The information obtained through regulation at 20 CFR, section 422.122(b) is used by SSA to identify the requester of pension plan information and to confirm that the individual is entitled to the data we provide. The respondents are requesters of pension plan information.

Number of Respondents: 600.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 300 hours.

11. Beneficiary Recontact Report—0960–0502. SSA uses the information collected on Form SSA–1588–OCR–SM to ensure that eligibility for benefits continues after entitlement. SSA asks mothers/fathers information about their marital status and children in-care to detect overpayments and avoid continuing payment to those no longer entitled. The respondents are recipients of survivor mother/father Social Security Benefits.

Number of Respondents: 133,400.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 11,117 hours.

12. Waiver of Your Right to Personal Appearance before an Administrative Law Judge—0960–0284. Each claimant has a statutory right to appear in person (or through a representative) and present evidence about his/her claim at a hearing before an Administrative Law Judge (ALJ). If a claimant wishes to waive his/her statutory right to appear before an ALJ, he/she must complete a written request. The claimant may use form HA–4608 for this request. The information collected is used to document an individual's claim to show that an oral hearing is not preferred in the appellate process. The respondents are applicants for Social Security and SSI benefits who request a hearing.

Number of Respondents: 12,000.

Frequency of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 400 hours.

13. Function Report—Third Party, SSA–3380—0960–NEW. The Social Security Act provides that claimants must furnish medical and other evidence to prove they are disabled. The Social Security Act also gives the Commissioner authority to make rules and regulations on the nature and extent of evidence required as well as the methods of obtaining evidence. The information collected from third parties on the form SSA–3380 is needed for the determination of disability under Title II and/or Title XVI (SSI). The form records information about the disability applicant's illnesses, injuries, conditions, impairment-related limitations and ability to function. The respondents are individuals who know about the disability applicant's impairment, limitations and ability to function.

Number of Respondents: 1,500,000.

Frequency of Response: 1.
Average Burden Per Response: 30 minutes.
Estimated Annual Burden: 750,000 hours.

14. Disability Hearing Officer's Decision—0960–0441. The Social Security Act requires that SSA provide an evidentiary hearing at the reconsideration level of appeal for claimants who have received an initial or revised determination that a disability did not exist or has ceased. Based on the hearing, the disability hearing officer (DHO) completes an SSA–1207 and applicable supplementary forms (which apply to the type of claim involved). The DHO uses the information in documenting and preparing the disability decision. The form aids the DHO in addressing the crucial elements of the case in a sequential and logical fashion. The respondents are DHOs in the State Disability Determination Services (DDS).
Number of Respondents: 100,000.
Frequency of Response: 1.
Average Burden Per Response: 45 minutes.
Estimated Annual Burden: 75,000 hours.

15. Medical History and Disability Report, Disabled Child—0960–0577. The Social Security Act requires claimants to furnish medical and other evidence to prove they are disabled. The form SSA–3820 is used to obtain various types of information about a child's condition, his/her treating sources and/or other medical sources of evidence. The information collected on the SSA–3820 is needed for the determination of disability by the State DDSs. The respondents are applicants for Title XVI (SSI) child disability benefits.
Number of Respondents: 523,000.
Frequency of Response: 1.
Average Burden Per Response: 40 minutes.
Estimated Annual Burden: 348,667 hours.

16. Disability Report—Adult—0960–0579. The Social Security Act requires claimants to furnish medical and other evidence to prove they are disabled. Applicants for disability benefits will complete form SSA–3368. The information will be used, in conjunction with other evidence, by State DDSs to develop medical evidence, to assess the alleged disability, and to make a disability determination. The respondents are applicants for Title II and Title XVI (SSI) disability benefits.
Number of Respondents: 2,116,667.
Frequency of Response: 1.
Average Burden Per Response: 60 minutes.
Estimated annual Burden: 2,116,667 hours.

Dated: May 24, 2001.

Frederick W. Brickenkamp,

Reports Clearance Officer.

[FR Doc. 01–13623 Filed 5–31–01; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF STATE

[Public Notice 3669]

Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee will conduct an open meeting at 1 PM on Tuesday, June 19, 2001, in Room 6332, Department of Transportation Headquarters, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590–0001. The purpose of the meeting is to finalize preparations for the Sixth Session of the Subcommittee on Dangerous Goods, Solid Cargoes and Containers of the International Maritime Organization (IMO) which will be held on July 16–20, 2001, at the IMO Headquarters in London.

The agenda items of particular interest are:

—Amendment 31–02 to the International Maritime Dangerous Goods (IMDG) Code, its Annexes and Supplements including harmonization of the IMDG Code with the United Nations Recommendations on the Transport of Dangerous Goods, and implementation of Annex III of the Marine Pollution Convention (MARPOL 73/78), as amended.
—Revision of the Emergency Schedules (EmS).
—Review of the Code of Safe Practice for Solid Bulk Cargoes (BC Code), including evaluation of properties of solid bulk cargoes.
—Cargo securing manual.
—Casualty and incident reports and analysis.
—Development of an instrument for multimodal training requirements.
—Stowage and segregation requirements for freight containers on containerships with partially weatherproof hatchway covers.
—Development of a manual on loading and unloading of solid bulk cargoes for terminal representatives.
—Amendments to the International Convention for the Safety of Life at Sea (SOLAS) chapters VI and VII and MARPOL Annex III to make the IMDG Code mandatory.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. E. P. Pfersich, U.S. Coast Guard (G-MSO-3), 2100 Second Street, SW., Washington, DC 20593–0001 or by calling (202) 267–1577.

Dated: May 24, 2001.

Stephen M. Miller,

Exective Secretary, Shipping Coordinating Committee, U.S. Department of State.

[FR Doc. 01–13807 Filed 5–31–01; 8:45 am]

BILLING CODE 4710–07–P

STATE JUSTICE INSTITUTE

Sunshine Act Meetings

DATE: Saturday, June 30, 2001—6 pm–7 pm—Ray's Waterfront Restaurant.

PLACE: Seward Small Boat Harbor, AK.

DATE: Sunday, July 1, 2001—9 am–5 pm; Monday, July 2, 2001—9 am–12 pm.

PLACE: Alyeska Hotel, Girdwood, AK

MATTERS TO BE CONSIDERED: Consideration of proposals submitted for Institute funding and internal Institute business.

PORTIONS OPEN TO THE PUBLIC: Consideration of proposals submitted for Institute funding and internal Institute business other than personnel matters.

PORTIONS CLOSED TO THE PUBLIC: Discussion of internal personnel matters.

CONTACT PERSON: David Tevelin, Executive Director, State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314, (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 01–13922 Filed 5–30–01; 1:22 pm]

BILLING CODE 6820–SC–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–9761]

Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Subcommittee of the Chemical Transportation Advisory Committee (CTAC) on Vessel Cargo Tank Overpressurization will meet to continue their review of current industry practices and procedures involving the introduction of pressurized nitrogen gas from waterfront facilities to a marine vessel's cargo tanks

during inerting, padding, purging, and line clearing operations. As a result of this meeting, and subsequent meetings as deemed necessary by the Chairman, this Subcommittee will develop recommendations to prevent the occurrence of cargo tank overpressurization incidents. This meeting will be open to the public.

DATES: The Subcommittee will meet on Wednesday, June 13, 2001, from 9 a.m. to 4 p.m. This meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before June 6, 2001. Requests to have a copy of your material distributed to each member of the Subcommittee should reach the Coast Guard on or before June 6, 2001.

ADDRESSES: The Subcommittee will meet at the Adam's Mark Hotel, 2900 Briarpark Drive, Houston, Texas. Send written material and requests for a copy of the Subcommittee's task statement or to make oral presentations to Lieutenant Michael McKean, Coast Guard Technical Representative for the Subcommittee, Commandant (G–MSO–3), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Lieutenant Michael McKean, Coast Guard Technical Representative for the Subcommittee, telephone 202–267–0087, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The agenda of the CTAC Subcommittee on Vessel Cargo Tank Overpressurization includes the following:

(1) Introduction of Subcommittee members and attendees.

(2) Brief overview of Subcommittee tasking and desired outcome.

(3) Review of definitions of technical terms.

(4) Review of hazards associated with high-pressure nitrogen and low-pressure vessels.

(5) Discuss criteria for evaluating solutions.

(6) Discuss existing procedures.

(7) Discuss potential solutions.

(8) Discuss final product format and plan for future work.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. All attendees at the meeting are encouraged to fully review the Subcommittee's task statement prior to the meeting. Copies of the Subcommittee's task statement can be obtained from Lieutenant Michael McKean, telephone 202–267–0087, fax 202–267–4570. It is also available from the CTAC Internet Website at: *www.uscg.mil/hq/g-m/advisory/ctac.* At the discretion of the Subcommittee Chair, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Coast Guard Technical Representative to the Subcommittee and submit written material on or before June 6, 2001. If you would like a copy of your material distributed to each member of the Subcommittee in advance of a meeting, please submit 25 copies to the Coast Guard Technical Representative to the Subcommittee no later than June 6, 2001.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, contact the Coast Guard Technical Representative for the Subcommittee as soon as possible.

Dated: May 25, 2001.

Joesph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–13703 Filed 5–31–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on 2/15/01, pages 10558–10559.

DATES: Comments must be submitted on or before July 2, 2001. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA 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 estimates 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.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Physiological Training.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0101.

Form(s): AC Form 3150–7.

Affected Public: 5,500 pilots requesting to receive voluntary physiological training.

Abstract: The collection of information is necessary to determine if the applicants meet the qualifications for training under the FAA/USAF training agreement. The information is used by the Aeromedical Education Division to determine if the applicant is qualified to receive physiological training.

Estimated Annual Burden Hours: 733 hours annually.

Issued in Washington, DC, on May 25, 2001.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 01–13792 Filed 5–31–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44

U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on 2/15/01, pages 10558–10559.

DATES: Comments must be submitted on or before July 2, 2001. A comment to OMB is most effective if OMB receives it within 30 days of publication.

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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 estimates 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.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Report of Inspections Required by Airworthiness Directives, 14 CFR Part 39.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0056.

Forms(s): None.

Affected Public: 1029 affected aircraft owners and operators.

Abstract: The Airworthiness Directive (AD) is the medium used by the FAA to provide notice to aircraft owners and operators that an unsafe condition exists and to prescribe the conditions and/or limitations, including inspections, under which the product may continue to be operated. AD's are issued to require corrective action to correct unsafe conditions in aircraft engines, propellers, and appliances. Reports of inspections are often needed when emergency corrective action is taken to determine if the action was adequate to correct the unsafe conditions.

Estimated Annual Burden Hours: 2,144 hours annually.

Issued in Washington, DC, on May 25, 2001.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 01–13793 Filed 5–31–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Environmental Impact Statement: Juneau International Airport, Juneau Alaska

AGENCY: Federal Aviation Administration (FAA). DOT

ACTION: Notice of intent.

SUMMARY: The Federal Aviation Administration announces that it will prepare an Environmental Impact Statement (EIS) for implementation of projects proposed at the Juneau International Airport.

Responsible Official: Patricia A. Sullivan, Environmental Specialist, Federal Aviation Administration, Alaskan Region, Airports Division, 222 W. 7th Avenue, #14, Anchorage, AK 99513.

Written Comments: Ken Wallace, Project Manager, SWCA, 230 South 500 East, Suite 380, Salt Lake City, UT 84102. Email: Kwallace@swca.com.

FOR FURTHER INFORMATION CONTACT: Cathryn Collis, Compliance and Process Coordinator, SWCA, 230 South 500 East, Suite 380, Salt Lake City, UT 84102, phone (801) 322–4307. Email: ccollis@swca.com.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration will prepare and consider an EIS for implementation of proposed projects at the Juneau International Airport. Major projects proposed to be assessed in the EIS include creation of additional Runway Safety Area (RSA) centered about the runway that is 500 feet wide by the length of the runway plus 1,000 feet beyond each runway end; installation of a Medium Approach Lighting System with Rails (MALRS) to improve the approach to Runway 26; construction of a Snow Removal Equipment Building to provide needed storage space for the snow removal fleet; and construction of an additional Aviation Development Area to provide adequate facilities to accommodate the growing demand and tourism needs of helicopters and fixed wing aircraft.

These projects, along with other projects proposed to improve safety and efficiency and accommodate growing aviation demand, were identified in the Juneau International Airport Master Plan. The Juneau International Airport Board approved the Airport Master Plan on April 14, 1999. The Master Plan was accepted by FAA June 27, 2000.

In order to comply with NEPA, an Environmental Assessment (EA) was prepared and published in June 2000. Following the completion of the EA, the FAA determined that a more thorough EIS process is necessary for these proposed projects.

To ensure that the full range of issues related to the proposed projects are addressed and that all significant issues are identified, FAA intends to consult and coordinate with Federal, State and local agencies that have jurisdiction by law or have specific expertise with respect to any environmental impacts associated with the proposed projects. FAA will also solicit input from the public in a public scoping meeting, which will be held June 20, 2001, from 5:00 p.m. to 9:00 p.m. at Centennial Hall, Juneau, Alaska. In addition to providing input at the public scoping meetings, the public may submit written comments on the scope of the environmental study to the address identified in FOR.

FURTHER INFORMATION CONTACT. Comments should be submitted within 60 days of the publication of this Notice.

Issued in Anchorage, Alaska on May 11, 2001.

Barbara J. Johnson,

Acting Manager, Airports Division, AAL–600, Alaskan Region.

[FR Doc. 01–13796 Filed 5–31–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

National Highway Traffic Safety Administration

Discretionary Cooperative Agreements To Support the Demonstration and Evaluation of Setting and Enforcing Rational Speed Limits

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

ACTION: Announcement of discretionary cooperative agreements to support the demonstration and evaluation of setting and enforcing rational speed limits.

SUMMARY: The Speed Management Team of the U.S. Department of Transportation (U.S. DOT), a multi-modal body including members from FHWA and NHTSA, will fund a number

of cooperative agreements with states or localities to field test the impact of setting and enforcing rational speed limits. The goal of the project is to evaluate a cooperative program in which engineering, enforcement, and education are undertaken in a coordinated manner to manage traffic speeds. Rational speed limits promote public safety by providing drivers with information to help them choose a reasonable and prudent speed that is appropriate for the normal traffic, weather, and roadway conditions. Speed limits are set with the objective of achieving a balance between safety and efficiency. Rational speed limits are determined through a formal review that uses the 85th percentile speed of free-flowing traffic combined with information on roadway geometry, crash characteristics and land use. This procedure results in a speed limit that appears reasonable to most drivers and thereby results in more uniform speeds. Previous research has suggested that speed uniformity is associated with lower crash risk and that the 85th percentile falls within the speed range of lower crash risk. Consequently, strict enforcement of rational speed limits, focused on flagrant speed limit violators and designed to minimize speed variance, may help in promoting safer travel. In addition, an effective public information and education campaign will help citizens understand how the speed limits were determined and the reason for their strict enforcement. Such a combined approach is expected to result in strong support from the public, the police, and the judiciary.

Cooperative agreements will be awarded to support a number of communities in developing and evaluating innovative speed management projects that adopt such a rational speed limit approach. The approach will incorporate the following steps:

- An engineering and traffic investigation of existing speed limits.
- Revision of speed limits where appropriate.
- Education of the public on reasons for revising speed limits.
- Enforcement of the rational speed limits fairly and strictly.
- Identification of a separate community for comparison purposes.

This notice solicits applications from State and local governments and their agencies. Two to four cooperative agreement awards for demonstration and evaluation projects are anticipated under this announcement. Interested applicants must submit an application package as further described in the Application Procedures section of this notice. Applications will be evaluated on the basis of the criteria identified in the Evaluation Criteria section of this notice.

DATES: Applications must be received at the office designated below on or before 4:00 p.m. on Tuesday, July 24, 2001.

ADDRESSES: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN: Maxine Ware, 400 7th Street, SW., Room 5301, Washington, DC 20590. All applications submitted must include a reference to NHTSA Cooperative Agreement Program No. DTNH22–01–H–05221.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to Maxine Ware, Office of Contracts and Procurement at (202) 366–4843. Technical questions relating to this Cooperative Agreement Program may be directed to Paul J. Tremont, Ph.D., Office of Research and Traffic Records (NTS–31), NHTSA, 400 7th Street, SW., Washington, DC 20590, or by e-mail at *paul.tremont@nhtsa.dot.gov*, or by phone (202) 366–5587. Interested applicants are advised that no separate application package exists beyond the contents of this announcement.

SUPPLEMENTARY INFORMATION:

Background

Introduction

Speed limits promote public safety by informing drivers of the maximum reasonable and prudent speed for each road segment. The speed limit should represent a concerted attempt to balance safety and travel efficiency. As such, it establishes a rational basis for enforcement to target violators traveling at unsafe speeds. Posted speed limits seek to confine speeds beneath an upper bound and produce a relatively uniform speed distribution. Previous research has suggested that speed uniformity among vehicles on a roadway is associated with lower crash risk. Rational speed limits are primarily based on existing traffic speed data and often take into account adjustments for roadway conditions, crashes, and land use.

General Principles

A guiding principle for setting rational speed limits is that they should provide a high level of compliance and consequently be largely self-enforcing. This requires that drivers understand the basis for the limit and that it appears to be reasonable. Such rational speed limits help to establish a reasonable standard for enforcement and permit authorities to concentrate enforcement efforts on those more flagrant speed limit violators and high-risk drivers who are likely to create unsafe situations. Achieving high compliance will require an effective combination of Public Information and Education (PI&E) and dedicated enforcement. For this cooperative agreement program, the recipient will be required to determine rational speed limits using the engineering study procedure described in ''Guidelines for Setting Safe and Reasonable Speed Limits''. (Appendix A).

Elements of Speed Management

Managing speeds depends on the integration of three key elements: engineering, enforcement, and education. The prevailing speed engineering study is frequently cited as the desired way to achieve high compliance with what drivers choose as reasonable speed limits. For this approach, the 85th percentile of the distribution of free-flowing vehicle speeds is used as the starting point for setting the rational speed limit. To establish credibility of the rational speed limits program, a rigorous enforcement program must be developed and systematically applied. Finally, in order to gain full compliance of rational speed limits, the public must understand the basis for their setting and realize that they will be rigorously enforced. To achieve this, the community must also develop an effective PI&E program.

Additional Resources

The following is a list of resources for information on setting and enforcing rational speed limits. Copies are available upon request from Paul Tremont, the designated technical point of contact.

- Committee for Guidance on Setting and Enforcing Speed Limits. (1998) Managing Speed: Review of Current Practice for Setting and Enforcing Speed Limits. Special Report 254. Transportation Research Board, National Research Council, National Academy Press. Washington, D.C.
- Institute for Transportation Engineers. (1993) Speed Zone Guidelines: A Proposed Recommended Practice. Institute of Transportation Engineers: Washington DC.

Objective

The objective of these demonstration and evaluation projects is to determine the extent to which rationally established, well-publicized, and rigorously enforced speed limits lead to

higher compliance and improved traffic flow, without reducing highway safety.

Description of Program Effort

General Requirements. This cooperative agreement program requires each recipient to conduct a carefully planned demonstration of setting and enforcing rational speed limits. The recipient shall designate a specific demonstration community (or group of communities). A demonstration community is the geopolitical area where the rational speed limit demonstration will take place. This could be a State, a county, a city, a township, a borough, or any defined geographic entity or group of geographic entities within the United States with a clear governing body. The recipient will conduct an engineering study of selected road segments and revise the speed limits on those road segments using a rational speed limits approach to manage speeds. The recipient will implement and maintain a speed enforcement program and provide public information in the demonstration community to fully inform drivers of both the speed management program's rationale and the planned enforcement program. The recipient will collect data on speeds as well as on public outreach and enforcement throughout the demonstration period.

The recipient shall also designate, or at least suggest, a similar community with comparable road segments that could be used as a comparison site during this demonstration. These two communities must be separated geographically so that the demonstration community's speed management program does not influence driver behavior in the comparison community. Below is a listing and description of specific requirements.

Planning Phase

Task 1. Kickoff Meeting

Within two weeks of award, a one-day meeting will be held at U.S. DOT headquarters in Washington, DC, during which the recipient will conduct an informal briefing of its demonstration plan, including a discussion of the preliminary list of demonstration streets and highways.

Task 2. Prepare Work Plan

Based on comments from U.S. DOT at the meeting, the recipient will prepare and submit a final work plan and project schedule in accordance with the schedule of deliverables. The work plan shall specify type and amount of data to be collected, procedures and equipment to be used, and plans for engineering, enforcement and PI&E. The work plan shall also include the final list of demonstration streets and highways along with the name or route number, start and end point, mileage, existing posted speed(s), functional class of road and area type. The demonstration roads may include a mix of existing road types, including arterials, collectors, and local roads. Interstates and other controlled access roads are excluded from this effort.

Task 3. Conduct Engineering Studies

Conduct an engineering and traffic investigation on the demonstration roads using the engineering analysis described in Appendix A and/or other U.S. DOT approved methods. Speeds should be collected continuously for at least 24 hours using automated equipment capable of recording individual vehicle speeds and identifying free flowing vehicles (i.e. headway or gap greater than 3–5 seconds). Based on the findings from the engineering study, prepare a speed-zoning plan and obtain necessary approvals for the speed zoning changes. A copy of the speed zoning plan will be submitted to the U.S. DOT in accordance with the schedule of deliverables.

Task 4. Collect Other Baseline Data

Collect enforcement and other data to help establish baseline measures, including:

- Citations for speeding on selected road segments,
- Crashes for the previous 3–5 years, including details of crash types, contributing factors, and citations issued,
- Average daily traffic volume corresponding to same years as the crash data, and
- Public attitudes and perceptions toward speed limits and enforcement.

A letter report will be prepared documenting the results this activity. The letter report will be submitted in accordance with the schedule of deliverables.

Implementation Phase

Task 5. Develop and Implement Public Information and Education (PI&E) Activities

Each demonstration community will be required to develop and implement a PI&E campaign intended to inform the public of the program, heighten awareness of the expected benefits, and encourage compliance with the new speed limits. The expectation is that with a more comprehensive understanding of the rational basis for the speed limits, drivers will be more likely to comply with them and less overall opposition will be encountered from the community. Accomplishing the PI&E objective requires that key public agencies and public figures support the program and implement it in an effective manner. The PI&E campaign for the demonstration community will include those elements outlined in ''Guidelines for Public Information and Education Programs for Rational Speed Limits'' (Appendix B). The recipient is required to prepare a calendar schedule of PI&E activities (i.e., press conferences, media materials, etc.) in accordance with the schedule of deliverables. All PI&E materials and products should be presented to the U.S. DOT for review and comments in accordance with the schedule of deliverables.

Task 6. Post Rational Speed Limits

Based on the results of Task 3 above, the recipient will post revised speed limits as necessary.

Task 7. Enforce Rational Speed Limits

Prosecutors and judges need to be well informed of the basis for rational speed limits and the need for swift and fair adjudication. U.S. DOT will provide information for judges and prosecutors in the demonstration community on speed management principles, the purpose of the demonstration project, and the effects of speeding on traffic safety. This training may include visits to the selected roadway segments where rational speed limits are set and demonstrations of the speed-measuring devices used. Enforcement on the demonstration roads will include those elements outlined in ''Guidelines for Enforcement of Safe and Rational Speed Limits'' (Appendix C).

Task 8. Collect Post Baseline Data (Ongoing)

The recipient will collect speed data, enforcement data, and PI&E data at various times during the demonstration period. U.S. DOT will assist the recipient in determining the exact data to be collected and the schedule of collection. Because U.S. DOT intends to compare effects of different communities, U.S. DOT will specify the acceptable data elements and format. Data shall be provided in accordance with the schedule of deliverables and shall include:

a. *Speed Data.* Appropriate speed data will be collected by the recipient quarterly in at least 25% of the speed zones in a manner that will reveal any changes in the speed. There will be at

least one measurement site on each demonstration road. Speed data will be collected in every speed zone on the demonstration roads at or about one year after the before data was collected. For long speed zones (greater than 5 miles in rural areas or 1 mile in urban areas) multiple locations for speed data collection may be required. Final determination of all ''after'' speed data collection locations shall be determined in conjunction with the U.S. DOT. The speed data shall include:

- Individual vehicle speed,
- Individual vehicle headway or arrival time, and
- Measurement location, dates, and times.

To ensure that the baseline data and post-intervention data are comparable, recipients will be expected to collect the same types of speed data, at the same locations, in the same manner as was used in during the traffic and engineering investigation (see Task 3 above). These data shall be submitted to U.S. DOT on a schedule to be determined.

b. *Enforcement Data.* Enforcement and safety-related measures are needed to understand the impact of the level of enforcement on speeds and safety. These data should be collected on a schedule that ensures that the information accurately reflects police staffing assignments and other time-sensitive information. The data need to be provided to U.S. DOT quarterly with the delivery of the speed data. In accordance with the schedule of deliverables, the recipient shall provide enforcement data for the demonstration road segments on:

- Traffic enforcement person hours,
- Number of speed violation warnings, and speeding citations (and cited speeds),
- Adjudications, and
- Crashes (by crash type).

c. *Public Information and Education.* Public attitudes and perceptions prior to and following speed limit and enforcement changes are linked to the success of the program, and must be measured to determine how they may change. In the demonstration community, the public attitudes and perceptions should be surveyed before and after the program is implemented. PI&E data will be provided in accordance with the schedule of deliverables.

Task 9. Prepare Quarterly Progress Reports

Progress reports will be provided quarterly and should include a summary of the previous quarter's activities and accomplishments, as well as the proposed activities for the upcoming quarter. Any decisions and actions required in the upcoming quarter should be included in the report. The recipient shall supply the progress reports to the U.S. DOT in accordance with the schedule of deliverables.

Task 10. Prepare Final Report

The recipient will prepare a brief report (e.g., 25 pages or less), initially in draft, and upon receipt of comments from U.S. DOT, submit a final version, describing the procedures and outcomes associated with the rational speed limit approach to speed management. The report should be prepared according to the following format:

- Introduction: Identify project objectives; and describe the demonstration and comparison communities and participating agencies;
- Procedures: Describe what was done;
- Findings: Present descriptive statistics of the findings regarding speeds, safety, attitudes, etc.; and
- Lessons Learned: Present any information that can be used by other communities when implementing a similar program.

Task 11. Final Briefing

The recipient will present its findings to U.S. DOT in Washington, D.C. This briefing will be presented in accordance with the schedule of deliverables.

Availability of Funds and Period of Support

A total of $700,000 is available in Fiscal Year 2001 to fund from two to four demonstration and evaluation projects for a performance period of 20 months. It is anticipated that individual award amounts, based upon demonstrated need, will range between $175,000–300,000. This stated range does not establish minimum or maximum funding levels. Given the amount of federal funds available for these efforts, applicants are strongly urged to seek other funding opportunities to supplement the federal funds.

U.S. DOT Involvement and Responsibilities in This Cooperative Agreement Program

- Provide a Contracting Officer's Technical Representative (COTR) to participate in the planning and management of each cooperative agreement and to coordinate activities between the recipients and U.S. DOT.
- Provide information and technical assistance as determined appropriate by the COTR.
- Provide for the collection and analysis of speed, crash, and enforcement data from the comparison community.
- Provide for supplemental analysis of speed, crash, and enforcement data from the demonstration community.

Eligibility Requirements

Applications for this Cooperative Agreement Program are solicited from State and local governments and their agencies. These demonstration projects will require extensive collaboration among each of the participating state/community organizations in order to achieve the program objective.

Application Procedures

Each applicant must submit one original and two (2) copies of the application package to: NHTSA, Office of Contracts and Procurement (NAD–30), ATTN: Maxine Ware, 400 7th Street, SW, Room 5301, Washington, DC 20590. Submission of three additional copies will expedite the evaluation process, but is not required. The application may be single spaced, must be typed on one side of the page only, and must include a reference to NHTSA Cooperative Agreement No. DTNH22–01–H–05221. Only complete application packages received on or before 4:00 p.m. on Tuesday, July 24, 2001 will be considered.

Application Contents

1. The application package must be submitted with OMB Standard Form 424 (Rev. 7–97, including 424B), Application for Federal Assistance, with the required information filled in and certified assurances signed. Because the available space on the 424A does not permit a level of detail that is sufficient to provide for a meaningful evaluation of the proposed total costs, a completed 424A is not required. A supplemental budget must be provided which presents a summary of the proposed costs, as well as a detailed breakdown for each of the ten sections (tasks) enumerated in the Description of the Program Effort. The task breakdown shall identify: direct labor costs for each labor category, direct material and equipment costs, travel costs (explaining the relationship to the project), and any overhead/indirect costs. The applicant shall also identify any financial or in-kind commitment of resources that will be contributed in support of the demonstration project. The SF–424 and 424B may be obtained from the Office of Management and Budget website at *http://www.whitehouse.gov/omb/grants/index.html.*

2. The application shall include a program narrative statement that describes the technical approach in 25 pages or less and addresses the following information in separately labeled sections. Letters of cooperation and intent, as well as personnel resumes, will not count against the page limit.

a. *Introduction:* A brief overview of the applicant's capabilities to organize and carry out the rational speed limit project in the proposed demonstration community. All participating organizations (e.g., traffic engineering, law enforcement, public information), the principal investigator, and other key personnel shall be identified. The proposed comparison community and, if possible, the key coordinating personnel shall also be identified.

b. *Description of Program Effort:* The planned technical approach for performing each of the efforts listed below shall be separately described.

(1) Coordination with organizations within demonstration and comparison communities. Describe how cooperation among the various agencies will be obtained. Include:

(a) Letters of intent from the participating agencies in the demonstration community

(b) Letters of intent from the cooperating agencies in the comparison community permitting U.S. DOT to measure speeds and obtain crash and enforcement data

(c) A letter of coordination from the Governor's Highway Safety Representative and State Traffic Engineer.

(2) Identification of a preliminary list of demonstration streets/highways for rational speed limits and basis for selection. Identify the length, functional class, predominant land use of selected road segments.

(3) Traffic and engineering investigations to establish rational speed limits, including speed data collection procedures and equipment and method of determining whether speed limits should be revised.

(4) Implementation of a community outreach and PI&E program to obtain public and official support.

(5) Enforcement plan for the new speed limits.

(6) Collection of data.

c. *Program Management and Staffing.*

(1) A program organizational chart identifying proposed staff members assigned to the project will be provided. The title and a brief description of each position's responsibilities will be included, as well as the proposed level of effort and allocation of time for each position. One person must be identified as the Project Director. This person will have full responsibility for managing the project's technical progress, staffing and coordination of organizations, and serving as the point of contact for U.S. DOT project staff.

(2) Brief resumes will be provided for the proposed Project Director and other key personnel.

Application Review Process and Evaluation Criteria

Initially, all applications will be reviewed to confirm that the applicant is an eligible recipient and to ensure that the application contains all of the information required by the Application Contents section of the notice. To be considered complete, applications from eligible applicants must include the following information to be considered: (1) The designation of a specific demonstration community, as well as the designation, or at least suggestion, of a similar community that will be used as a comparison site during the proposed demonstration; (2) letters of intent showing that the designated demonstration community agencies have the capabilities and are willing to commit sufficient resources to properly conduct the proposed demonstration, including participating highway engineering departments, law enforcement agencies, prosecutors and judges, department of motor vehicles, public information office, and community government; (3) letters from the appropriate authorities within the comparison community that the appropriate highway engineering department, law enforcement officials, and department of motor vehicles present in the comparison community will cooperate in the demonstration project, and provide U.S. DOT access to the necessary data; and (4) a letter of coordination for the proposed demonstration project from the Governor's Highway Safety Representative and State Traffic Engineer. Each complete application from an eligible recipient will be evaluated by an evaluation panel.

The evaluation panel will be comprised of government personnel from NHTSA and FHWA, as well as a representative from Westat, Inc. Westat, Inc, a research firm located in Rockville, Maryland, will serve as a non-voting member of the evaluation panel and will be providing support services to U.S. DOT for this demonstration project effort. Submission of an application in response to this notice shall constitute an authorization for a representative from Westat, Inc. to review it.

The applications will be evaluated using the following criteria:

1. *Technical Approach (50 percent).* The applicant's goals are clearly stated and the objectives are time-phased, specific, measurable, and achievable. The application reflects a high likelihood that the applicant will achieve an outcome-oriented result that will revise speed limits using a specific rational procedure, secure the cooperation of the necessary organizations, inform the public, and provide reliable data from which the impact of the program can be assessed. The application clearly describes what the applicant proposes to develop and implement, how this will be accomplished, and the major tasks necessary for completion. This involves anticipating potential technical problems and critical issues related to successful completion of the project. The application clearly describes the planning, scheduling, equipment, and procedures to be used to measure speed data at selected road segments within the demonstration community. An important determining factor shall be the extent and type of road segments included in the demonstration community, the enforcement proposed, the extent to which judicial acceptance is evidenced, and the PI&E campaign planned.

2. *Project Management and Staffing (30 percent).* The applicant has the capabilities to plan, implement, and evaluate the proposed project. The proposed staff are clearly described, are appropriately assigned, and have adequate skills and experience. Staff members with traffic engineering, speed data collection, enforcement, PI&E, and data management expertise have been appropriately allocated. The applicant's staffing plan is reasonable for accomplishing the objectives of the project within the established time frame.

3. *Cost (20 percent).* The budget is sufficiently detailed to allow U.S. DOT to determine that the estimated costs are reasonable and necessary to perform the proposed effort. The amount of financial or in-kind commitment of resources by the applicant organization or other organizations to support the project has been clearly identified. For those applicants that are evaluated as meritorious for consideration for award, preference may be given to those that have proposed cost-sharing strategies and/or have other proposed funding sources in addition to those in this announcement.

Terms and Conditions of Award

1. Prior to award, each recipient must comply with the certification requirements of 49 CFR Part 20,

Department of Transportation New Restrictions on Lobbying, and 49 CFR Part 29, Department of Transportation Government-wide Debarment and Suspension (Non-Procurement) and Government-wide Requirements for Drug Free Workplace (Grants).

2. Performance Schedule of Deliverables and Milestones:

Task	Activity description	Milestone/deliverable	Due date after award
1	Kickoff meeting	Milestone	2 weeks.
2	Work plan	Revised work plan	4 weeks.
3	Conduct Engineering Studies	Speed Zoning Plan	12 weeks.
4	Data collection	Data	Quarterly.
5	PI&E	Schedule	12 weeks.
5	PI&E	PI&E materials	As developed.
8a, 8b, 8c	Speed, enforcement, and PI&E data.	Data	Every 3 months with full data provided 17 months after award.
9	Submit quarterly progress reports.	Quarterly progress reports	10th day of every third month.
10	Submit draft of Final Report	Draft final report	17 months.
10	Submit final version of Final Report.	Final report	19 months.
11	Final briefing at U.S. DOT workshop.	Briefing at U.S. DOT	20 months.

Note: Four copies of each product will be submitted to the COTR.

3. During the effective performance period of the Cooperative Agreements awarded as a result of this announcement, the agreement as applicable to the recipient shall be subject to the National Highway Traffic Safety Administration's General Provisions for Assistance Agreements, dated July 1995.

Issued on: May 25, 2001.

Marilena Amoni,

Acting Associate Administrator for Traffic Safety Programs, NHTSA.

Frederick G. Wright, Jr.,

Program Manager, Safety, FHWA.

Appendix A—Guidelines for Setting Safe and Reasonable Speed Limits

I. Speed Zoning

The purpose of speed zoning is to establish a speed limit that is the maximum reasonable and safe speed for a section of road. There are many factors that affect driving speed and crash risk including driver, vehicle, roadway, traffic and environmental factors. The prevailing speed of traffic reflects the collective judgement of the driving population on what appears reasonable and safe on a given segment of roadway. The prevailing speed, therefore, provides a measure that objectively accounts for most factors affecting safe speed. Changing a speed limit on a road may, but does not necessarily change the prevailing speed on the road.

Inconsistencies exist for how speed limits are determined for speed zones, in part, because of the subjective nature of the current practice. If the speed limit is too high it can lead to driver error; if it is too low it may result in a lack of compliance and misallocation of enforcement resources. Therefore, it is critical that a standard method for determining the safe and appropriate speed be identified and described.

II. 85th Percentile Speed

Section III below describes a method for establishing speed limits based on the prevailing speed. Setting speeds using the 85th percentile as a key guideline regulates against the higher speeds that may be unsafe, but still includes a very large percentage of the driving public. Drivers who travel at the 95th percentile speed and above (i.e. fastest 5 percent) have significantly higher crash rates than those who drive at or near the 85th percentile (and also those whose speed is closer to the average speed. Since the purpose of speed zoning is to facilitate safety by informing drivers of maximum speeds for normal conditions, the posted speed limit should reflect the upper limit of the safest speeds (i.e., those near the 85th percentile).

III. Engineering and Traffic Survey Considerations

A. Inventory Road Conditions

Review and document on a site diagram or speed survey sheet the physical characteristics of the road (alignment, grade, roadway width, number of lanes, median type, intersections, etc.), roadside development, parking, and pedestrian activity should. Divide the roadway of interest into homogeneous sections. A homogeneous section is one where:

- The roadside development is consistent (residential vs. commercial; type and frequency of businesses and driveways, etc.)
- The roadway features are consistent (lane widths, medians, shoulders, surface roughness, curvature, intersection spacing, etc.)

B. Select Measurement Sites

Within each section, select speed measurement sites. The measurement sites should be representative of the entire section of the roadway being zoned. This might require that the roadway be divided into one or more zones and that measurement sites be selected for each zone. In a non-rural area, select at least two measurement sites per mile in each direction (i.e., sites spaced approximately 2000 feet apart). Speed measurement sites should not be located within 500 feet of a speed transition zone (intersection approach, horizontal curve, etc.). If speed measurement sites are needed between intersections and the 500-foot distance cannot be met, use a mid-block location for the speed measurement station. Sites for different directions on the same road do not necessarily need to be in the same location.

C. Collect Speed Data

Using automated speed collection measurement techniques, collect 24 hours of speed data for all lanes at each speed measurement site. Speed data must be collected in a manner that does not influence drivers to change their vehicle's speed. The speed measurement technique must also permit free flowing vehicles (i.e., more than 5 sec. of headway to be distinguished from non-free-flowing vehicles. This is necessary to determine the 85th percentile of *free-flowing vehicles.* Data should be collected during weekdays and should not be collected during inclement weather.

D. Select Speed Limit

The following procedure is recommended by the Federal Highway Administration and is based on procedures widely used for speed zoning. Based on the speed data collected, determine the median (50th percentile) and 85th percentile speed for free-flow vehicles at each measurement site. Select the 85th percentile speed rounded to the nearest 5 mph increment as first approximation for the speed limit. Where there are mitigating factors (speed related crash history, heavy non-motorized road user presence, extreme variance of speeds) the selected speed may be reduced to a value not lower than the median speed rounded up to the next highest 5 mph multiple. If there is a difference of more than 5 mph between two measurement sites, employ a separate speed zone. If potentially hazardous conditions exist within the zone, the conditions should be corrected, or appropriate warning signs should be installed with advisory speed plaques based on the inferred design or ball bank indicator.

For example, if a sharp curve exists within the zone, do not reduce the speed limit in the entire zone—remove the sharp curve or add the appropriate warning sign.

Appendix B—Guidelines for Public Information and Education (PI&E) Programs for Rational Speed Limits

I. Introduction

Speeding—driving in excess of the posted speed limits or driving too fast for conditions—is a contributing factor in approximately 30 percent of all fatal traffic crashes. A comprehensive Public Information and Education (PI&E) program is essential to gain motorist compliance with rational speed limits. All available means that can be used to effectively carry the awareness message to the motoring public should be used.

II. Methods and Strategies

A plan should be developed that includes media analysis and profiles of target audiences to determine optimum media mix and timing for the campaign. This plan should be followed for the duration of the PI&E program. It should primarily reflect methods for monitoring the effectiveness of the PI&E program prior to its initiation and as it progresses. Improvements in the PI&E program should be made, as necessary, for maximum effectiveness.

All materials should be developed in appropriate languages that reflect the demographics of the public within the target project demonstration area. PI&E activities should be conducted, as appropriate, prior to and during the speed management project.

PI&E strategies should be developed in the following areas:

- An overall PI&E awareness program concerning the new speed management techniques to ensure motorist acceptance and compliance. This awareness program should reflect a unified approach across media while maximizing the value and effectiveness of each media program.
- A PI&E event schedule, including special press activities and press conferences.
- Distributed Materials: Fact sheets, inserts, flyers, posters, print ads, exhibits and displays.
- News Media Materials: Press releases, public service announcements, live-announcer scripts.
- Press conferences should be used where appropriate. These conferences should occur at the initiation of the demonstration project (and at other key periods) in order to achieve maximum press coverage. Press conferences, when practical, shall include participation from all groups involved in the demonstration project, (i.e., traffic engineers, law enforcement officers, prosecutors, judges).

Appendix C—Guidelines for Enforcement of Safe and Rational Speed Limits

Enforcement of traffic laws is successful primarily through the principle of deterrence. The fundamental concept is that credible threats of punishment deter unwanted behavior.

I. Elements of the Deterrence Process

A. Behavior Must Be Definable, Understandable and Detectable

The behavior that we want to stop, in this case, is traveling at unsafe, unacceptable speeds over the newly established rational speed limits. Enforcement operations shall take a top-down approach for establishing the enforcement threshold. Speed measurements at the selected road segments shall be used to determine the top 5 percent of speeds. This information will be used to establish the enforcement threshold. The enforcement threshold should never be less than 5 mph above the new posted speed limit. This top-down strategy will not overwhelm the law enforcement officers, the prosecutors, or the courts. This strategy promotes public and court acceptance of enforcement by targeting only the most egregious violators. The overall goal of the enforcement efforts is motorist compliance, not issuance of citations.

B. Deterrence Depends Upon the Perceived Risk of Apprehension

The public must be aware that new speed limits will be strictly enforced. Highly visible, highly publicized enforcement efforts enhance this perception. The involved enforcement agencies shall commit additional resources above the norm for speed enforcement efforts at the selected roadway segments. This effort will provide a consistent law enforcement presence without the appearance of a ''speed trap'' being in operation. The strategy should still allow the enforcement officers to be available to respond to other law enforcement activities as necessary.

C. Deterrence Depends on the Swiftness, Certainty, and Severity of Punishment

Once caught, speeders must be adjudicated quickly with a high likelihood of significant penalties.

II. Operational Considerations

A. Officers

Basic enforcement speed-measuring device (e.g., radar, lidar, vascar, etc.) operator training programs developed by NHTSA will be offered by the U.S. DOT for officers involved in speed enforcement. In addition, officers involved in speed enforcement are encouraged to comply with the enforcement and operational procedures established by U.S. DOT. Traffic officers assigned to patrol the demonstration roads should devote a significant portion of their shift on speed enforcement.

B. Marked Police Vehicles

It is desirable that speed enforcement on the selected roadway segments be highly visible. Marked police vehicles frequently patrolling the roadway segments provide this visibility. The use of unmarked vehicles for speed enforcement should be kept at a minimum. Unmarked police vehicles tend to give the public the perception that the roadway segment is a ''speed trap''. This perception should be avoided.

C. Speed-Measuring Devices

All speed-measuring devices used in the speed enforcement efforts should be listed on the International Association of Chiefs of Police (IACP) Consumer Products List (CPL). In addition, selected speed-measuring devices should comply with the testing for accuracy and reliability procedures established by the IACP Speed-Measuring Device Testing Program Administration Guide.

D. Speed Display Trailer

The applicant may use speed display trailers on the selected roadway segments to inform the motoring public of their travel speed on the selected roadway segments.

[FR Doc. 01–13721 Filed 5–31–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Participation in the Intelligent Transportation Infrastructure Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; request for participation.

SUMMARY: The U.S. DOT [1] is interested in working with State and local governments and an existing private sector partner to develop an ability to measure the operating performance of the roadway system at a regional and national level and to produce other valuable streams of information. The U.S. DOT is interested in assisting State and local transportation agencies to have access to real-time and archived performance data to assist in their planning, evaluation, and management activities. To achieve these objectives, the U.S. DOT is seeking applications from State and/or local transportation agencies interested in forming a public/private partnership, with a private partner preselected by the U.S. DOT, to participate in the Intelligent Transportation Infrastructure Program (ITIP).

DATES: Applications to participate in the ITIP must be received by 4 p.m., e.t., July 31, 2001.

ADDRESSES: Applications to participate in the ITIP should be submitted directly to the Federal Highway Administration, Office of Travel Management, HOTM–1, Attention: Chung Eng, 400 Seventh St., SW., Room 3404, Washington, DC 20590. Applications may be submitted electronically to: chung.eng@fhwa.dot.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Chung Eng, Office of Travel Management (HOTM–1), (202) 366–8043, or Mr. Wilbert Baccus, Chief Counsel Service Business Unit (HCC–40), (202) 366–0780, Department of

[1] The FHWA is the implementing agency.

Transportation, Federal Highway Administration, 400 Seventh St., SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays. The point of contact for the preselected private partner is as follows: Mr. John Collins, Traffic.com, Chesterbrook Corporate Center, 851 Duportail Road, Suite 220, Wayne, Pennsylvania, Telephone: (610) 407–3412.

SUPPLEMENTARY INFORMATION:

Background

The U.S. DOT is interested in developing an ability to measure the operating performance of the roadway system at a national level. The U.S. DOT is also interested in State and local transportation agencies having access to roadway system performance data to assist in their planning, evaluation, and management activities. The ITIP provides Federal funding for the integration of intelligent transportation infrastructure in major metropolitan areas with a population exceeding 300,000. The ITIP will enhance existing surveillance infrastructure through integration, along with strategic deployment of supplemental surveillance infrastructure.

In addition, the U.S. DOT is interested in facilitating public/private partnerships and the commercialization of traveler information data to create the opportunity for self-sustained systems that attract private capital. To be useful for the purposes described, roadway system performance data must be measured continuously, and be available in both real-time and archived formats. There is consensus within the transportation community that travel time and travel time reliability are among the best measures for these purposes. These and other desired measures are described in further detail within this solicitation.

The path to achieving these objectives presents an opportunity to serve public agency needs in true public/private partnerships. It is recognized that the same data that is useful to the public transportation agencies also has value for commercial traveler information applications. Thus, the potential exists for a public/private partnership that would collect system performance data to serve national and local needs and, at the same time, use the same data for commercial traveler information purposes.

Such a partnership was envisioned in section 5117(b)(3) of the Transportation Equity Act for the 21st Century (TEA–21), Pub. L. 105–178, as amended by title IX of Pub. L. 105–206, which requires the provision of private technology commercialization initiatives as part of a program to ''advance the deployment of an operational intelligent transportation infrastructure system for the measurement of various transportation system activities to aid in the transportation planning and analysis while making a significant contribution to the ITS program.'' To that end, the U.S. DOT has retained a private sector Consortium consisting of Traffic.com; Signal Corporation; Michael Baker Jr., Inc.; L.R. Kimball & Associates, Inc.; and PB Farradyne, Inc. to experiment with the collection and archiving of performance monitoring data that will ultimately be used to measure national system performance while also using this data for commercial traveler information purposes. The leader of this Consortium is Traffic.com, with the remaining members primarily playing support roles.

To date, the U.S. DOT and the Consortium have tested this public/private partnership in two (2) cities: Pittsburgh, PA and Philadelphia, PA. Briefly, the deployments in the two (2) initial cities feature the following:

- Over one hundred (100) sensors deployed in each city along freeways and other major arterials capable of providing data on volume, speed, lane occupation, and limited vehicle classification;
- Archived database function;
- Free web-based access to basic real-time as well as archived data for public agency stakeholders;
- Free web-based traffic condition information to the general public;
- Additional value-added commercial services on a fee basis;
- Firm, fixed price contract where the private partner owns, operates, and maintains the system;
- Integration of at least one legacy system (e.g. the Pennsylvania DOT's Traffic Operations Center in Pittsburgh);
- Private funding contribution toward infrastructure; and
- Sharing of gross revenues to support system enhancements.

This notice and request for participation extends the existing relationship with the Consortium, along with any necessary changes in support role members, to two (2) additional metropolitan areas. Lessons from the initial deployments as well as additional elements of national interest are reflected in this notice and request. This includes an increased emphasis on integrating existing data, and added requirements for calculating reliability performance measures using the data to be collected, and monthly submittal of performance measure reports to the U.S. DOT.

This expansion of the ITIP provides for the selection, under the current task order contract with the Consortium, of two (2) additional metropolitan areas to receive Federal grants of no more than $2 million each. The focus in these two (2) expansion metropolitan areas is to enhance existing surveillance infrastructure through integration, along with strategic deployment of supplemental surveillance infrastructure. The enhanced surveillance infrastructure and performance data generated will be used to: (1) Aid the public sector partner in carrying out system management activities including operations, planning, analysis, and maintenance; (2) support the provision of free basic traveler information to the public; (3) provide opportunities for commercialization of other Advanced Traveler Information Services (ATIS); and (4) support submittal of data and system performance measure reports to the U.S. DOT on a monthly basis.

Preference will be given to the top 78 metropolitan areas in support of the 1996 U.S. DOT ITS goal to deploy a complete Intelligent Transportation Infrastructure in these areas within the next decade. Preference will also be given to metropolitan areas that are currently experiencing significant congestion problems; and which already have substantial infrastructure in place such that much of the $2 million in Federal funds can be used to fill in data gaps, and to facilitate system integration and data management.

Objectives: This solicitation addresses the program provided for under section 5117(b)(3) of the TEA–21. The U.S. DOT is providing funding to:

- Accelerate the integration and enhancement of intelligent transportation infrastructure in major metropolitan areas to enable and help manage the continuous monitoring of the roadway system for purposes of providing real-time as well as archived data to aid in the operation, planning, analysis, and maintenance activities of the U.S. DOT and State and local agencies;
- Enhance the quality, availability, and accessibility of transportation system performance data to enable the calculation of mobility performance and system reliability measures while satisfying system operational needs at the same time;
- Provide to the U.S. DOT performance data and reports which, at a minimum, include data outlined in the Technical Plan description under Selection Criteria;

• Provide a traveler information service that includes free public access to basic traveler information, and supports provision of a 511 based telephone service; and

• Realize and publicize the benefits of regionally integrated and interoperable intelligent transportation infrastructure capable of supporting regional as well as national needs.

As stated in section 5117(b)(3) of TEA–21, additional program objectives include:

• Providing private technology commercialization initiatives to generate revenues which will be shared with the U.S. DOT;

• Collecting data primarily through wireless transmission along with some shared wide area networks;

• Aggregating data into reports for multipoint data distribution techniques; and

• Utilizing an advanced information system designed and monitored by an entity with experience with the U.S. DOT in the design and monitoring of high reliability, mission critical voice and data systems.

Funding: The U.S. DOT will select two (2) metropolitan areas to participate in this expansion of the ITIP. A total of $2 million in Federal funds per metropolitan area will be made available incrementally over the next two (2) calendar years to the metropolitan areas selected through this solicitation. The Federal funding will be made available to the selected partnerships through an existing contract involving the Consortium.

Federal funding for the ITIP shall be used to support:

1. Creation of a process and mechanism to collect, integrate, archive, manage, and report new and existing transportation data for mobility and performance monitoring, planning, evaluation, and other similar purposes;

2. Creation of a data repository of new and existing real-time traveler information for dissemination to the traveling public through a variety of delivery mechanisms, including support for a 511 based telephone service, provision of free basic traveler information to the public, and commercial traveler information services;

3. Creation of a regional transportation information system that integrates and supplements existing surveillance infrastructure to support public sector transportation management needs and private sector commercialization; and

4. Accommodation/integration of existing transportation data collection, archiving, and dissemination mechanisms.

There is a twenty percent (20%) matching share ($500,000) that must be from non-Federally derived funding sources, as statutorily required. For the purposes of this program, this matching share must consist of a cash contribution to the project. The non-Federally derived funding may come from State, local government, or private sector partners. Note that funding identified to support continued operations, maintenance, and management of the system will not be considered as part of the partnership's cost-share contribution.

In an ITS partnership, as with other U.S. DOT cost-sharing grants, it is inappropriate to include a fee in the proposed budget as part of a partner's contribution to the project. This does not prohibit appropriate fee payments to vendors or others that may provide goods or services to the partnership. It also does not prohibit business relationships with the private sector which result in revenues from the sale or provision of ITS products or services. The U.S. DOT regulations require grant income to be deducted from expenditures before billing. Given prior approval, grant income can be used either as match or cost share.

The U.S. DOT and the Comptroller General of the United States have the right to access all documents pertaining to the use of Federal ITS funds and non-Federal contributions. Non-Federal partners must maintain sufficient documentation to substantiate these costs. Such items as direct labor, fringe benefits, material costs, consultant costs, public involvement costs, subcontractor costs, and travel costs should be included in that documentation.

Program-Wide Evaluation of Benefits

The U.S. DOT may use its resources to conduct independent evaluations of the benefits resulting from the ITIP at the selected metropolitan areas. The decision to evaluate benefits at a specific metropolitan area will be made on a case-by-case basis, reflecting information needs at the U.S. DOT. The ITIP partners shall cooperate with the independent evaluators and participate in evaluation planning and progress review meetings to ensure a mutually acceptable, successful implementation of the independent evaluation.

Eligibility

To be eligible for participation in this limited expansion of the ITIP, applicants must establish a partnership with the Consortium that is currently under contract with the U.S. DOT to initiate this program in Pittsburgh and Philadelphia, Pennsylvania. Applicants must also be willing to work within the current contractual mechanism for the initial deployments. This will involve the following:

1. The FHWA has a contractual arrangement with the Consortium in the form of a work order under the U.S. DOT's Information Technology Omnibus Procurement (ITOP) program to develop and deploy systems in Pittsburgh and Philadelphia. Since this program expansion involves exercising an option within the current ITOP work order, the Federal funds provided will continue to be made available to the selected partnerships through this ITOP arrangement. This involves direct payment to the private partner of the Federal funds to be provided; and

2. The selected metropolitan areas/States are expected to negotiate their own agreements with the Consortium, henceforth referred to as the preselected private partner, to facilitate their financial contribution, and the work to be performed. The ITOP work order(s), including payment schedule, will be adjusted as necessary to reflect the agreements that have been individually negotiated between the selected metropolitan areas/States and the preselected private partner.

Information on U.S. DOT's ITOP program can be found at *http://itop.dot.gov/itop/*.

In addition, applications must:

1. Demonstrate that the population in the metropolitan area where the proposed deployment will occur currently exceeds 300,000;

2. Demonstrate that the metropolitan area where the proposed deployment will occur currently experiences significant vehicular traffic congestion based upon metrics acceptable in the transportation industry;

3. Demonstrate that the metropolitan area where the proposed deployment will occur has already made significant investments in ITS infrastructure;

4. Demonstrate that the metropolitan area where the proposed deployment will occur provides an environment supportive of commercialization of traffic data;

5. Demonstrate that the proposed deployment will achieve the objectives described in the ''Objectives'' section of this solicitation;

6. Demonstrate that sufficient funding is available to successfully complete all aspects of the proposed deployment while complying with the cost sharing and matching requirements described in the ''Funding'' section of this solicitation;

7. Commit to sharing existing surveillance data with the preselected private partner;

8. Provide access to rights-of-way for installation of additional surveillance infrastructure by the preselected private partner;

9. Contain a Technical Plan, a Management and Staffing Plan, and a Financial Plan; and

10. Demonstrate a commitment to a schedule whereby the proposed deployment will be operational within one year from the date of award.

Instructions to Applicants

An application to participate in the ITIP shall consist of a Technical Plan, a Management and Staffing Plan, and a Financial Plan. Together, these shall not exceed fifty (50) pages in length including title, index, tables, maps, appendices, abstracts, and other supporting materials. Copies of Memorandums of Understanding (MOUs), or other similar appropriate documents described below shall be attached to the application and shall not exceed fifteen (15) pages. A page is defined as one (1) side of an 8½ × 11 inch sheet of paper, with a type font no smaller than 12 point. Applications greater than fifty (50) pages will not be accepted.

Applications shall be submitted in an electronic format compatible with Microsoft Office 2000. The cover sheet or front page of the application shall include the name, address, and phone number of an individual to whom correspondence and questions about the application may be addressed. Any portion of the application or its contents that may contain proprietary information shall be clearly indicated; otherwise, the application and its contents shall be non-proprietary.

Selection Criteria

Applicants must submit acceptable Technical, Management and Staffing, and Financial Plans that together provide sound evidence that the proposed partnership can successfully meet the objectives of the ITIP.

The FHWA will assess applications submitted in response to this notice using the selection criteria set forth below, to determine: (1) the proposed project's potential for achieving and showcasing the benefits of using ITS technology for highway performance monitoring and management; (2) the proposed partnership's ability to complete the proposed infrastructure integration within one (1) year after award; (3) the proposed project's potential for fostering private commercialization initiatives, and (4) the responsiveness of the proposed technical, financial, and management approaches.

The following criteria will be used in selecting metropolitan areas for participation in the ITIP.

A. Partnership

The proposed partnership demonstrates a strong commitment to cooperation among agencies, jurisdictions, and the preselected private partner.

1. The application discusses proposed working relationships, cooperation, and information-sharing among participating public transportation agencies and the preselected private partner for the collection, management, and use of transportation system performance data, and the dissemination of travel information services, including support for a 511 telephone service.

2. The proposed partnership demonstrates a strong commitment to cooperation among agencies, jurisdictions, and the preselected private partner, on both long-range investment decisions and short-range operation and management issues. Documentation that clearly defines the responsibilities and relationships of all parties, including institutional relationships, revenue sharing, and other financial agreements needed to support the intelligent transportation infrastructure deployment, are attached.

3. The proposed partnership results in an arrangement where the public sector partners will be provided an ongoing data stream and the preselected private partner will be responsible for operating and maintaining the data gathering system implemented as part of this project under a fixed price contract.

B. Technical Plan

The Technical Plan must address the development, deployment, operation, and management of intelligent transportation infrastructure that: 1) enhances the quality, availability, and accessibility of both real-time and archived transportation system performance data for transportation operations, planning, analysis, and maintenance purposes; 2) supports monthly submittal of such data to the U.S. DOT; and 3) provides a traveler information service, including support for a 511 based telephone service as well as commercial value added services.

1. The Technical Plan must contain an operational concept and technical approach that demonstrates how the proposed deployment will operate when fully implemented, as well as during any incremental deployment steps leading to full implementation. The technical plan must define the operational roles and responsibilities of the partners during operations (and key operator functions), as well as the functions performed by the ITS infrastructure elements. The technical plan should describe the changes to existing systems and additional elements. Emphasis should be placed on operational aspects of the proposed deployment that will achieve the goal of improving the performance of the transportation system. The technical plan should address the opportunities for generating/supporting commercial products with the data.

2. The Technical Plan must contain a description of existing monitoring infrastructure and describe the monitoring and traffic data needs of the community; and the proposed approach for meeting local, as well as National needs.

3. The Technical Plan must contain a technical approach to submit all data aggregated as part of this project, including new and existing data, to the U.S. DOT on a monthly basis. At a minimum, the performance data are to include the elements outlined below in Table 1.

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Table 1. Data Specifications for Mobility Monitoring

Primary Data Element:	Attributes:		Supplemental Data Elements:
	Preferred	Acceptable	
Vehicle Travel Times (preferred)	• for individual vehicles • for defined roadway links up to 1 mile in length • coverage on freeways and arterial streets	• 5 to 15-minute summary average • for defined roadway links 1-3 miles in length • coverage on freeways only	• date of measurement • start time of travel time • "anonymous" vehicle ID
Vehicle Spot Speeds (acceptable)	• 1 to 5-minute averages by lane • speeds obtained every ½-mile • coverage on freeways and arterial streets	• 1 to 5-minute averages by direction • speeds obtained every 1-3 miles • coverage on freeways only	• date of measurement • start and end time for speed summary statistics • detector location ID (milepost or other location reference)
Vehicle Volumes	• 1 to 5-minute totals by lane • volumes obtained every ½-mile • coverage on freeways and arterial streets	• 1 to 5-minute totals by direction • volumes obtained every 1-3 miles • coverage on freeways only	• date of measurement • start and end time for volume summary statistics • detector location ID (milepost or other location reference)
Roadway Link and "Corridor" Identificatio	• definition of roadway links up to 1 mile in length	• definition of roadway links of 1-3 miles in length	• corresponding detector ID • milepost or location reference • roadway name and direction • sequence of link along a corridor • link length • number of lanes
Vehicle Classification	• the 13 vehicle classes defined in the Traffic Monitoring Guide (http://www.fhwa.dot.gov/ohim/tmguide/index.htm)	• passenger vehicles (cars and light pick-ups) • single unit trucks • combination trucks (tractor-trailers)	• date of measurement • start and end time for volume summary statistics • detector location ID (milepost or other location reference)

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In addition, the technical approach must include quality assurance processes for both real-time and archived data. For real-time data, the data collected should be in accordance with the appropriate data quality levels specified in the document *"Closing the Data Gap: Guidelines for Quality Advanced Traveler Information System (ATIS) Data, Version 1.0, September 2000."*[2] For archived data, three (3) facets of quality control procedures must be addressed:

(1) Identification of faulty data;

(2) Editing procedures once faulty data is detected; and

(3) Treatment of missing values.

Any breakdown in the accepted quality assurance processes must be reported immediately. Additionally, any significant data gaps (one (1)-day or more) identified will be reported along with the monthly submission of data.

The Technical Plan must also contain a technical approach for using the data aggregated as part of this project to calculate the performance measures identified in the Table 2 below, and submitting a monthly report of these performance measures to the U.S. DOT.

Table 2. Measures of Transportation Performance

Annual Person Hours of Delay	= Daily Vehicle Hours of Delay x 250 Working Days per Year x 1.25 Person per Vehicle
Percent Congested Travel	= (VMT Traveled Under Congested Conditions)/(Total VMT for the Area)
Travel Rate Index	= (Travel Time Under Congested Conditions)/(Travel Time Under Uncongested Conditions)
Travel Time Percent Variation	= [(standard deviation)/(average travel time)] x 100%
Travel Time Buffer Index	$= \frac{\text{95\% Confidence Travel Rate (in minutes per mile)} - \text{Average Travel Rate (In minutes per mile)}}{\text{Average Travel Rate (in minutes per mile)}} \times 100\%$
Travel Time Misery Index	= (Average of the Travel Rates for the Longest 20% of the Trips) - (Average Travel Rates for All Trips)

The preselected private partner shall be responsible for submitting the above data and reports to the U.S. DOT. Data for each area shall be delivered on compact disk (CD–ROM) and made downloadable via the Internet monthly by the private sector partner, not more than four (4) weeks following the end of the month. Data shall be delivered in a granularity and format to be agreed upon prior to initiation of delivery. The standard Highway Performance Monitoring System (HPMS)[3] and Traffic Monitoring Guide[4] formats may be used where applicable. Definitions to be used shall be those contained in the Traffic Monitoring Guide, or the archived data standards (currently in development by ASTM), or the traffic management data dictionary (TMDD) standards, if available.

4. The Technical Plan must contain a technical approach that demonstrates how consistency with the Regional ITS Architecture (or with the National ITS Architecture where a Regional ITS Architecture does not yet exist) will be achieved; and how use of appropriate ITS standards will be considered, consistent with the Final Rule on ITS Architecture and Standards, 23 CFR Part 940, 66 FR 1446, January 8, 2001.

5. The Technical Plan must include an approach for developing the project based on a systems engineering analysis, consistent with the Final Rule on ITS Architecture and Standards, 23 CFR Part 940, 66 FR 1446, January 8, 2001.

6. The Technical Plan must address issues related to ownership and disposition of equipment deployed as part of this project; rights to data collected by infrastructure deployed as part of this project; and rights to reports generated from this data.

C. Management and Staffing Plan

The Management and Staffing Plan must demonstrate a well thought out estimate of the level of effort and skills needed to successfully complete the proposed deployment, along with the identification of which partners will supply the staff needed, including the names and qualifications of key staff. This plan must also describe the proposed lines of communication between the partners, and define the responsibilities of each partner.

1. The Management and Staffing Plan must demonstrate a sound management and organizational approach and schedule that will ensure that the proposed deployment is operational within one (1) year of the award of funds.

2. The Management and Staffing Plan must demonstrate a commitment to hire or assign a project manager and adequate full-time staff to ensure timely deployment of the project. Proposed staff should have demonstrated skills for effective operations and management, or the commitment to acquiring the necessary skills in relevant technical areas.

[2] The "Closing the Data Gap: Guidelines for Quality Advanced Traveler Information System (ATIS) Data, Version 1.0, September 2000," can be obtained for review by contacting *chung.eng@fhwa.dot.gov.*

[3] The Highway Performance Monitoring System (HPMS) field Manual is available for review at the URL: *http://www.fhwa.dot.gov/ohim/hpmsmanl/hpms.htm.*

[4] The Traffic Monitoring Guide is available for review at the URL: *http://www.fhwa.dot.gov/ohim/tvtw/tvtwpage.htm.*

D. Financial Plan

The Financial Plan must demonstrate that sufficient funding is available to successfully complete all aspects of the proposed project as described in the Technical Plan.

1. The Financial Plan must include a clear identification of the proposed funding for the proposed deployment, and a commitment to provide a minimum twenty percent (20%) matching share that must be from non-Federally derived funding sources. All financial commitments from both the public and private partners, including any details of revenue sharing, must be documented.

2. The Financial Plan must include a sound financial approach to ensure the timely deployment and the continued long-term operation and management of the system without continued reliance on Federal funding. The Financial Plan must include documented evidence of continuing fiscal capacity and commitment.

3. The proposed project must include corresponding public and/or private investments that minimize the relative percentage and amount of Federal funds.

Authority: 23 U.S.C. 315; Sec. 5117(b)(3) of Public Law 105–178, as amended; 49 CFR 1.48.

Issued on: May 25, 2001.

Vincent F. Schimmoller,

Deputy Executive Director.

[FR Doc. 01–13791 Filed 5–29–01; 2:44 pm]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Federal Motor Carrier Safety Administration

[Docket No. RSPA–98–3579 (PD–20(RF))]

Cleveland, Ohio Requirements for Transportation of Hazardous Materials

AGENCY: Research and Special Programs Administration (RSPA) and Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of administrative determination of preemption.

APPLICANT: Association of Waste Hazardous Materials Transporters (AWHMT) and American Trucking Associations, Inc. (ATA).

LOCAL LAWS AFFECTED: Cleveland Consolidated Ordinances (City Code), Chapters 387 and 394, and uncodified requirements for advance notification and police escort of explosives shipments.

APPLICABLE FEDERAL REQUIREMENTS: Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials Regulations (HMR), 49 CFR parts 171–180.

MODES AFFECTED: Highway.

SUMMARY: The following requirements are preempted by 49 U.S.C. 5125(a)(2) because they create obstacles to the accomplishment and carrying out of Federal hazardous material transportation law and the HMR:

1. Cleveland City Code section 394.06(b) prohibiting the transportation of hazardous materials in the Downtown Area between 7 a.m. and 6 p.m., except Saturday and Sunday, preempted with respect to radiopharmaceuticals only.

2. Cleveland's uncodified requirements for a transporter of explosives to notify the Fire Prevention Bureau 24 hours in advance of any pick-up or delivery, to specify the route to be taken within the City, and to have a police escort if more than 250 pounds are transported.

3. Cleveland City Code sections 387.08(b) and 394.07(b) specifying separation distance requirements between vehicles transporting explosives or other hazardous materials.

There is insufficient information in the record to find that the weekday time restriction in City Code section 394.06(b) is preempted with respect to hazardous materials other than radiopharmaceuticals.

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration (Tel. No. 202–366–4400), or Joseph Solomey, Office of the Chief Counsel, Federal Motor Carrier Safety Administration (Tel. No. 202–366–1374), U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

In this determination, FMCSA and RSPA consider whether Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, preempts requirements of the City of Cleveland, Ohio (City) that:

—Hazardous materials may not be transported within the ''Downtown Area'' of the City between 7 a.m. and 6 p.m. except Saturdays and Sundays, unless the Fire Chief grants an exception on a showing that delivery or pick-up of the hazardous material ''can be practicably made'' only during the prohibited time period and transportation of this material is in ''the public interest'';

—A carrier of explosives must (1) notify the Fire Department ''24 hours in advance of all deliveries'' of explosives within the City, (2) specify the route to be taken within the City in accordance with the authority of the City's Director of Public Safety (or his representative) to designate the route to be taken within the City, and (3) have a police escort if more than 250 lbs. of explosives are transported within the City; and

—A vehicle transporting explosives or other hazardous materials must maintain a certain distance from any other vehicle transporting explosives or other hazardous materials, *i.e.,* 500 feet between vehicles transporting explosives and 300 feet between vehicles transporting hazardous materials.

This proceeding is based on two notices published in the **Federal Register** on September 17, 1998 (63 FR 49804), and June 30, 1999 (64 FR 35239). The first notice invited interested parties to comment on an application by AWHMT in March 1998 challenging a broad set of the City's requirements for:

—A permit to transport hazardous materials when a placard is required, permit fees, proof of insurance, permissible routes and advance notice of the route to be used, and the weekday time restrictions in the Downtown Area; and

—A permit to transport any amount of explosives, permit fees, proof of insurance, routing and prenotification of shipments, vehicle inspections, the number of fire extinguishers on the vehicle, and a police escort (for any shipment of more than 250 lbs. of explosives).

In response to the September 17, 1998 notice, comments were submitted by the City, AWHMT, and the following additional parties: the Public Utilities Commission of Ohio (PUCO), Association of American Railroads, Hazardous Materials Advisory Council (HMAC), Institute of Makers of Explosives, National Paint & Coatings Association (NPCA), Ohio Environmental Service Industries, and Roadway Express.

The City and PUCO initially asked for a 60-day extension of the opening comment period in order to allow them to further examine with AWHMT the City's requirements and consider changes that might avoid the need for RSPA and FMCSA to make determinations in this proceeding. These requests were denied, but the City

and AWHMT were encouraged to continue their discussions, which resulted in the development of proposed amendments to many of the City Code provisions initially challenged by AWHMT. In an April 15, 1999 letter, AWHMT asked RSPA and FMCSA to defer consideration of the City's requirements on permits, permit fees, vehicle inspections, and fire extinguishers. With some qualifications, the City concurred. As a result, in the June 30, 1999 **Federal Register** notice, RSPA and FMCSA invited interested parties to submit further comments on the following requirements: the weekday time restrictions for hazardous materials; the prenotification, routing, and escort requirements for explosives; and the vehicle distance separation requirements.[1]

In response to the June 30, 1999 notice, further comments were submitted by the City, AWHMT, Mallinckrodt, Inc., Radiopharmaceutical Shippers and Carriers Conference (RSCC), and Roadway Express.

In March 2000, a representative of ATA advised that ATA had assumed AWHMT's role in this proceeding because AWHMT (formerly affiliated with ATA) had been dissolved. In November 2000, the City's Law Department submitted its latest draft of proposed revisions to Chapters 387 and 394 of the City Code, which appears to resolve many of the issues raised in AWHMT's application. RSPA and FMCSA understand that, if this draft is ultimately adopted, the City would:

—Retain its current weekday time restrictions for hazardous materials;

—Require persons within the City who ship or receive explosives (rather than the transporter of explosives) to obtain a permit and also (1) provide 24-hour advance notice to City Police of the proposed route and time and place that the shipment will originate or be received (plus updates of any changes), and (2) require the transporter to both comply with the route designated by the Fire Chief and cooperate with any police escort within the City; and

—Modify its current 300-foot separation distance requirement to apply to all vehicles transporting hazardous materials, except when at a destination or point of origin, and eliminate the separate requirement specifying a 500-foot separation distance for vehicles transporting explosives.

II. Federal Preemption

Section 5125 of Title 49 U.S.C. contains several preemption provisions that are relevant to AWHMT's application. Subsection (a) provides that—in the absence of a waiver of preemption by DOT under § 5125(e) or specific authority in another Federal law—a requirement of a State, political subdivision of a State, or Indian tribe is preempted if—

> (1) Complying with a requirement of the State, political subdivision, or tribe and a requirement of this chapter or a regulation issued under this chapter is not possible; or
>
> (2) The requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this chapter or a regulation prescribed under this chapter.

These two paragraphs set forth the ''dual compliance'' and ''obstacle'' criteria that RSPA had applied in issuing inconsistency rulings prior to 1990, under the original preemption provision in the Hazardous Materials Transportation Act (HMTA). Pub. L. 93–633 Section 112(a), 88 Stat. 2161 (1975). The dual compliance and obstacle criteria are based on U.S. Supreme Court decisions on preemption. *Hines* v. *Davidowitz,* 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul,* 373 U.S. 132 (1963); *Ray* v. *Atlantic Richfield, Inc.,* 435 U.S. 151 (1978).

Subsection (b)(1) of 49 U.S.C. 5125 provides that a non-Federal requirement concerning any of the following subjects, that is not ''substantively the same as'' a provision of Federal hazardous material transportation law or a regulation prescribed under that law, is preempted unless it is authorized by another Federal law or DOT grants a waiver of preemption:

> (A) The designation, description, and classification of hazardous material.
>
> (B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material.
>
> (C) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.
>
> (D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material.
>
> (E) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

To be ''substantively the same,'' the non-Federal requirement must conform ''in every significant respect to the Federal requirement. Editorial and other similar de minimis changes are permitted.'' 49 CFR 107.202(d).

Subsection (c)(1) of 49 U.S.C. 5125 provides that, beginning two years after DOT prescribes regulations on standards to be applied by States and Indian tribes in establishing requirements on highway routing of hazardous materials,

> A State or Indian tribe may establish, maintain, or enforce a highway routing designation over which hazardous material may or may not be transported by motor vehicles, or a limitation or requirement related to highway routing, only if the designation, limitation, or requirement complies with section 5112(b).[2]

In addition, 49 U.S.C. 5125(g)(1) provides that a State, political subdivision, or Indian tribe may

> impose a fee related to transporting hazardous material only if the fee is fair and used for a purpose relating to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response.

These preemption provisions in 49 U.S.C. 5125 carry out Congress's view that a single body of uniform Federal regulations promotes safety in the transportation of hazardous materials. In considering the HMTA, the Senate Commerce Committee ''endorse[d] the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation.'' S. Rep. No. 1102, 93rd Cong. 2nd Sess. 37 (1974). When it amended the HMTA in 1990, Congress specifically found that:

> (3) Many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,
>
> (4) Because of the potential risks to life, property, and the environment posed by

[1] AWHMT's April 15, 1999 letter and the City's response on April 30, 1999 were set forth in the June 30, 1999 notice. Because the comment period was reopened, the City's prior objection to the failure to extend the opening comment period and its objection to considering its distance separation requirement (which was not challenged in AWHMT's original application) are considered moot.

[2] DOT's regulations on State and Indian tribe requirements for highway routing of hazardous materials are set forth in two subparts of 49 CFR part 397. Subpart D, adopted September 24, 1992, applies to radioactive materials and sets forth the same requirements originally issued by RSPA in 1981. 57 FR 44129. Subpart C applies to non-radioactive hazardous materials and became effective on November 14, 1994. 59 FR 51824 (Oct. 12, 1994). The latter provides that only designations established or modified on or after November 14, 1994 must comply with the standards issued under 49 U.S.C. 5112(b). 49 CFR 397.69(a).

unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,

(5) In order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable.

Pub. L. 101–615 section 2, 104 Stat. 3244.

A Federal Court of Appeals has found that uniformity was the ''linchpin'' in the design of the HMTA, including the 1990 amendments that expanded the original preemption provisions. *Colorado Pub. Util. Comm'n* v. *Harmon,* 951 F.2d 1571, 1575 (10th Cir. 1991). (In 1994, Congress revised, codified and enacted the HMTA ''without substantive change,'' at 49 U.S.C. Chapter 51. Pub. L. 103–272, 108 Stat. 745.) To also achieve safety through consistent Federal and State requirements, Congress has authorized DOT to make grants to States ''for the development or implementation of programs for the enforcement of regulations, standards, and orders'' that are ''compatible'' with the highway-related portions of the HMR. 49 U.S.C. 31102(a). In this fiscal year, $155 million is available for grants to States under the Federal Motor Carrier Safety Assistance Program. *See* 49 CFR Parts 350 & 355 and the preamble to FMCSA's March 21, 2000 final rule, 65 FR 15092, 15095–96.

Under 49 U.S.C. 5125(d)(1), any directly affected person may apply to the Secretary of Transportation for a determination whether a State, political subdivision or Indian tribe requirement is preempted. This administrative determination replaced RSPA's process for issuing advisory inconsistency rulings (IRs) under the ''dual compliance'' and ''obstacle'' criteria now explicitly set forth in § 5125(a).

The Secretary of Transportation has delegated to FMCSA the authority to make determinations of preemption that concern highway routing and to RSPA the authority to make such determinations concerning all other hazardous materials transportation issues. 49 CFR 1.53(b), 1.73(d)(2). In this determination, FMCSA's Administrator has addressed the highway routing issues, and RSPA's Associate Administrator for Hazardous Materials Safety has addressed the non-highway routing issues. 49 CFR 107.209(a), 397.211(a).

Section 5125(d)(1) requires that notice of an application for a preemption determination be published in the **Federal Register**. Following receipt and consideration of written comments, RSPA and FMCSA publish their determination in the **Federal Register**. *See* 49 CFR 107.209, 397.211. A short period of time is allowed for filing petitions for reconsideration. 49 CFR 107.211, 397.223. Any party to the proceeding may seek judicial review in a Federal district court. 49 U.S.C. 5125(f).

Preemption determinations do not address issues of preemption arising under the Commerce Clause, the Fifth Amendment or other provisions of the Constitution or under statutes other than the Federal hazardous material transportation law unless it is necessary to do so in order to determine whether a requirement is authorized by another Federal law, or whether a fee is ''fair'' within the meaning of 49 U.S.C. 5125(g)(1). A State, local or Indian tribe requirement is not authorized by another Federal law merely because it is not preempted by another Federal statute. *Colorado Pub. Util. Comm'n* v. *Harmon,* 951 F.2d at 1581 n.10.

In making preemption determinations under 49 U.S.C. 5125(d), RSPA and FMCSA are guided by the principles and policies set forth in Executive Order No. 13132, entitled ''Federalism'' (64 FR 43255 (August 10, 1999). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other clear evidence that Congress intended to preempt State law, or the exercise of State authority directly conflicts with the exercise of Federal authority. Section 5125 contains express preemption provisions, which RSPA and FMCSA have implemented through their regulations.

III. Discussion

A. General Arguments on ''Traditional State Control''

In its opening comments, the City stated that its requirements on transporting hazardous materials are not preempted because they ''concern areas of traditional state control.'' In later comments, the City argued that ''environmental regulation, including hazardous material regulation and traffic safety, has long been recognized as an historic police power and an area of traditional state control,'' citing *Huron Portland Cement Co.* v. *City of Detroit,* 362 U.S. 440 (1960), and *National Solid Wastes Management Ass'n* v. *Killian,* 918 F.2d 671 (7th Cir. 1990), *aff'd sub nom., Gade* v. *National Solid Wastes Management Ass'n*, 505 U.S. 88 (1992). The City urged DOT to follow *Commonwealth of Massachusetts* v. *U.S. Dep't of Transp.,* 93 F.3d 890, 895 (D.C. Cir. 1996), in which the Court of Appeals stated that there is an ''established presumption against preemption in matters of traditional state control.'' The City also has taken the position that, under the standard in 49 CFR 397.3, ''traffic control regulations'' are preempted only when they are ''at variance with specific regulations of the Department of Transportation which are applicable to the operation of that vehicle and which impose a more stringent obligation or restraint.''

AWHMT responded that the transportation of hazardous materials is not an area traditionally within State or local control but, rather, was reserved to the Federal Government under the Commerce Clause of the Constitution. It stated that Congress assigned to DOT, rather than the Environmental Protection Agency (EPA) or the States, ''the regulation of hazardous materials in transportation,'' including intrastate commerce. AWHMT also stated that 49 CFR 397.3 is ''dated'' and of questionable relevance because it ''does not even demand that the non-federal operating rules have a safety nexus.''

References to areas of ''traditional state control'' and a ''presumption'' against finding preemption provide little help in resolving issues of preemption under Federal hazardous material transportation law. It is undisputed that Congress has the power to ''regulate commerce * * * among the several States,'' under the Commerce Clause of the Constitution. The Federal hazardous material transportation law was enacted under that authority to promote safety through greater uniformity in the regulation of hazardous materials in transportation. At the same time, RSPA has noted that

The history of the Hazardous Materials Regulations for highway carriage has been one of an accommodation of Federal and State interests that is pragmatic and that recognizes, as have the courts, that local interest in highway safety is well established and proper, and that a local exercise of police powers in support of that interest is not to be lightly displaced.

IR–1, New York City Health Code, 43 FR 16954–55 (Apr. 20, 1978).

In sum, the legitimate State and local interests in traffic safety do not displace DOT's authority to regulate the transportation of hazardous materials in commerce and to find, by regulation or other process, that a non-Federal requirement on transportation conflicts with the Federal hazardous material transportation law and is preempted.

The traditional State and local role in ''environmental regulation'' focuses primarily on limits or liabilities on the

discharge of pollutants, including their disposal, rather than requirements affecting the movement of transportation vehicles. The Supreme Court recently noted that it has ''upheld state laws imposing liability for pollution caused by oil spills.'' *United States* v. *Locke,* 529 U.S. 89, 106 (2000). However, ''there is no beginning assumption'' that a State's laws directly affecting commerce constitute ''a valid exercise of its police powers,'' even when those State laws are designed to prevent or minimize damage to the environment. *Id.* at 108.

Congress provided that hazardous substances designated by EPA under 42 U.S.C. 9601(14) must be listed and regulated as hazardous materials under Federal hazardous material transportation law. 42 U.S.C. 9656(a). Moreover, EPA was directed to issue regulations on transporters of hazardous waste, ''after consultation with the Secretary of Transportation and the States,'' that are ''consistent with'' DOT's regulations under Federal hazardous material transportation law. 42 U.S.C. 6923(a), (b). State regulations on transportation of hazardous waste must be consistent with the HMR, because a State program may not be approved unless it is ''equivalent to'' and ''consistent with'' EPA's hazardous waste program. 42 U.S.C. 6926(b). *See also* PD–12(R), 60 FR 62527, 62532–34 (Dec. 6, 1995), decision on petition for reconsideration, 62 FR 15970, 15973 (Apr. 3, 1997), complaint for judicial review dismissed, *State of New York* v. *U.S. Dep't of Transp.,* 37 F. Supp. 2d 152, 158 (N.D.N.Y. 1999) (''EPA's authorization of a state RCRA program is not the equivalent of 'authoriz[ation] by another law of the United States' '').

The decisions in the *Huron Portland Cement* and *National Solid Wastes Management Ass'n* cases cited by the City provide no specific guidance here. In the former, the Supreme Court simply held a city smoke abatement ordinance could be applied to a ship docked at the Port of Detroit. In the latter case, the Seventh Circuit recognized that ''Congress has in some specific instances expressed its intent to preempt particular kinds of state and local [environmental] legislation,'' 918 F.2d at 673, including the particular State laws on the training, testing and licensing of hazardous waste site workers that are not part of a plan approved by the Secretary of Labor.

The requirement in 49 CFR 397.3 for vehicles transporting hazardous materials to comply with local laws may not be read too broadly. In a 1976 interpretation set forth in Appendix C to IR–1, 43 FR at 16961, DOT's General Counsel explained that this section has a parallel in 49 CFR 392.2 applicable to all commercial motor vehicles operated in interstate commerce. The only purpose of restating this requirement in § 397.3 was to make it apply to ''intrastate movements of hazardous materials by interstate carriers.'' *Id.* at 16962.

Local traffic controls may be ''presumed to be valid,'' even when applied only to vehicles transporting hazardous materials. IR–23, City of New York Regulations Governing Routing and Time Restrictions on Transportation of Hazardous Materials, 53 FR 16840, 16845 (May 11, 1988); IR–32, Montevallo, Alabama Ordinance on Hazardous Waste Transportation, 55 FR 36736, 36744 (Sept 6, 1990), appeal dismissed as moot, 57 FR 41165 (Sept. 9, 1992). However, that presumption is not conclusive. Under the obstacle test for preemption,

> The critical issue is the actual effect of the requirement in question on overall public safety. The argument that this issue is foreclosed by the presumption of validity of local laws is both circular, in that it takes the inquiry back to its starting point, and irrelevant, in that the issue is the effect on safety as a matter of fact, rather than as a matter of legal presumption.

IR–3, City of Boston Rules Governing Transportation of Certain Hazardous Materials, decision on appeal, 47 FR 18457, 18459 (Apr. 29, 1982).

Thus, § 397.3 does not give States or localities blanket authority to impose requirements on vehicles transporting hazardous materials that do not apply to other vehicles of similar type (e.g., size and weight) that are not transporting hazardous material. *See* IR–20, Triborough Bridge and Tunnel Authority Regulations Governing Transportation of Radioactive Materials and Explosives, 52 FR 24396, 24401 (June 30, 1987), corrections, 52 FR 29468 (Aug. 7, 1987) (a weight limitation that ''applies only to [hazardous] materials and their container rather than to the entire vehicle and its contents, is not a *bona fide* traffic control measure''). Nor can § 397.3 ''be read more broadly than to require compliance with State and local laws, ordinances, and regulations relating to the 'mechanics of driving and handling of vehicles.' '' IR–1, 43 FR at 16962. A local restriction that is ''tantamount to a ban on the transportation of [hazardous] materials through or in the local jurisdiction cannot be considered to be related to the mechanics of driving and handling of vehicles.'' *Id.*

The ''ultimate task in any pre-emption case is to determine whether state regulation is consistent with the structure and purpose of the statute as a whole.'' *Gade* v. *National Solid Wastes Management Ass'n,* 505 U.S. at 98. One must look to ''the provisions of the whole law, and to its object and policy.'' *Id. Accord, United States* v. *Locke,* 529 U.S. at 108 (''we must ask whether the local laws in question are consistent with the federal statutory structure'').

The purpose of the Federal hazardous material transportation law ''is to provide adequate protection against the risks to life and property inherent in the transportation of hazardous materials in commerce * * *.'' 49 U.S.C. 5101. To accomplish that purpose, Congress has declared that a State or local requirement is preempted when it ''is an obstacle to accomplishing and carrying out'' that law or the regulations issued thereunder. 49 U.S.C. 5125(a)(2). RSPA and FMCSA cannot agree with the conclusion of the Court of Appeals in the *Commonwealth of Massachusetts* case that the ''obstacle'' test for preemption only applies to non-Federal requirements ''with which a party cannot comply if it complies with HMTA, or [non-Federal] rules that otherwise pose an obstacle to fulfilling explicit provisions, not general policies, of HMTA.'' 93 F.3d at 895.

With this background, RSPA and FMCSA turn to specific requirements in the City Code on transporting explosives and other hazardous materials.

B. Weekday Time Restrictions in the Downtown Area

The City's weekday time restrictions are contained in City Code section 394.06(b) and apply to hazardous materials being picked up or delivered in the ''Downtown Area,'' defined as

> The area, not including the interstate highways, bounded by Lake Erie on the North, the Cuyahoga River on the West, Interstate 71 and the Inner Belt on the South and East, and Interstate 90/Route 2 on the North-East to and including the Eastern boundary of Burke Lakefront Airport.

City Code section 394.06(c).[3] At present, the 7 a.m.–6 p.m. weekday prohibition

[3] City Code section 394.06(a) separately prohibits the use of City streets (other than interstate highways) when there is ''neither a point of origin nor destination (delivery point)'' within the City or within one mile of the City limits, unless the Fire Chief determines that ''the use of City streets provides the safest and most direct route and the shortest distance of travel from an interstate highway to the point of origin or destination.'' Interstate highways within the City's Downtown Area are not allowed to be used for through transportation of placarded amounts of hazardous materials through Cuyahoga and its adjacent counties. *See* FMCSA's notice, Transportation of Hazardous Materials; Designated Preferred, and

applies only when placards are required on the vehicle or freight container under 49 CFR part 172, subpart F. City Code sections 394.02, 394.05. The proposed changes to Chapter 394 would make these time restrictions (and all other requirements in Chapter 394) applicable to vehicles that operate solely within the City when they contain hazardous materials for which labels and shipping papers are required by the HMR.

The Fire Chief may grant an exception to the weekday time restrictions on a showing that a delivery or pick-up ''can be practicably made'' only during the restricted times and ''[t]ransportation of the hazardous material is in the public interest.'' City Code section 394.08(e). The City stated that it grants two or three exceptions every year, usually for deliveries of fuel, and that the only occasion on which the Fire Chief denied an exception was for lack of information.[4] The City also stated that the carrier may choose its route within the City, so long as it complies with the requirement in section 394.06(d) to ''use interstate highways and designated truck routes to a point as close as possible to the destination * * *.''

AWHMT argued that the City's weekday time restrictions cause a delay in the transportation of hazardous materials, because these restrictions may cause a carrier to make deliveries of non-hazardous materials outside the City before deliveries of hazardous materials within the City, or wait outside the City until it can enter the Downtown Area. AWHMT stated that, after the 1990 amendments to the HMTA, ''the designation and restriction of routes for the transportation of hazardous material [is] a state responsibility, and that surrounding communities need to be consulted.'' It argued that there is no evidence that the City consulted with surrounding communities and, therefore, the City cannot know of the impact of its restrictions on surrounding communities.

Roadway Express stated that its customers in the Downtown Area must delay making shipments in order to comply with the City's weekday time restrictions. Mallinckrodt and RSCC stated that timely delivery is very important for radiopharmaceuticals, which have a short half-life, and that these restrictions are not needed because requirements in the HMR provide sufficient safety. RSCC noted that routing requirements for radioactive materials were first established in 1981 by RSPA's rulemaking in docket No. HM–164. *See* 46 FR 5298 (Jan. 19, 1981).

The City emphasized that its weekday time restrictions apply only to the Downtown Area, not to the whole City. It argued that local safety concerns justify restricting the presence of hazardous materials during the most congested and crowded times of day. It stated that ''during business hours there are an extraordinary number of pedestrians and a higher population density using street crossings and heavy traffic in the center of the business district.'' The City submitted an affidavit from a representative of the Northeast Ohio Areawide Coordinating Agency to show that ''traffic density in downtown Cleveland every week day and especially during the morning rush hour is high, and * * * Cleveland has the highest accident rate of any municipality in Cuyahoga County.''

The City cited the decision in *City of New York* v. *Ritter,* 515 F. Supp 663 (S.D.N.Y 1981), *aff'd, National Tank Truck Carriers, Inc.* v. *City of New York,* 677 F.2d (2d. Cir. 1982), as finding ''a legitimate safety interest'' to uphold rush-hour time restrictions and requirements for trucks transporting hazardous materials to use a circuitous route through less heavily populated areas of New York City in going from New Jersey to Long Island. The City also argued that its weekday time restrictions are similar to the requirement considered in IR–3, City of Boston Rules Governing Transportation of Certain Hazardous Materials, 46 FR 18918 (Mar. 26, 1981), decision on appeal, 47 FR 18457 (Apr. 29, 1982).

PUCO stated that it is the State routing agency for Ohio and that it submitted to DOT in 1995 the City's routing requirements in Chapter 394, including the weekday time restrictions in City Code § 394.06(b).[5] PUCO argued that State and local routing restrictions established before November 14, 1994 ''are not subject to preemption'' under 49 U.S.C. 5125(c) and 49 CFR 397.69. PUCO also asserted that surrounding communities had made no objection to the City's requirements, and there is no evidence of any obstacle to carrying out the Federal hazardous materials transportation law and the HMR. It asserted that DOT must find some prima facie evidence of an obstacle in order to issue a binding determination of preemption.

Time restrictions on the transportation of hazardous material are a ''subset of routing restrictions generally.'' IR–3, 46 FR at 18922. When applied to through traffic, prohibitions against travel during certain hours ''may effectively route motor vehicles into other jurisdictions.'' *Id.* Alternatively, a vehicle transporting hazardous material that arrives during (or shortly prior to) the curfew period may have to wait in a neighboring jurisdiction for the curfew period to end. In either case, the time restriction may increase the overall risks inherent in hazardous materials transportation by increasing the overall time that those materials are in transportation and by shifting traffic to other jurisdictions ''that may not be aware of or prepared for a sudden, possibly permanent, change in traffic patterns'' or onto roads that ''may be inadequate, particularly where the rerouted hazardous materials traffic is diverted to routes that other similar commercial traffic normally does not use.'' *Id.* at 18921. Routing restrictions, including time limitations, also create the potential for conflicts between adjoining jurisdictions, such as when required routes do not meet or time restrictions do not allow a vehicle to be in either jurisdiction.

In a number of rulings through 1990, RSPA found that routing restrictions that prohibit transportation through the jurisdiction (even temporarily by means of time limitations) are preempted in the absence of adequate safety justification and appropriate coordination with, and concern for the safety of people in, adjoining jurisdictions. *E.g.,* IR–2, Rhode Island Rules and Regulations Governing the Transportation of Liquefied Natural Gas, etc., 44 FR 75566, 75571 (Dec. 20, 1979), decision on appeal, 45 FR 71881 (Oct. 30, 1980); IR–21, Connecticut Statute and Regulations Governing Transportation of Radioactive Materials, 52 FR 37072, 37075 (Oct. 2, 1987), decision on appeal, 53 FR 46735, 46738 (Nov. 18, 1968); IR–23, 53 FR at 16845–46; IR–32, 55 FR at 36744. In 1990, Congress accepted this finding and directed DOT to prescribe standards for State and Indian tribe routing requirements which, among other matters, must ''enhance public safety'' in other jurisdictions affected by that requirement, must follow consultation

Restricted Routes, 65 FR 75771, 75803 (Dec. 4, 2000).

[4] The City stated that the only transportation of explosives in the Downtown Area is for building demolition, and that it has never issued an exception to its weekday time restrictions for a delivery of explosives. This seems to make clear that the City's Downtown Area weekday time restrictions in section 394.06(b) apply to explosives, in accordance with the plain language of Chapter 394, despite other statements in the City's initial comments that the requirement for a permit in Chapter 394 did not apply to a ''transporter of explosives with an explosives permit.''

[5] In accordance with 49 CFR 397.73(b), these routing designations and restrictions have been published in the **Federal Register**, 63 FR 31549, 31571 (June 9, 1998), 65 FR 75771, 75802 (Dec. 4, 2000), and they are now posted on FMCSA's internet web site at <http://hazmat.fmcsa.dot.gov>.

with officials of those other jurisdictions, and must be agreed to by the other affected State or Indian tribe. Pub. L. 101–615 section 4, 104 Stat. 3251 (Nov. 16, 1990), now codified at 49 U.S.C. 5112(b)(1)(A), (C), (E). *See also* FMCSA's standards at 49 CFR 397.71(b)(1), (3), (5).[6]

When time restrictions (or other routing requirements) apply only to vehicles picking up or delivering hazardous materials within the jurisdiction, different considerations exist. RSPA has found that ''pickup and delivery time restrictions are less likely to affect other local jurisdictions and are a more justifiable exercise of local authority over local activities than time restrictions on through traffic.'' IR–23, 53 FR at 16845, discussing IR–3. In IR–3, 46 FR at 18922, RSPA stated that a time restriction applicable only to pick-up and delivery operations in the Boston downtown area is less likely to divert traffic to neighboring jurisdictions

> and also appears to us to be justifiable as ancillary to regulatory authority that the City Council may exercise over land use and local activities in Boston. For example, delivery of explosives to a construction site in the city might be prohibited during certain times of the day.

FMCSA's highway routing standards in subparts C and D of 49 CFR part 397 require States and their political subdivisions to follow the principles set forth in these inconsistency rulings. Among other matters, there must be public participation (including consultation with other affected jurisdictions) in establishing highway routing designations or limitations for non-radioactive hazardous materials; routing designations must ensure continuity of movement; there may not be any unreasonable burden on commerce; and vehicles must have reasonable access to terminals, pick-up and delivery locations, and facilities for food, fuel, repairs, rest, and safe havens. 49 CFR 397.71(b). These routing designations must take account of several specific factors and may not ''create unreasonable delays in the transportation'' of hazardous materials. 49 CFR 397.71(b)(9)(xi). Routing designations for radioactive materials must ensure that vehicles are operated ''on routes minimizing radiological risk,'' considering a number of specific factors including overall transit time and ''the time of day and the day of week during which transportation will occur.'' 49 CFR 397.101(a).

As noted above, the specific standards in subpart C of 49 CFR part 397 must be followed only when establishing or modifying non-radioactive hazardous materials routing designations on or after November 14, 1994. 49 CFR 397.69(a). Because Chapter 394 and the weekday time restrictions in Section 394.06(b) were adopted in April 1992, the more general considerations discussed in RSPA's inconsistency rulings remain applicable to City's weekday time restrictions. Those considerations apply to both radioactive and non-radioactive hazardous materials, and are consistent with the standards in 49 CFR subpart D for radioactive materials in less than highway-route-controlled quantities, so that it is unnecessary to resolve whether the standards in subpart D were issued in September 1992, or 11 years earlier, for the purposes of 49 U.S.C. 5125(c)(2). *See also* PD–3(F), State of Washington Port of Entry Restrictions, etc., 58 FR 31580 (June 3, 1993), where the Federal Highway Administration evaluated a State's routing restrictions on spent nuclear fuel under the dual compliance and obstacle criteria.

With respect to hazardous materials generally, there is insufficient evidence to find that the City's weekday time restrictions actually cause delays or possible adverse effects on neighboring jurisdictions. As noted above, traffic passing through the City may use designated interstate highways at any time of the day, and no person has challenged these designations or indicated that these vehicles would be unnecessarily delayed by having to interrupt their journey or being diverted to neighboring jurisdictions. For most hazardous materials being picked up or delivered in the Downtown Area, it is assumed that schedules can be adjusted to make certain that travel does not take place during the restricted time periods. With one exception, discussed below, the comments do not dispute the City's statement that its waiver process is adequate for handling those situations when the pick-up or delivery of hazardous materials can only be practicably made during the prohibited time period. The comments do not show that vehicles transporting hazardous materials are forced to wait to enter the Downtown Area or, if so, that the City has not adequately considered that waiting at a location outside the Downtown Area (but still within the City) presents a lower overall risk than travel within the Downtown Area during the restricted time periods.

Mallinckrodt and RSCC both stressed the importance of timely deliveries of radiopharmaceuticals. Mallinckrodt stated that it has a nuclear pharmacy in Garfield Heights, Ohio, which serves the Cleveland metropolitan area. RSCC indicated that it is impractical to apply for waivers in order to deliver these ''extremely time-sensitive'' materials to ''downtown Cleveland hospitals like the Cleveland Clinic.'' In IR–16, Tucson City Code Governing Transportation of Radioactive Materials, 50 FR 20872 (May 20, 1985), RSPA found that the short time for delivery of pharmaceuticals made it impossible to comply with a city's requirement for a 48-hour advance notification of the pick-up or delivery of radioactive materials without unreasonable delays. In that proceeding, Mallinckrodt and Federal Express stated that ''orders for placarded shipments of radiopharmaceuticals are usually received less than 24 hours before delivery is to be made.'' 50 FR at 20879. RSPA also quoted the statement of the Committee on Radiopharmaceuticals and Radionuclides of the Atomic Industrial Forum that the

> short time allowed between the placement of an order for material and its delivery to the hospital or university medical school [is] typically on the order of 8 to 24 hours * * * For efficient use of short-lived radioactive materials orders are placed in many cases as patients needs are identified. Little notice can be given to either the supplier or the carrier as to what materials will be carried or the timing of the delivery.

Id.

Because hospitals most often need radiopharmaceuticals delivered in the morning for patient treatment during the day, it is not possible to ''stockpile'' these materials by having them delivered on weekends or during the overnight 6 p.m.—7 a.m. period when the City's time restrictions are not in effect. In this regard, the City's prohibition extends throughout the business day, from 7 a.m. until 6 p.m., and does not provide a period when deliveries may be made in the middle of the day, as New York City did in its rush-hour curfews considered in the *Ritter* case. *See* 677 F.2d at 272.

One other situation could present a potential problem. If time restrictions also existed in the jurisdiction at the other end of the movement (*i.e.,* the pick-up location for a delivery in the City, or the delivery location for a pick-up in the City), it might not be practicable for the shipper and carrier to

[6] Although the *Ritter* case upheld New York City's routing requirements for tank trucks carrying propane (including time limitations), that case is no longer relevant because it was decided before the 1990 amendment to the HMTA requiring DOT to adopt the highway routing standards in 49 CFR 397.71 for States and Indian tribes to follow. Moreover, RSPA has noted that neither the trial or appellate courts in *Ritter* considered the need for ''coordination with, and concern for the safety of people in adjoining, affected jurisdictions.'' IR–23, 53 FR at 16845.

adjust their schedules to comply with both time restrictions of the City and the other jurisdiction. This possibility has not been raised in any comment and, in the absence of more specific information that this situation could exist, it does not show that the City's weekday time restrictions are an obstacle to accomplishing and carrying out Federal hazardous material transportation law and the HMR.

The City's weekday time restrictions in City Code section 394.06(b) cause unnecessary delays in the transportation of radiopharmaceuticals and, with respect to these materials, these restrictions are preempted by 49 U.S.C. 5125(a)(2) because they create an obstacle to accomplishing and carrying out Federal hazardous material transportation law and the HMR. There is insufficient information to find that Federal hazardous material transportation law preempts City Code section 394.06(b) with respect to other hazardous materials.

C. Explosives Notification, Routing and Escort Requirements

The City's Application for the Transportation of Explosives requires the applicant to (1) notify the Fire Prevention Bureau ''24 hours in advance of all deliveries,'' (2) specify the route to be taken within the City,[7] and (3) have a police escort ''if more than 250 pounds are transported.'' The City has stated that it is not currently requiring carriers to obtain a permit, but it argued strongly that it should be able to impose its prenotification, routing, and escort requirements on carriers of explosives.

If the proposed changes to Chapter 387 are adopted, the City would eliminate its requirement for transporters of explosives to obtain a permit and make the shipper or recipient of explosives within the City responsible for (1) notifying the Police Department of the time and route of any explosives shipment (24 hours in advance and immediately upon any changes thereafter), (2) requiring the transporter to comply with the route specified by the Fire Chief or his designee, and (3) cooperating with any escort provided by the Police Department for either inbound or outbound shipments. The City's proposed changes would also eliminate the current exception in City Code section 387.03 that requirements in Chapter 387 do not apply when explosives are being transported ''under the jurisdiction of and in conformity with regulations adopted by the Interstate Commerce Commission or the United States Coast Guard.''[8]

RSPA presumes that the City's purpose for requiring advance notification is to either (1) allow it to modify the route specified by the carrier for a shipment that does not require an escort, or (2) arrange an escort for a shipment. Although the City stated that it issued 16 explosives transportation permits in 1997, these appear to be annual permits allowing deliveries throughout the year. No information was provided as to how many shipments of explosives are delivered within the City.

Although the City's application form appears to require advance notification only for ''deliveries,'' AWHMT indicated that the City requires advance notice of both pick-ups and deliveries of explosives shipments. AWHMT stated that the requirement to specify routes within the City is a ''prenotification'' requirement for each shipment, because carriers do not always know their routes and cargoes in advance. According to AWHMT,

> shipment prenotification is a field totally occupied by the federal government. To the extent that the federal government has allowed prenotification to non-federal government entities, it has provided that the notification be given to a state, not localities.

AWHMT noted that regulations of the Nuclear Regulatory Commission (NRC) require the shipper, not the carrier, to notify the Governor or its designee before shipments of nuclear waste and spent fuel. *See* 10 CFR 71.97. AWHMT also argued that the requirement in the HMR for escorts to accompany shipments of fissile material, 49 CFR 173.457(b)(2),[9] ''shows RSPA's intent not to require them for transport of other hazardous materials.'' It stated that non-Federal requirements for escorts interfere with Federal uniformity ''in an unsafe and burdensome manner,'' citing *Chlorine Institute* v. *California Hwy. Patrol,* 29 F.3d 495 (9th Cir. 1994). It stated that the City has no basis to argue that explosives carriers appreciate escorts and do not consider the City's requirement to be a burden.

HMAC stated that having to list routes and quantities of hazardous materials in advance is impractical and delays shipments. NPCA similarly argued that providing advance notice of the route of each delivery and pick-up is almost impossible, and unsafe situations will occur if the carrier has to wait until an approval is received from the City.

The City responded that it only requires advance notice for explosives, and that a carrier is free to specify its route so long as it attempts to use interstate highways and direct routes. It stated that its advance notice requirement causes very little delay. While it appears that the Fire Division sometimes allows notification less than 24 hours in advance, according to the City, the transporter typically sends a fax

> two days prior to a delivery to the Fire Division, of the date, time and place of entry to the City. The Fire Division and Police Department meet the vehicle at the appointed site, and Fire officials check the bill of lading, and the condition of the vehicle, tires, the load, and fire extinguishers. Within a half an hour to forty-five minutes, the vehicle is on its way to its destination, accompanied by a police escort.

The City stated that, because DOT has no regulation for an escort to accompany vehicles carrying explosives, its escort requirement is not in conflict with the ''dual compliance'' test. It argued that the *Commonwealth of Massachusetts* case on State bonding requirements provided a better framework for applying the ''obstacle'' test to its escort requirement than the *Chlorine Institute* case. The City asserted that neither the ''text and structure'' of Federal hazardous material transportation law, nor the HMR, show ''an intent on the part of Congress to preempt escort requirements or advanced routing notification requirements.'' The City also presented affidavits by a fireman and policeman which it stated show that the escort and prenotification requirements ''pose virtually no burden.'' The City also asserted that its escort requirement ''is actually appreciated by many motor vehicle carriers, probably because it assists a transporter in arriving at his destination quickly and without the hassles of traffic congestion.''

Advance notification requirements have an inherent potential to delay the transportation of hazardous materials.

[7] City Code section 387.07(d) provides that ''In the event of any transportation of explosives within the City, the route to be taken shall be designated by the Director of Public Safety or his duly authorized representative.'' The City indicated that it requires the carrier to specify a proposed route, subject to approval or modification by the Fire Department. The provisions of Section 387.07(d) have not been reported to DOT or published in the **Federal Register** in accordance with 49 CFR 397.73(b).

[8] AWHMT argued that the exception in section 387.03 is properly read as applying to all transportation under DOT's authority, so that ''the City's requirements are null and void,'' now that the HMR apply to intrastate, interstate and foreign commerce. *See* 49 CFR 171.1. In contrast, the City stated that it applies the requirements in Chapter 387 ''to all transportation except that which is exclusively under the jurisdiction of the Federal government,'' and that this exception applies ''only to transportation on railroads and interstate highways.''

[9] *See also* the NRC's escort requirements in 10 CFR 73.26 and 73.37 for highway shipments of certain radioactive materials.

Coupled with the requirement to meet, and perhaps wait for, an escort, delay is almost inevitable for many shipments within the broad definition of ''explosives.'' There is also the potential for delay if the carrier must wait for the Fire Marshal to approve its suggested route or direct that another route be taken. A local ''provision for virtually unfettered discretion whereby the County may change dates, routes, and times for radioactive materials transport'' was found to be preempted in IR–18, Prince George's County, MD; Code Section Governing Transportation of Radioactive Materials, 52 FR 200, 203 (Jan. 2, 1987), decision on appeal, 53 FR 28850, 28854 (July 29, 1988).

RSPA has noted that ''[a]n individual motor carrier seldom knows much in advance of any shipment precisely what is being shipped or what route it will follow. Furthermore, carriers frequently make pick-ups and deliveries enroute.'' IR–6, Covington (Kentucky) Ordinance Governing Transportation of Hazardous Materials, 48 FR 760, 765 (Jan. 6, 1983). Therefore, in many instances, a carrier will not know 24 hours in advance that it will need to pick up or deliver explosives within the City. And even if the City accepts notice from a carrier less than 24 hours in advance, traffic conditions and other stops may make it impossible for the carrier to know exactly when it will arrive at a point designated by the City Fire Marshal to meet an escort.

For these reasons, Federal regulations require advance notification to the State governor (or his designee), written route plans, and escorts only for shipments of irradiated reactor fuel and nuclear waste. 10 CFR 71.97, 73.37. The ''long lead time in planning spent fuel shipments,'' coupled with the infrequency of such shipments, allows sufficient time for the shipper to notify the designated State official and the transporter to pay any required fees. IR–17, Illinois Fee on Transportation of Spent Nuclear Fuel, 51 FR 20926, 20929 (June 9, 1986), decision on appeal, 52 FR 36200 (Sept. 25, 1987). In addition, inspections and escorts that are part of the Federally required physical protection program do not cause unnecessary delays in transportation. 51 FR at 20930; 52 FR at 36203–04.

Therefore, when ''Federal and local [escort] requirements are identical, and the same action satisfies both,'' the local requirement for escorts ''amounts to an adoption of the NRC physical protection standards on which the HMR rely'' and there is no inconsistency. IR–14, Jefferson County, New York: Local Legislative Stipulation Regulating Radioactive Materials Transportation, 49 FR 46632, 46656, 46658 (Nov. 27, 1984). However, State or local requirements for additional or special escorts are preempted. IR–18, 52 FR at 203 (''the County provision is neither identical to, nor does it facilitate compliance with, the Federal requirement''); IR–21, 53 FR at 28854.

In the *Chlorine Institute* case, the Court of Appeals for the Ninth Circuit held that State escort requirements for vehicles transporting chlorine and oleum are preempted. That court found that the HMR is not silent on the subject of escorts. Rather, in ''an area already regulated under the HMR'' where DOT has issued specific regulations that it believes are appropriate, other jurisdictions may not add requirements left out of the HMR. 29 F.3d at 497. In that situation, State requirements that exceed the HMR create ''a separate regulatory system * * * fostering confusion and frustrating Congress' goal of developing a uniform, national scheme of regulation.'' *Id.* at 498, quoting from *Southern Pac. Transp. Co.* v. *Public Serv. Comm'n of Nevada,* 909 F.2d 352, 358 (9th Cir. 1990). Thus, a local requirement on transportation is preempted when the Secretary of Transportation ''has decided that no such regulations should be imposed at all.'' *Ray* v. *Atlantic Richfield Co.,* 435 U.S. at 171–72.

When linked to escort requirements that go beyond the HMR, advance notification requirements are also preempted. Indeed, on their own, advance notification requirements for both radioactive and non-radioactive materials shipments have generally been found to be preempted as an obstacle to accomplishing and carrying out the HMR's requirement that there not be any unnecessary delays in transportation. *E.g.*, IR–6, 48 FR at 764–65; IR–30, City of Oakland, California; Nuclear Free Zone Act, 55 FR 9676, 9682 (Mar. 14, 1990) (''local requirements for advance notification of hazardous materials have potential to delay and redirect traffic and thus are inconsistent''); IR–32, 55 FR at 36746 (''State and local provisions either authorizing less prenotification or requiring greater prenotification than the HMR, therefore, constitute obstacles to the accomplishment and execution of the objectives of the HMTA and the HMR'').

In IR–16, 50 FR at 20878, RSPA stated that a local requirement for advance notification that applies ''only to shipments whose origin or destination is Tucson'' is not ''an inconsistent routing rule'' because, as here, it would not cause shipments to be routed around the City. However, there remains the potential for delays whenever the carrier has not been advised of the shipment, or does not have all the information required, in advance of the time specified for advance notification. Moreover, in this case, the advance notification requirement creates unnecessary delays because it is linked to (and part of) the requirement for escorts.

As the City seems to recognize in its proposed changes to Chapter 387, it is more appropriate to require the shipper or the recipient of a shipment of explosives, rather than the transporter, to provide notice of the time and place that the shipment will originate or be received within the City. The shipper and recipient are the parties who arrange for transportation and are usually in a much better position than the carrier to provide this information to the City.

The City's requirement that a transporter provide 24-hour advance notification of any shipment of explosives, including its specification of its intended route within the City, and the requirement for a police escort for any shipment of more than 250 pounds of explosives cause unnecessary delays in the transportation of hazardous materials and are preempted by 49 U.S.C. 5125(a)(2) because these requirements create an obstacle to accomplishing and carrying out Federal hazardous material transportation law and the HMR.

D. Separation Distance Requirements

The City has different separation distance requirements depending on whether vehicles are transporting explosives (in any amount) or other hazardous materials (in an amount that requires placarding). According to the City, it has never enforced either of these requirements but, if it did, ''the most sensible and safest interpretation * * * is to view them as *following* distance requirements, so that a driver will not be liable for failure to maintain a minimum distance from vehicles that he cannot see.''

City Code section 394.07(b) requires a vehicle transporting hazardous materials to ''maintain a minimum distance of at least 300 feet from other vehicles carrying hazardous materials * * * whether such [other] vehicles are moving or parked.'' This requirement applies ''regardless of direction of travel'' but not ''when overtaking or passing'' or ''where the conditions of travel make it impractical'' to maintain this separation. *Id.* Under the proposed changes to Chapter 394, the words ''regardless of direction of travel'' would be eliminated and vehicles at a

destination or point of origin would not be required to be separated by 300 feet. However, the City would make local vehicles subject to Chapter 394 when they transport hazardous materials for which labels and shipping papers are required, so that certain unplacarded vehicles would also be subject to the 300-foot separation distance requirement.

Separately, City Code section 387.08(b) provides that ''Where two or more vehicles are transporting explosives by permit issued hereunder, an interval of at least 500 feet shall be maintained between such vehicles.'' The City's proposed revisions to Chapter 387 would eliminate this separate 500-foot separation distance requirement for explosives.

The City argued that these distance separation requirements are traffic control regulations that are consistent with the provisions of 49 CFR 397.3 that:

> Every motor vehicle containing hazardous materials must be driven and parked in compliance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated, unless they are at variance with specific regulations of the Department of Transportation which are applicable to the operation of that vehicle and which impose a more stringent obligation or restraint.

The City also stated that its separation distance requirements are consistent with the prohibition in 49 CFR 397.7(a)(3) against parking a motor vehicle containing Division 1.1, 1.2, or 1.3 explosives ''[w]ithin 300 feet of a bridge, tunnel, dwelling, or place where people work, congregate, or assemble except for brief periods when the necessities of operation require the vehicle to be parked and make it impracticable to park the vehicle in any other place.''

The City referred to three inconsistency rulings as upholding separation distance requirements. It noted that RSPA found both local speed limits and separation requirements consistent with the HMR in IR–32 and stated that the same analysis should apply. It urged RSPA to make the same findings that separation distance requirements ''have very limited enforceability'' when there are exceptions for vehicles ''overtaking or passing'' and ''where the conditions of travel make it impractical to do so,'' as in IR–3, 46 FR at 18923, and that these requirements would not create obvious hazards or create delays when they apply only to traffic traveling in the same direction and in the same lane, as in IR–20, 52 FR at 24399.

The City stated that, because it has never enforced these requirements, there is no evidence that they reduce safety. It also argued that it would not be burdensome to truck drivers to remember the City's traffic separation requirements and to ''recognize that a placard exists on another vehicle from a distance of 300 to 500 feet.'' It stated that other jurisdictions also have these types of requirements, and it referred to the provision in the Ohio Fire Code that ''Vehicles transporting explosive materials and traveling in the same direction shall not be driven within 300 feet (91440 mm) of each other.'' Ohio Administrative Code 1301:7–7–30. The City also stated that it had ''the highest motor vehicle accident rate of all municipalities within Cuyahoga County,'' which justified its use of separation distance requirements ''to lower the number of accidents in the City.''

AWHMT stated that the City's distance separation requirements will result in less safety, rather than more, because a driver's attention will be diverted if he must look for placards on other vehicles. It stated that the purpose of a placard is to communicate the presence of hazardous materials in the event of an incident, rather than for traffic control. According to AWHMT, training drivers to know about local requirements, including variations in other jurisdictions, would impose an unreasonable burden on carriers, and the accident rate data provided by the City does not support separation distance requirements.

Roadway Express stated that it is unreasonable to expect drivers to scan traffic for placards and to estimate their distance.[10] It said that, because the City's separation distance requirement applies in all directions, it cannot be met when vehicles meet.

Mallinckrodt and RSCC also objected to the distance separation requirements. RSCC interpreted this requirement to apply when the other vehicle carrying hazardous materials is not required to be placarded, such as those materials for which placarding is not required below 1,000 pounds, ORM–D and limited quantity materials, and Class 9 materials. It stated that ''a radiopharmaceutical delivery truck invariably will encounter [trucks carrying medical waste] every day at Cleveland's hospitals.'' RSCC stated that the 300-foot separation distance requirement would cause unnecessary and unplanned stops, circuitous driving, and unnecessary delays. It assumed that the City would enforce this requirement after an accident and stated that the City should rewrite a bad requirement rather than distort it by unsupported interpretations.

The breadth of the wording of the City's separation distance requirements and the lack of enforcement present problems in this case. Although the City stated how it would enforce these requirements, we have no evidence of how it actually enforces them, because it has not. Moreover, vehicles transporting explosives that are not required to be placarded appear to be subject to the separation distance requirement in City Code section 387.08(b), and they must maintain an interval of at least 500 feet from other vehicles transporting explosives, whether the ''other'' vehicles are required to be placarded or not. Similarly, the proposed changes to Chapter 394 would appear to include certain unplacarded vehicles carrying hazardous materials within the category of those vehicles that must stay 300 feet apart.

In this respect, the City's separation distance requirements differ from the requirements in the three prior inconsistency rulings. IR–3 involved a requirement to maintain 300 feet between vehicles carrying hazardous materials required to be placarded, ''when traffic conditions allow.'' 46 FR at 18923. RSPA acknowledged possible difficulty recognizing placards at a distance of 300 feet, especially at night, but Boston's requirement did not require separation from unplacarded vehicles carrying hazardous materials. IR–20 and IR–32 involved requirements that vehicles transporting certain types of hazardous materials must stay a specified distance behind other vehicles traveling in the same direction (whether or not carrying hazardous materials).

Because the appeal from IR–32 was dismissed as moot, following the 1990 amendments to the HMTA, 57 FR at 41167–68, RSPA did not specifically consider the argument raised on appeal that a distance separation requirement fails to promote traffic safety when it applies at all times of the day and in all weather and traffic conditions. In its appeal of IR–32, the Chemical Waste Transportation Institute stated that

[10] Roadway Express also alluded to a driver's difficulty in seeing placards on other vehicles because placards are placed low on many vehicles (near the mud flap and below floor level). AWHMT also assumed that there are no standards on the placement of placards or their visibility. However, 49 CFR 172.516 sets forth requirements for the visibility and display of placards, including specific provisions that each placard must be securely attached or affixed to the transport vehicle, ''clearly visible from the direction it faces,'' and ''located away from any marking (such as advertising) that could substantially reduce its effectiveness,'' where, ''[s]o far as practicable * * * dirt or water is not directed to it from the wheels of the transport vehicle,'' and ''free of appurtenances and devices such as ladders, pipes, doors, and tarpaulins.''

''what constitutes a safe stopping distance depends on factors such as speed, weight of the load carried by the vehicle, traffic, road and weather conditions, * * *'' This is consistent with the guidelines for maintaining an adequate distance from other traffic, based on speed and the relative size and weight of the vehicles, in the Ohio Commercial Driver Handbook, p. 2–27 (Version 2.0).

A driver is trained to vary his distance from other vehicles based on speed and traffic conditions. Any driver will have difficulty maintaining a specified distance from other vehicles, or other vehicles carrying hazardous materials, especially in the absence of a uniform requirement. Without specific notice, as speed limit signs might provide, a driver may have difficulty recalling the requirement that applies to the specific situation, from among the variations that exist for explosives (500 feet from other explosives in the City but 300 feet under the Ohio Fire Code in other parts of Ohio), or other hazardous materials (300 feet), or when he might be in Montevallo, Alabama (150 feet). *See* IR–32, 55 FR at 36744. It is impractical to try to train drivers to cover many different situations, even if the City's separation distance requirements apply only when the ''other'' vehicle is placarded (although, by their terms, these requirements appear to apply in certain situations when the other vehicle carrying hazardous materials is not required to have placards).

If the City never actively enforces its separation distance requirements, drivers lack the ''reasonable notice'' that the City must provide of any local traffic control. *Id.,* 55 FR at 36745. Even with some information that these requirements exist, a total lack of enforcement fosters uncertainty as to their scope and subjects drivers to possible arbitrary enforcement actions, as stated by RSCC. Actual enforcement, even of a separation distance requirement that had ''limited enforceability'' as in IR–3, would provide drivers with some more specific understanding of how to comply with the requirement. A requirement that is never actively enforced can be, by its very nature, an obstacle to accomplishing and carrying out the Federal hazardous materials transportation law and the HMR. This sort of requirement frustrates the framework of the HMR that is designed to achieve the safe transportation of hazardous materials through specific rules for how hazardous materials are to be transported and specific prohibitions against certain practices.

Because the City's separation distance requirements in City Code 394.07(b) and 387.08(b) are not enforced and are incapable of being followed by drivers who lack full understanding of their intended scope and application, these requirements create an obstacle to accomplishing and carrying out the Federal hazardous material transportation law and the HMR. For these reasons, these requirements are preempted by 49 U.S.C. 5125(a)(2).

IV. Ruling

Federal hazardous material transportation law preempts:

1. Cleveland City Code section 394.06(b) prohibiting the transportation of hazardous materials in the Downtown Area between 7 a.m. and 6 p.m., except Saturday and Sunday, preempted with respect to radiopharmaceuticals only. There is insufficient information to find that this prohibition is preempted with respect to other hazardous materials.

2. Cleveland's uncodified requirements for a transporter of explosives to notify the Fire Prevention Bureau 24 hours in advance of any pick-up or delivery, to specify the route to be taken within the City, and to have a police escort if more than 250 pounds are transported.

3. Cleveland City Code sections 387.08(b) and 394.07(b) specifying separation distance requirements for vehicles transporting explosives or other hazardous materials.

V. Petition for Reconsideration/Judicial Review

In accordance with 49 CFR 107.211(a) and 397.223(a), any person aggrieved by this decision may file a petition for reconsideration within 20 days of publication of this decision in the **Federal Register**. Any party to this proceeding may seek review of this decision ''in an appropriate district court of the United States * * * not later than 60 days after the decision becomes final.'' 49 U.S.C. 5125(f).

This decision will become the final decision of RSPA and FMCSA 20 days after publication in the **Federal Register** if no petition for reconsideration is filed within that time. The filing of a petition for reconsideration is not a prerequisite to seeking judicial review of this decision under 49 U.S.C. 5125(f).

If a petition for reconsideration of this decision is filed within 20 days of publication in the **Federal Register**, the action by RSPA and FMCSA on the petition for reconsideration will be the final agency decision. 49 CFR 107.211(d), 397.223(d).

Issued in Washington, D.C. on May 29, 2001.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety, Research and Special Administration.

Julie Anna Cirillo,

Acting Deputy Administrator, Federal Motor Carrier Safety Administration.

[FR Doc. 01–13799 Filed 5–31–01; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Innovative Grants To Support Increased Seat Belt Use Rates

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

ACTION: Re-issuance of announcement of grants to support innovative and effective projects designed to increase seat belt use rates.

SUMMARY: On April 30, 2001, the National Highway Traffic Safety Administration (NHTSA) published an announcement of grants to support innovative and effective projects designed to increase seat belt use rates. After the announcement was published, the agency decided that it contained a number of requirements that might be burdensome to the grant applicants. Accordingly, the announcement published on April 30, 2001 is cancelled. That announcement has been revised and is being re-issued in its entirety in this notice.

In this notice, NHTSA announces the third year of a grant program under Section 1403 of the Transportation Equity Act for the 21st Century (TEA–21) to provide funding to States for innovative projects to increase seat belt use rates. Consistent with last year, the goal of this program is to increase seat belt use rates across the nation in order to reduce the deaths, injuries, and societal costs that result from motor vehicle crashes. However, unlike the first two years, when funds were determined and administered in a process similar to that of a contract, for this third year, selection for these Innovative Grants will be determined based on established criteria, and the distribution of funds will be administered in a fashion similar to other highway safety grants, including use of the Grant Tracking System (GTS). This notice solicits applications from the States, the District of Columbia and Puerto Rico, through their Governors' Representatives for Highway Safety, for funds to be made available in fiscal year

(FY) 2002. Detailed application instructions are provided in the Application Contents and Grant Criteria section of this notice. The Section 157 Innovative Grants will be awarded to States that comply with the criteria set out in the Application Contents and Grant Criteria Section of this notice.

DATES: Applications must be received by the appropriate NHTSA Regional Office on or before August 1, 2001.

ADDRESSES: Each State must submit its application to the appropriate NHTSA Regional Office, to the attention of the Regional Administrator, on or before Wednesday, August 1, 2001. Addresses of the ten Regional Offices are listed in Appendix A.

FOR FURTHER INFORMATION CONTACT: Questions relating to this grant program should be directed to Philip Gulak, Occupant Protection Division (NTS–12), Office of Traffic Injury Control Programs, NHTSA, 400 Seventh Street, S.W., Room 5118, Washington, DC 20590, by e-mail at pgulak@nhtsa.dot.gov, or by phone at (202) 366–2725. For legal issues, contact Ms. Heidi L. Coleman, Office of Chief Counsel, NCC–30, NHTSA, 400 Seventh Street, S.W., Room 5118, Washington, DC 20590, by phone at (202) 366–1834. Interested applicants are advised that no separate application package exists beyond the contents of this announcement.

SUPPLEMENTARY INFORMATION:

Background

The Transportation Equity Act for the 21st Century (TEA–21), Pub. L. 105–178, was signed into law on June 9, 1998. Section 1403 of TEA–21 contained a safety incentive grant program regarding seat belt usage rates in the States. Under this program, funds are allocated each fiscal year from 1999 until 2003 to States that exceed the national average seat belt use rate or that improve their State seat belt use rate, based on certain required determinations and findings. Section 1403 provided that, beginning in FY 2000, any funds remaining unallocated in a fiscal year after the determinations and findings related to seat belt use rates have been made are to be used to ''make allocations to States to carry out innovative projects to promote increased seat belt use rates.'' Today's notice solicits applications for funds that will become available in FY 2002 under this provision.

TEA–21 imposes several requirements under the innovative projects funding provision. Specifically, to be eligible to receive an allocation, a State must develop a plan for innovative projects to promote increased seat belt use rates statewide and submit the plan to the Secretary of Transportation (by delegation, to NHTSA). NHTSA was directed to establish criteria governing the selection of State plans that are to receive allocations and was further directed to ''ensure, to the maximum extent practicable, demographic and geographic diversity and a diversity of seat belt use rates among the States selected for allocations.'' Finally, subject to the availability of funds, TEA–21 provides that the amount of each grant under a State plan is to be not less than $100,000.

In the following sections, the Agency describes the application and award procedures for receipt of funds under this provision, including requirements related to the contents of a State's plan for innovative projects and the criteria the agency will use to determine whether a State will receive an award. To assist the States in formulating plans that meet these criteria, we have provided (in Appendix B) a discussion of recent strategies which have been effective in increasing seat belt use and the ways in which States might meet the criteria for an award. Clearly, efforts undertaken over the past few years have not resulted in major increases in seat belt usage rates in several States. In some cases, it appears that States have reached plateaus, beyond which additional increases will be difficult to achieve. For States with usage rates lower than 70 percent, the question remains as to why past efforts have not been more effective in increasing usage. For States with usage rates of 70 percent or above, a different problem exists. Here, additional gains will be relatively more difficult and will require more powerful interventions than have been used in the past.

When usage rates do not increase following the implementation of a seat belt program, it is difficult for a State to determine if the lack of impact is the result of strategies which have little potential for change or if it is the result of strategies that have not been implemented with sufficient strength to realize their potential. Objective evaluations that measure both public awareness and changes in seat belt usage are essential for a State to determine which programs or program components are having an impact, and to provide an opportunity to enhance program strategies. Thus, all States receiving grants are required to conduct at least a basic evaluation of the impact of their programs on public awareness and seat belt use. An adequate plan for evaluation must be submitted as part of the State's application. However, NHTSA acknowledges that more in-depth evaluation will be necessary to accurately assess which program components and which levels of intensity are effective in increasing seat belt use. The level and scope of effort required for such in-depth evaluations may be beyond the ability, resources or perceived need of some States. Thus, in this solicitation, States are not required to, but may propose a plan for more in-depth evaluation, for which additional funds will be awarded to a limited number of States. NHTSA will award up to $4 million to fund the in-depth evaluations. Appendix C discusses issues relating to in-depth evaluations.

Recent NHTSA surveys show that only about 30 percent of the public across the nation are aware of national, state, or community efforts to increase seat belt use. However, States which have recently experienced significant increases in seat belt usage and have evaluated their efforts (e.g., Michigan and South Carolina), have shown that more than 70 percent of the public were aware of the program efforts (including law changes) which contributed to such changes. These evaluations suggest that the lack of public awareness may be a major reason why usage rates in many States have not been increasing. In States like Georgia, Maryland, Oklahoma, Michigan, Alabama, and New Jersey, recent primary law legislation has been a key factor in increasing public awareness. In other States, like New York, North Carolina and South Carolina, enforcement efforts were publicized to a sufficient degree to result in a high level of public awareness.

Objective of This Grant Program

The objective of this grant program is to increase State seat belt use rates, for both adults and children, by supporting the implementation of innovative projects that build upon strategies known to be effective in increasing seat belt use rates. Because one of the best ways to ensure that children develop the habit of buckling up is for parents to properly restrain them in child safety seats, efforts to increase the use of child safety seats, in addition to seat belts, may be included among the innovative efforts in a State's plan. However, efforts to increase seat belt use rates must remain the focus of the State's plan. (For a discussion of Strategies that have proven effective in increasing seat belt use, see Appendix B.)

To be considered for an award under this program in FY 2002, the State's innovative project plan must be based on a core component of highly visible enforcement of its seat belt use law or

on a non-enforcement approach that has significant and documented potential for increasing the seat belt use rate statewide. If a State proposes a non-enforcement approach, the application must include an acceptable, preferably research-based, rationale describing its potential for impact. The application also must describe a media program designed to make the public aware of the proposed intervention. In addition, the State's proposed efforts must be statewide. If a State is already pursuing a significant and visible enforcement effort, the innovative aspects of the plan must detail components that support, expand, complement, and evaluate the existing enforcement effort. These essential and coordinated elements of the project plan have been effective in increasing seat belt use.

States submitting a proposal designed to increase seat belt use in only a limited number of jurisdictions, one that lacks a strong enforcement or credible non-enforcement effort, or one that does not include an evaluation component designed to measure both public awareness and changes in seat belt usage will be rejected in the evaluation process.

A State may demonstrate innovation in its enforcement efforts in a number of ways. If a State is not currently engaged in any form of highly visible enforcement of its occupant protection laws, implementation of such a program, in and of itself, would be innovative to that State. Finding new and more effective ways to make the public aware of the enforcement effort (e.g., a paid media effort) would demonstrate innovation. Additionally, innovation may be demonstrated by using new methods for gaining essential support (e.g., of the Governor or other key officials); by establishing statewide coordination groups to plan, implement and monitor the enforcement, media, outreach, or evaluation efforts; by implementing statewide enforcement training or orientation programs; or by proposing comprehensive ways to determine the impact of the program on diverse and low use groups. For States that already are engaged in substantial enforcement efforts, innovation can be demonstrated by expanding these efforts. This might include finding more effective ways to reach rural, urban, or diverse groups with strategies designed to address low seat belt use among those groups. States that have upgraded their laws recently to allow for primary/standard enforcement may wish to initiate innovative ways to implement, enforce, and publicize their newly enacted law. For States with secondary enforcement laws, where a motorist must be stopped for another offense before being cited for failure to buckle up, innovation may be demonstrated by integrating the enforcement of the seat belt law with enforcement of other traffic safety laws (e.g., impaired driving or speed limit). Many opportunities for innovation exist, regardless of the State's current seat belt use rate or its ongoing efforts to increase it.

Specific examples of various innovative activities that can be used in support of a core component of enforcement include:

—Expanding participation in the semi-annual national seat belt enforcement mobilizations (i.e., Operation ABC conducted in May and November);
—Implementing efforts to train, motivate, and recognize law enforcement officers for participation in the program;
—Implementing a training or orientation program for prosecutors and judges to make them aware of the program and of the importance of consistently prosecuting and adjudicating occupant protection law violations;
—Mounting a highly visible program to implement newly enacted legislation that upgrades the State's seat belt or child passenger safety law;
—Initiating or expanding public information and education programs designed to complement newly upgraded legislation and/or enhanced enforcement efforts;
—Strengthening public information efforts by adding a paid advertising component to support earned (i.e., news) and public service media efforts;
—Adopting a more focused message that brings attention to the ongoing enforcement effort (e.g., adopting a ''Click It or Ticket'' campaign message);
—Establishing new partnerships and coalitions to support ongoing implementation of legislation or enforcement efforts (e.g., health care and medical groups, partnerships with diverse groups, businesses and employers);
—Initiating or expanding public awareness and outreach efforts to reach specific populations that have low seat belt use (e.g., part-time users; parents of children 0–15 years old; minority populations, including Native Americans; rural communities; males 15–24 years old; occupants of light trucks and sport utility vehicles, etc.);
—Initiating or expanding standardized child passenger safety training of police officers and/or child passenger safety checks and/or clinics across broad geographical areas (e.g., statewide, in major metropolitan areas, and/or in rural areas of the State);
—Initiating or expanding enforcement of other traffic laws (e.g., impaired driving laws) as a means for implementing highly visible enforcement of seat belt use laws.

Self-Evaluations of Programs, Management and Resources

Meaningful and timely self-evaluations of each State's innovative programs, management, and associated resources are essential to improving the effectiveness of programs supported by this grant program. On an annual basis, grantees and NHTSA will provide a complete description of the program activities that were carried out (particularly enforcement, paid media and enforcement-related messaging) and of the effectiveness (or lack of effectiveness) of its overall program in creating public awareness and in increasing seat belt use. States may apply and qualify for additional funds, which can be used to conduct more in-depth evaluations in order to better determine the impact of the overall program or the contribution of specific program elements (e.g., individual enforcement waves, paid media, earned media and incentives). Such in-depth evaluation would be desirable for any State proposing the use of paid media in its program, particularly if $100,000 or more is to be spent for that purpose.

Availability of Funds and Period of Support

The efforts solicited in this announcement will be supported through the award of grants to a number of States, on the basis of the Grant Criteria identified subsequently in this notice. The number of grants awarded will depend upon the number of applications that meet the requirements of this notice. The amount of the awards (for other than the optional in-depth evaluation activities) available in FY 2002, will be based upon the formula described below. However, the minimum amount of an individual grant award to a State will be no less than $400,000, subject to the availability of funds. The $400,000 minimum has been derived based on experience gained over the first two years of this Innovative Grant program, and reflects NHTSA's best judgment about the amount of resources needed to implement effective statewide seat belt campaigns that include enforcement, media and a basic level of evaluation. The amounts to be awarded for in-depth evaluation activities will be determined

based on each applicant's budget, as described below.

In FY 2001, forty-three Innovative Grants were awarded and grants ranged from $204,000 to $2.9 million. At this time, neither the exact amount of funds available nor the number of qualifying State applications can be determined. There is no assurance that the number of grant awards in FY 2002 will be the same or similar to the number of awards in FY 2000 or FY 2001, nor is there any assurance that those States that received awards in FY 2000 and FY 2001 will receive awards in FY 2002. There is no cost-sharing requirement under this program. The planned period for grant activity under this program will be a total of 15 months, with 12 months of plan implementation, and three months for evaluation and preparation of the annual report. Any funds remaining at the end of that period can be carried forward to the next year.

In the past two years, some States have expressed concern about the time taken to evaluate the proposals and arrive at award decisions. This year's proposals will be reviewed on the basis of whether or not the State's application complies with all of the required Grant Criteria specified in this **Federal Register** notice. Only applicants who comply with all of the required elements will be considered for award. Once it is determined by the evaluation committee that an applicant has met all of the criteria and the State has satisfied any additional clarification questions about the proposal, a State will qualify for an award. The dollar amount of these awards (not including funds for in-depth evaluation) will be based on the same formula that applies to the annual award for Section 402 funds (i.e., 75% based on population and 25% on roadway miles), subject to adjustments needed to ensure that: (1) Each qualifying State is awarded at least $400,000; and (2) up to $4 million will be used to fund in-depth evaluations. Appendix D shows the estimated amount that would be awarded to each State, not including funds for in-depth evaluation, based on current projections of available funds for FY 2002, assuming that all fifty-two eligible jurisdictions apply and qualify for an award, and assuming that a total of $4 million is used to fund in-depth evaluations.

Any State that qualifies for a grant and is interested in receiving additional funds to support an in-depth evaluation may apply for such funds by including in its application detailed information specified below under the heading Applications for Additional Funds to Conduct an In-depth Evaluation. These applications for additional funds will be reviewed and approved or disapproved on the basis of the scientific soundness of the approach to evaluation and on the reasonableness of the proposed budget for the in-depth evaluation. Please note that, if a State's request for additional funds for in-depth evaluation is rejected, the State may still qualify for a grant, provided that an acceptable basic evaluation plan is included in the application. Final grant amounts will be determined so that all available funds will be awarded. Subject to the availability of funds, NHTSA estimates that the award of section 157 Innovative Grants for FY 2002 will occur during November 2001.

Allowable Uses of Federal Funds

In FY 2002, the section 157 Innovative Grants will be administered in a fashion similar to other highway safety grants. Funds will be tracked through the GTS. Funds provided to a State under this grant program shall be used to carry out the activities described in the State's application for which the grant is awarded. In addition, allowable uses of Federal funds shall be governed by the relevant allowable cost section and cost principles referenced in 49 CFR Part 18—Department of Transportation Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Eligibility Requirements

Only the 50 States, the District of Columbia and Puerto Rico, through their Governors' Representatives for Highway Safety, will be considered eligible to receive funding under this grant program.

Application Procedures

Each applicant must submit one original and two copies of the application package to the appropriate NHTSA Regional Office (see Appendix A) to the attention of the Regional Administrator.

Applications must be typed on one side of the page only and adhere to the requirements of the Application Contents and Grant Criteria Section below. Appendix E provides a checklist to facilitate the preparation of the proposals. Only application packages submitted by a State's Governor's Representative for Highway Safety and received in the appropriate Regional Office on or before August 1, 2001, will be considered.

Application Contents and Grant Criteria

To be eligible for a grant under the section 157 (b) statute, a State must include a description and/or documentation that all of the following elements are included, and will be implemented, as part of the State's section 157 (b) grant program. This year, each State's application must include the following information.

1. Introduction

A brief description of the State's geographic and demographic population distribution, and any other unique characteristics (e.g., how the seat belt use rate varies within the State by vehicle type and by ethnic populations) that are relevant to the State's plan to increase seat belt use. The introduction should also include a problem identification statement that describes the State's usage rates.

2. Certifications

A signed statement by the State that: (i) It will use the funds awarded under this grant program exclusively to implement a statewide seat belt program in accordance with the requirements of Section 157(b) of P.L. 105–178 (TEA–21); (ii) It will administer the funds in accordance with 49 CFR Part 18 and OMB Circular A–87; (iii) It will provide to the NHTSA Regional Administrator no later than 15 months after the grant award a report of activities carried out with grant funds and accomplishments to date; and (iv) The State will comply with all applicable laws and regulations, financial and programmatic requirements.

3. Program Elements

(a) Seat Belt Use Goals—Describe the State's current goal for seat belt use and its intent to increase this goal based on this application.

(b) Strategies to Increase Seat Belt Use—Describe the State's plan for increasing seat belt use statewide by choosing one or more of the following strategies:

(1) Conduct two or more high-visibility seat belt enforcement campaigns, which include at least 7 days of aggressive enforcement during each campaign and which should be preceded and accompanied by a highly visible media campaign. These campaigns should complement and support the BUA/Operation ABC National Mobilizations (conducted in May and November) to the maximum extent possible;

(2) Conduct continuous high-visibility seat belt enforcement year round (i.e., 7 days week/24 hours per day model); or

(3) Implement a non-enforcement program that has the potential to reach the safety belt use goals as stated above in Program Element 3a. If a State selects this option, it must provide an acceptable (preferably research-based) rationale for the proposed approach (e.g., a summary of evidence of effectiveness), regarding the potential of the non-enforcement program to increase the State's seat belt use rate. Strategies could involve (but are not limited to) new and innovative messages for high risk groups, new delivery mechanisms for seat belt programs, new implementation partners, or new or unusual approaches to seat belt enforcement. States opting to take a non-enforcement approach should lay out an acceptable rational foundation for why they believe that the approach will work, including a detailed problem identification component. Research-based approaches are preferred.

(c) Statewide Program—If the State proposes an enforcement-based strategy to increase seat belt use, the application must describe/demonstrate a commitment from the State Patrol/Police (if any), and local law enforcement agencies that must serve the majority of the population, to participate actively in highly visible seat belt enforcement efforts consisting of checkpoints, saturation patrols or other enforcement operations. For example, describe the State's preliminary enforcement plan, existing enforcement participants representing State and local enforcement agencies, or letters of commitment. If the State proposes a non-enforcement strategy to increase seat belt use, the application must describe/demonstrate a commitment to implement the strategy in communities serving the majority of the population. For example, describe the State's preliminary implementation plan, existing communities participating in the non-enforcement strategy, or letters of commitment.

(d) Personnel—Describe management and staffing adequate to implement the Strategies to Increase Seat Belt Use, that includes planning and coordination of enforcement, media/public information and evaluation.

(e) Public Information and Education Strategy—Describe the State's plan for a statewide public information and education (PI&E) strategy to focus public attention on the enforcement (or other proposed) effort. A combination of paid, public service and earned media may be considered as meeting this requirement for the overall PI&E strategy.

4. Evaluation Elements

In its application, the State must describe how, where and when it will conduct a basic evaluation of the activities supported by this grant. It must also include a description of how the evaluation effort will be implemented and managed.

The basic evaluation must, at a minimum, include at least one statewide public awareness survey, in addition to the State's annual observational survey of statewide seat belt use.

NHTSA recognizes that many States already have comprehensive efforts underway to evaluate their total occupant protection programs. NHTSA encourages the State to integrate the evaluation of this program with those broader efforts. NHTSA is prepared to offer technical assistance for evaluation, including providing survey protocols and instruments to any State upon request and, to the extent possible, data analysis support.

5. Budget for the Innovative Program With Basic Evaluation:

Each State's application must include a budget totaling the amount specified for that State in Appendix D. A budget that exceeds the specified amount for a program with only basic evaluation will not be accepted. The budget shall include the following categories:

a. *Strategies to Increase Seat Belt Use*—Estimate the funds devoted to the proposed strategy (e.g., sub-grants to law enforcement agencies, mini-grants, consultants or other strategies).

b. *Personnel*—Include the estimated total cost for personnel.

c. *Public Information and Education*—Estimate the funds devoted to each key element of the PI&E component, which may or may not include the following:

—Public relations consultants;
—Campaign events;
—Paid media;
—Materials and incentives; and
—Other PI&E costs.

d. *Basic Evaluation*—Include the estimated cost for conducting a basic evaluation (i.e., at least one measurement of statewide public awareness of the program during the period of performance).

Applications for Additional Funds To Conduct an In-Depth Evaluation

A State wishing to apply for additional funds to conduct a more in-depth evaluation of its grant activities must prepare a more detailed evaluation plan and budget and submit this plan and budget along with the plan and budget for a program including only a basic evaluation. At a minimum, this optional in-depth evaluation plan must include measurement of the impact of the program on public awareness and on seat belt use on at least three occasions, as the program progresses through its 12 month period of performance. A more complete evaluation capable of estimating the impact of specific program components should measure public awareness and seat belt use at various phases of multi-phased programs. Such an approach would be essential for any State proposing to include a significant paid media component in a multi-wave program strategy. States may submit more than one in-depth evaluation plan, with a budget for each alternative plan. However, no more than one in-depth evaluation plan will be funded for any one State. Appendix C outlines some issues relevant to in-depth evaluation. Interested States are encouraged to adapt these ideas, evaluation tools and guidelines to their own unique programs and situations.

Reporting Requirements and Deliverables

Each successful applicant will be responsible for providing the following reports:

Quarterly Reports—The quarterly reports should include a summary of enforcement and other activities and accomplishments for the preceding period, significant problems encountered or anticipated, a brief itemization of expenditures made during this 3 month time period, and proposed activities for the upcoming reporting period. Please note: Many States will be continuing to spend funds awarded during the first two years of this Section 157 Innovative Grant program after these third year funds are awarded. NHTSA does not intend nor desire that States submit separate Quarterly Reports for the various funding years. Activities carried out during a reporting period under all three years of funding should be documented in the same report. However, the State should include a tabulation of how much funds were expended during the reporting period from each year. Also, during the first two years, a number of States modified their grants to change from Quarterly to Monthly reporting. Those States should continue to submit Monthly Reports during the third year, at least until all first year and second year funds have been spent. Any decisions and actions required in the upcoming program period should be included in the report.

Final Report—A Final Report that includes a summary of the impact of the year-long program. It should include a complete description of the innovative activities conducted, including the involvement of partners; overall program implementation; evaluation methodology and findings from the program evaluation, including all measurements of public awareness and seat belt use. These measurements must include at least one measure of statewide public awareness and the measure of statewide seat belt use. In terms of information transfer, it is important to know what worked and what did not work, under what circumstances, and what can be done to avoid potential problems in future projects. The grantee shall submit three copies of the Final Report to the Regional Office within fifteen months following grant award.

Application Review Procedures

All applications will be reviewed to ensure that the application contains all of the information required by the Application Contents and Grant Criteria section of the **Federal Register** notice. This evaluation process may include submission of technical or program questions to the applicants, to determine eligibility. Once it has been determined which applicants have met the grant criteria, NHTSA will determine the final award amounts based on the amount of remaining funds from the Section 157 Incentive Grant program, the formula as described under the Availability of Funds and Period of Support Section and the budgets for approved in-depth evaluation plans. It is anticipated that awards will be made in November 2001.

Marilena Amoni,

Acting Associate Administrator for Traffic Safety Programs.

Appendix A—NHTSA Regional Offices

REGION I (CT, MA, ME, NH, RI, VT), Volpe National Transportation Systems Center 55 Broadway, Kendall Square, Code 903, Cambridge, MA 02142

REGION II (NJ, NY, PR), 222 Mamaroneck Avenue, Suite 204, White Plains, NY 10605

REGION III (DE, DC, MD, PA, VA, WV), 10 South Howard Street, Suite 4000, Baltimore, MD 21201

REGION IV (AL, FL, GA, KY, MS, NC, SC, TN), Atlanta Federal Center, 61 Forsyth Street, SW., Suite 17T30, Atlanta, GA 30303

REGION V (IL, IN, MI, MN, OH, WI), 19900 Governors Drive, Suite 201, Olympia Fields, IL 60461

REGION VI (AR, LA, NM, OK, TX), 819 Taylor Street, Room 8A38, Fort Worth, TX 76102–6177

REGION VII (IA, KS, MO, NE), 901 Locust Street, Room 466, Kansas City, MO 64106

REGION VIII (CO, MT, ND, SD, UT, WY), 555 Zang Street, Room 430, Lakewood, CO 80228

REGION IX (AZ, CA, HI, NV), 201 Mission Street, Suite 2230, San Francisco, CA 94105

REGION X (AK, ID, OR, WA), 3140 Jackson Federal Building, 915 Second Avenue, Seattle, WA 98174

Appendix B—Strategies That Have Proven Effective in Increasing Seat Belt Use

In previous years, **Federal Register** notices for Section 157 Innovative Grants provided a history of programs that have been documented to increase seat belt usage in the United States and Canada over the past two decades (for copies of those **Federal Register** notices, contact the person listed below). In the summary of the history of seat belt programs, the Agency explained that nearly every example of significant increases in statewide usage rates since 1984 resulted from: (a) Enactment and implementation of a State seat belt usage law; (b) a legislative upgrade from a secondary to a primary/standard enforcement law; or (c) a highly visible effort to enforce seat belt laws.

The intent of the section 157 Innovative Grant legislation was to provide support for innovative programs that would be effective in increasing seat belt usage rates in the States. Since all States but one already have enacted seat belt use laws, and since the intent of this legislation was not to support lobbying efforts to obtain primary enforcement laws, the focus of this grant program has been on innovative and effective ways to develop, implement, support, and evaluate highly visible enforcement programs.

Again, aside from the implementation of seat belt use laws, these programs are the only efforts that have consistently been shown to be effective in increasing seat belt usage rates statewide (e.g., as in the national 70% by '92 program and in specific statewide efforts undertaken in North Carolina, Georgia, Maryland, New York, Michigan, and several other States). These documented successes generally have involved Special Traffic Enforcement Programs (STEPs), in which waves of enforcement and media are carefully scheduled to gain maximum public awareness. The potential effectiveness of these STEP programs recently has been enhanced as a result of the ability of States to use paid media, in addition to their use of news stories and public service announcements, to increase public awareness of the enforcement efforts. Their potential for success has been increased also by the national enforcement mobilizations (i.e., Operation ABC) conducted twice annually by the private-sector funded Air Bag & Seat Belt Safety Campaign (AB&SBSC), in cooperation with NHTSA. These mobilizations involve extensive efforts to contact and obtain the participation of State and local law enforcement agencies in all of the States and to initiate focused media efforts in major markets to make the public aware of the enforcement mobilizations. This Innovative Grant program greatly increases the potential effectiveness of the national enforcement mobilizations and the overall Buckle Up America program.

Since 1999, there have been several notable successes, in which large States, such as Michigan and New York, have increased seat belt usage significantly. In Michigan, the increases resulted from a combination of enacting a primary seat belt usage law and implementing a highly visible program to enforce that law. In New York, which already had a primary seat belt law, significant increases in seat belt usage resulted from a highly visible statewide enforcement program, funded in part by the AB&SBSC and coordinated by the New York State Police. Maryland enacted a primary seat belt law and, following a two month Chiefs' Challenge enforcement program, experienced a major increase in seat belt use. Oklahoma enacted a primary seat belt law and experienced a modest increase in seat belt usage. Later, a paid media program resulted in an additional increase. Florida, which has introduced but failed to enact primary seat belt legislation, has enhanced its statewide seat belt enforcement program and its use of law enforcement liaisons (LELs). As a result, Florida recently experienced a five percentage point increase in usage statewide. These examples represent some of the most significant recent increases in usage in the States and they represent a mixture of private sector, Section 402, 405, 2003(b) and Section 157 Incentive and Innovative Grants funded efforts.

One of the clearest examples of a fully-implemented, innovative and effective statewide program is the South Carolina ''Click It or Ticket'' program, implemented in November 2000. The term ''fully implemented'' refers to the fact that the combination of enforcement and media efforts was sufficient to make 75–80 percent of the public aware of the program. The South Carolina program included several innovative and effective components, including statewide management of more than 3,000 enforcement events (i.e., checkpoints) over a two-week period, use of an explicit enforcement message (i.e., Click It or Ticket) delivered by means of a combination of earned and paid media, full coordination with the Operation ABC mobilization periods, a diversity outreach program that included reaching African Americans via churches and schools to make them aware of the enforcement effort, and a comprehensive evaluation program, which included measurement of both the public awareness of the program and changes in observed seat belt usage at each phase of the program (e.g., during the kickoff and news media phase, the paid media phase and the enforcement phase), as well as before and after the program was implemented. As a result of this effort, South Carolina was able to document a nine percentage point increase in seat belt usage statewide. Further, it was able to show that the paid media effort clearly contributed significantly to public awareness and changes in seat belt usage. The State was able to document the extent to which groups with traditionally lower seat belt usage rates (e.g., male, rural, and African American motorists) were impacted.

More than a dozen States are using Section 157 Innovative Grant funds, each in slightly different ways, to fully implement and evaluate similar STEP programs during the May 2001 mobilization period. These States established statewide coordinating committees for enforcement, media, outreach and evaluation efforts; made selective use of paid media efforts; used unambiguous enforcement messages; found innovative ways to reach high risk groups such as young males and occupants of light trucks to make them aware of the planned enforcement activity; and implemented comprehensive evaluation efforts, similar to those used in the South Carolina program, to measure impact at each phase of the program. This evaluation model consisted of statewide observational and telephone surveys conducted before and after the program, as well as mini-observational surveys and motorist surveys during each phase of the program. NHTSA will provide, upon request, protocols and templates for both the telephone surveys and the motorist surveys, as well as descriptions of how these surveys are being used in conjunction with the State's approved observational surveys to evaluate Section 157 Innovative Grant program efforts. Interested States should contact Philip Gulak, Occupant Protection Division (NTS–12), Office of Traffic Injury Control Programs, NHTSA, 400 7th Street, S.W., Room 5118, Washington, DC 20590, by e-mail at pgulak@nhtsa.dot.gov, or by phone at (202) 366–2725, for this information.

The dramatic recent successes in the above mentioned States add further credibility to NHTSA' position that highly visible enforcement is an important foundation upon which any effective program funded under Section 157 should be based. A recent review by an independent Task Force supported by the Centers for Disease Control and Prevention provides even more credibility for the effectiveness of high visibility enforcement efforts (as well as for primary seat belt laws). The recent examples of States that have ''fully-implemented'' enforcement, conducted public information efforts designed to reach 75–80 percent of the populace, and selectively used paid media to make the public aware of the enforcement activity are very encouraging. Also encouraging are the recent efforts in some States to develop comprehensive evaluation efforts, which measure changes in both public awareness and seat belt use at various stages of the program.

Appendix C—Guidelines Relating to Proposed In-Depth Evaluation

The fundamental objectives for in-depth evaluation are to accurately measure shoulder belt use by drivers and front seat outboard passengers in passenger motor vehicles and to measure public awareness of the intervention program at various stages throughout the program. Many States may also wish to determine the public's attitude toward the program as it progresses through its various phases.

Nearly every State has a seat belt observational survey protocol that conforms to NHTSA's ''Uniform Criteria for State Observational Surveys of Seat Belt Use,'' published in the **Federal Register** on Tuesday, March 14, 2000. That protocol provides a useful foundation for designing the observational survey component of an in-depth evaluation. Perhaps the most rigorous option would be for the State to conduct its full, official statewide survey each time a measurement of seat belt use is taken. However, this would likely be far too expensive for most States to do. An acceptable alternative would be to conduct mini-surveys for some or all of the measurements of seat belt use throughout the program. A mini-survey consists of observations taken at a sub-sample of the sites employed in the full, official statewide survey. The sub-sample of sites should be selected in a way that provides coverage of important segments of the State (e.g., rural and urban, racial and ethnic diversity), as well as populations or geographical areas targeted by the intervention. This same sub-sample of sites should be used for each mini-survey and observations should be conducted following specified procedures, which are the same each time the mini-survey is administered. NHTSA has used such mini-surveys in past evaluations and will, upon request, provide technical assistance to States in selecting appropriate sub-samples. However, it is ultimately up to the States to determine how many and which sites should be used for the mini-surveys. The value of using a sub-sample of the State's official survey for such measurements is that this sub-sample will continue to be part of the annual surveys and, thus, seat belt use at these same sites can be tracked over time.

To measure public awareness (and attitudes), NHTSA recommends using either telephone surveys (statewide, or for targeted populations) or motorist surveys conducted at motor vehicle licensing centers, or a combination of the two. Motorist surveys are generally less expensive than telephone surveys but they are also less representative of the entire state. NHTSA has developed both a protocol and a survey instrument for each type of awareness and attitude survey. NHTSA will, upon request, provide these instruments to any State wishing to use them.

The State may propose alternative strategies for measuring seat belt use or public awareness, if it feels that such strategies would adequately meet the requirements of a scientific evaluation.

NHTSA anticipates that most applicants for grants in FY 2002 will submit program strategies in which the core intervention (e.g., intensified enforcement) is applied in several distinct phases over the course of the year. For example, on two or more occasions during the 12-month period of performance, a State would conduct an enforcement wave, including a kickoff or earned media phase followed by the enforcement phase. In some States, it is anticipated that there will also be a paid media phase, usually implemented between the earned media and enforcement phases. At a minimum, an in-depth evaluation of a total program would measure seat belt use and public awareness (and attitudes) on at least three occasions, including before the first intervention or wave, midway through the 12-month performance period, and after the last intervention or wave. Such a design would not permit the State to determine how much a particular component or set of components of a wave (i.e., the earned media, the paid media or the enforcement) contributed to public awareness or seat belt use, but it would measure the contribution of the program as a whole. And, such an approach would be superior to the basic evaluation that is required for this grant program, (i.e., where only one seat belt use and public awareness measurement is taken over the course of a year). A more complete evaluation design would apply multiple measurements of seat belt use and public awareness during each unique phase of each wave, as well as before and after each wave. In this way, the contributions of at least some of the individual components could be assessed. This would be extremely important for a State employing a paid media component. Such an approach would result in a survey schedule as follows:

Pre-wave	Earned media	Paid media	Enforcement	Post-wave
Surveys	Surveys	Surveys	Surveys	Surveys

Such a design would require considerably more effort and resources, but it also would enable the State to estimate how much selected components of its program contributed to changes in public awareness and seat belt use.

NHTSA will carefully consider all proposed approaches to more in-depth evaluation, ranging from measurements taken at three points during the year to a more comprehensive approach designed to measure change during specific phases of the program. States may also propose approaches to in-depth evaluation that differ from those described in this Appendix. In addition, States may submit two or more alternative plans for in-depth evaluation, with a corresponding budget for each. However, no more than one in-depth evaluation plan will be funded for any one State.

Appendix D—FY2002 State Estimates for Section 157 Innovative Awards*

State	FY 2002 estimates
Alabama	$735,000
Alaska	400,000
Arizona	585,000
Arkansas	535,000

State	FY 2002 estimates	State	FY 2002 estimates	State	FY 2002 estimates
California	4,045,000	Michigan	1,440,000	South Carolina	590,000
Colorado	620,000	Minnesota	870,000	South Dakota	400,000
Connecticut	450,000	Mississippi	500,000	Tennessee	815,000
Delaware	400,000	Missouri	940,000	Texas	2,835,000
District of Columbia	400,000	Montana	400,000	Utah	400,000
Florida	1,870,000	Nebraska	430,000	Vermont	400,000
Georgia	1,080,000	Nevada	400,000	Virginia	935,000
Hawaii	400,000	New Hampshire	400,000	Washington	800,000
Idaho	400,000	New Jersey	1,030,000	West Virginia	400,000
Illinois	1,745,000	New Mexico	400,000	Wisconsin	880,000
Indiana	915,000	New York	2,475,000	Wyoming	400,000
Iowa	625,000	North Carolina	1,060,000	Puerto Rico	465,000
Kansas	645,000	North Dakota	400,000		
Kentucky	640,000	Ohio	1,620,000		
Louisiana	670,000	Oklahoma	670,000		
Maine	400,000	Oregon	520,000		
Maryland	660,000	Pennsylvania	1,750,000		
Massachusetts	820,000	Rhode Island	400,000		

*The number of States receiving awards will depend upon the number of applications that meet the requirements of this **Federal Register** notice. Final grant amounts will be adjusted so that all available funds will be awarded.

Appendix E—Application Checklist

State	State contact person
Check Off:	Application and Grant Criteria:
1	Introduction:
a. ____	a. Brief description of geographic and demographic population distribution.
b. ____	b. Any unique population characteristics (optional).
c. ____	c. Problem identification statement describing State's seat belt use.
2	Certifications—A signed statement that the State will:
	(i) use the funds awarded under this grant program exclusively to implement an innovative program in accordance with the requirements of Section 157(b) of P.L. 105–178 (TEA–21).
	(ii) administer the funds in accordance with 49 CFR Part 18 and OMB Circular A–87.
	(iii) provide to the NHTSA Regional Administrator no later than 15 months after grant award a report of activities carried out with grant funds and accomplishments to date.
	(iv) comply with all applicable laws and regulations, financial and programmatic requirements.
3	Program Elements:
a. ____	a. Goal: Description of State's current goal for seat belt use and intent to increase the goal based on this application.
b. ____	b. Strategies to Increase Seat Belt Use: Description of the State's plan for increasing seat belt use statewide employing one or more of the following strategies: (1) at least two 4-week high-visibility enforcement campaigns; (2) continuous high-visibility seat belt enforcement year round; or (3) a non-enforcement program that has the potential to reach the safety belt use goals.
c. ____	c. (if applicable) Rationale: Discussion demonstrating the potential of the proposed non-enforcement program to increase the State's seat belt use rate.
d. ____	d. Statewide Program:
	• If the program is enforcement-based: description or demonstration of commitment from the State Patrol/Police (if any), and local law enforcement agencies that serve the majority of the State's population.
	• If the program is non-enforcement based: description or demonstration of commitment from communities serving the majority of the State's population.
e. ____	e. Personnel: Description of management and staffing adequate to implement the program which includes Strategies to Increase Seat Belt Use, Media, Budget and Evaluation.
f. ____	f. Public Information and Education Strategy: Description of the State's plan for a statewide public information and education strategy to focus public attention on the proposed effort.
4	Basic Evaluation Elements:
a. ____	a. Measurement: Description of how, where and when statewide public awareness of the program and statewide seat belt usage will be measured (must be at least once during the project period).
5	Budget:
a. ____	a. Strategies to Increase Belt Use: Estimate of the funds devoted to the proposed strategy (e.g., sub-grants to law enforcement, mini-grants, consultants, etc.).
b. ____	b. Personnel: Estimate of the total cost for personnel.
c. ____	c. Public Information and Education: Estimate of the funds to be devoted to media and advertising (e.g., public relations consultants, campaigns, paid media, materials, incentives, etc.).
d. ____	d. Basic Evaluation: Estimate of the cost for conducting the basic evaluation (minimum of one measurement of public awareness).
e. ____	e. Total: Verification that budget totals amount specified in Appendix D.

Optional In-Depth Evaluation Application Checklist

	In-Depth Evaluation Elements:

OPTIONAL IN-DEPTH EVALUATION APPLICATION CHECKLIST—Continued

a. ____	a. Measurement: Description of how, where and when statewide public awareness of the program and statewide seat belt usage will be measured (must be at least three times during the project period), as well as any other measures that will be taken.
b. ____	b. Management and Implementation: Description of how the evaluation effort will be implemented, managed and documented.
	Budget for the In-Depth Evaluation:
c. ____	c. Cost of observational surveys.
d. ____	d. Cost of telephone surveys.
e. ____	e. Cost of other surveys (if applicable).
f. ____	f. Cost of other data collection activities (if applicable).
g. ____	g. Cost of data analysis.
h. ____	h. Other In-Depth Evaluation Cost Elements.

[FR Doc. 01–13790 Filed 5–31–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB review; comment request

May 25, 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 July 2, 2001 to be assured of consideration.

U.S. CUSTOMS SERVICE (CUS)

OMB Number: 1515–0155.

Form Number: None.

Type of Review: Extension.

Title: Approval of Commercial Gaugers and Accreditation of Commercial Laboratories.

Description: The accreditation of commercial testing laboratories; approval of commercial gaugers are used by individuals or businesses desiring Customs approval to measure bulk products or analyze importations may apply to Customs by letter. This recognition is required of businesses wishing to perform such work on imported merchandise.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 250.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 250 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

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 01–13722 Filed 5–31–01; 8:45 am]

BILLING CODE 4820–02–U

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Docket No. 918; ATF O 1130.21]

Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 13, Labeling Proceedings

To: All Bureau Supervisors

1. *Purpose.* This order delegates certain authorities of the Director to subordinate ATF officers.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the procedure and practice in connection with the issuance, denial, and revocation of certificates of label approval, certificates of exemption from label approval, and distinctive liquor bottle approvals. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 120–01 (formerly 221), dated June 6, 1972, and by 26 CFR 301.7701–9, this ATF Order delegates certain authorities to take final action prescribed in 27 CFR Part 13 to subordinate officers. Also, this ATF Order prescribes the subordinate ATF officer's with whom appeals and other documents required by 27 CFR Part 13, which are not ATF forms, are filed. The attached table identifies the regulatory sections, documents and authorized ATF officers. The authorities in the table may not be redelegated. An ATF organization chart showing the directorates involved in this delegation order has been attached.

4. *Questions.* Any questions concerning this order should be directed to the Regulations Division at 202–927–8210.

Bradley A. Buckles,

Director.

TABLE OF AUTHORITIES, DOCUMENTS TO BE FILED, AND AUTHORIZED OFFICIALS

Regulatory section	Officer(s) authorized to act or receive document.
Section 13.11 (Definition of Liquor bottle).	Specialist, Alcohol Labeling and Formulation Division (ALFD).
§ 13.20(a)	Chief, ALFD.
§ 13.21(b)	Specialist, ALFD.
§ 13.23	Specialist, ALFD.
§ 13.25	Specialist or Assistant to the Division Chief, ALFD.
§ 13.26(a)&(b)	Assistant to the Division Chief, ALFD.
§ 13.27	Chief, ALFD.
§ 13.41	Chief, ALFD.
§ 13.42	Assistant to the Division Chief, ALFD.
§ 13.43	Chief, ALFD.
§ 13.44	Assistant Director (Alcohol and Tobacco).
§ 13.45	Assistant Director (Alcohol and Tobacco).
§ 13.52	Assistant to the Division Chief, ALFD.
§ 13.53	Chief, ALFD.
§ 13.54	Chief, ALFD.
§ 13.61(b)	Chief, ALFD.

TABLE OF AUTHORITIES, DOCUMENTS TO BE FILED, AND AUTHORIZED OFFICIALS—Continued

Regulatory section	Officer(s) authorized to act or receive document.
§ 13.62	Assistant to the Division Chief, ALFD..

TABLE OF AUTHORITIES, DOCUMENTS TO BE FILED, AND AUTHORIZED OFFICIALS—Continued

Regulatory section	Officer(s) authorized to act or receive document.
§ 13.72(b)	Assistant Director (Alcohol and Tobacco)

BILLING CODE 4810–31–P

ATF Organization

This is not a complete organizational chart of ATF

[FR Doc. 01–13820 Filed 5–31–01; 8:45 am]

BILLING CODE 4810 31 C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–45–86]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork ReductionAct of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–45–86 (TD 8125), Foreign Management and Foreign Economic Processes Requirements of a Foreign Sales Corporation (§ 1.924).

DATES: Written comments should be received on or before July 31, 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 regulation should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Foreign Management and Foreign Economic Processes Requirements of a Foreign Sales Corporation.

OMB Number: 1545–0904.

Regulation Project Number: INTL–45–86.

Abstract: This regulation provides rules for complying with foreign management and foreign economic process requirements to enable foreign sales corporations to produce foreign trading gross receipts and qualify for reduced tax rates. Section 1.924(d)–1(b)(2) of the regulation requires that records must be kept to verify that the

necessary activities were performed outside the United States.

Current Actions: There is no change to this existing regulation.

Type of review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 11,001.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 22,001.

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: May 21, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–13804 Filed 5–31–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–78–91; PS–50–92;and REG–114664–97]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing final regulations, PS–78–91 (TD 8430), Procedure for Monitoring Compliance With Low-Income Housing Credit Requirements; PS–50–92 (TD 8521), Rules To Carry Out the Purposes of Section 42 and for Correcting Administrative Errors and Omissions; and REG–114664–97 (TD 8859), Compliance Monitoring and Miscellaneous Issues Relating to the Low-Income Housing Credit (§§ 1.42–5, 1.42–13, and 1.42–17).

DATES: Written comments should be received on or before July 31, 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 regulations should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: PS–78–91, Procedure for Monitoring Compliance With Low-Income Housing Credit Requirements; PS–50–92, Rules To Carry Out the Purposes of Section 42 and for Correcting Administrative Errors and Omissions; and REG–114664–97, Compliance Monitoring and Miscellaneous Issues Relating to the Low-Income Housing Credit.

OMB Number: 1545–1357. Regulation Project Numbers: PS–78–91; PS–50–92; and REG–114664–97.

Abstract: PS–78–91 This regulation requires state allocation plans to provide a procedure for state and local housing credit agencies to monitor for compliance with the requirements of Code section 42 and report any noncompliance to the IRS. *PS–50–92* This regulation concerns the Secretary of the Treasury's authority to provide guidance under Code section 42 and allows state and local housing credit agencies to correct administrative errors and omissions made in connection with allocations of low-income housing credit dollar amounts and recordkeeping within a reasonable period after their discovery. *REG–114664–97* This regulation amends the procedures for state and local housing credit agencies' compliance monitoring and the rules for state and local housing credit agencies' correction of administrative errors or omissions.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individual or households, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 22,055.

Estimated Time Per Respondent: 4 hours, 45 minutes.

Estimated Total Annual Burden Hours: 104,899.

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: May 25, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–13805 Filed 5–31–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8825

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 8825, Rental Real Estate Income and Expenses of a Partnership or an S Corporation.

DATES: Written comments should be received on or before July 31, 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: Rental Real Estate Income and Expenses of a Partnership or an S Corporation.

OMB Number: 1545–1186.

Form Number: 8825.

Abstract: Partnerships and S corporations file Form 8825 with either Form 1065 or Form 1120S to report income and deductible expenses from rental real estate activities, including net income or loss from rental real estate activities that flow through from partnerships, estates, or trusts. The IRS uses the information on the form to verify that partnerships and S corporations have correctly reported their income and expenses from rental real estate property.

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: 705,000.

Estimated Time Per Respondent: 8 hours, 55 minutes.

Estimated Total Annual Burden Hours: 6,288,600.

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: May 25, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–13806 Filed 5–31–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS (VA)

VA Claims Processing Task Force; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the VA Claims Processing Task Force will take place on Tuesday, June 5, 2001; Wednesday, June 6, 2001; Wednesday, June 20, 2001 and Thursday, June 21, 2001. The meetings will be held at VA Central Office, 810 Vermont Avenue, NW., Washington, DC. The room location for the meetings will be clearly posted in the lobby entrance, and the room location will also be available at the Security Desk.

The purpose of the Task Force is to provide findings and recommendations to the Secretary on ways to reduce processing times and shrink the disability claims backlog without compromising either the accuracy of decisions or service to veterans.

The Task Force meetings of June 5, 2001, and June 20, 2001, will convene at 1 p.m. and adjourn at 4:30 p.m. Both of these meetings will be closed to the public in accordance with the provisions set forth in section 10(d) of Public Law 92–463, as amended by sections 5(c) of Public Law 94–409, and 5 U.S.C. 552b(c)(6). During the closed meeting, the Task Force members will examine medical records and claim folders of veterans, and any disclosure would constitute an unwarranted invasion of personal privacy.

The June 6, 2001, and June 21, 2001, meetings will convene at 9 a.m. and adjourn at 4 p.m. The agenda for these meetings will include briefings and discussions on ways to improve VA's ability to process veterans' claims for disability compensation and pension. These meetings are open to the general public. Mr. John O'Hara, Designated Federal Official for the VA Claims Processing Task Force, can be reached at (202) 273–5130.

For interested parties who wish to submit written comment, correspondence should be sent to Mr. John O'Hara, Executive Director, VA Claims Processing Task Force, c/o VA Office of Policy and Planning (008B), 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: May 22, 2001.

By Direction of the Secretary.

Ventris C. Gibson,

Committee Management Officer.

[FR Doc. 01–13759 Filed 5–31–01; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 66, No. 106

Friday June 1, 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.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44331; File No. SR–ISE–2001–11]

Self–Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the International Securities Exchange LLC to Trade Standardized Equity Options on Trust Issued Receipts

May 21, 2001.

Correction

In notice document 01–13325 beginning on page 29193 in the issue of Tuesday, May 29, 2001, the docket line is corrected to read as set forth above.

[FR Doc. C1–13325 Filed 5–31–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

Flight Crewmember Flight Time Limitations and Rest Requirements; Correction

Correction

In rule document 01–12932 appearing on page 28369 in the issue of Wednesday, May 23, 2001, make the following correction:

§14.121 [Corrected]

On page 28369, in the third column, under the heading **Correction**, in the second paragraph, in the 6th line, ''1, 2001 '' should read '' 17, 2001''.

[FR Doc. C1–12932 Filed 5–31–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8812

Correction

In notice document 01–12741 beginning on page 28034 in the issue of Monday, May 21, 2001, make the following correction:

On page 28034, in the second column, in the **DATES** section, in the second line, ''July 2, 2001'' should read ''July 20, 2001''.

[FR Doc. C1–12741 Filed 5–31–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

17 CFR Part 450

RIN 1505–AA82

Government Securities Act Regulations; Definition of Government Securities

Correction

In rule document 01–13138 beginning on page 28654 in the issue of Thursday, May 24, 2001, make the following correction:

§450.2 [Corrected]

On page 28655, the table should read as follows:

If . . .	Then . . .
(1)(i) A depository institution is a government securities broker or dealer as defined in sections 3(a)(43) and 3(a)(44) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(43)–(44)).	''Government securities'' means those obligations described in subparagraphs (A), (B), (C), or (E) of section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)(A)–(C), (E))
(ii) A depository institution is exempt under Part 401 of this chapter from the requirements of Subchapter A.	''Government securities'' means those obligations described in subparagraphs (A), (B), (C), or (E) of section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)(A)–(C), (E))
(2) A depository institution is not a government securities broker or dealer as defined in sections 3(a)(43) and 3(a)(44) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(43)–(44)).	''Government securities'' means those obligations described in subparagraphs (A), (B), or (C) of section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)(A)–(C))

[FR Doc. C1–13138 Filed 5–31–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
June 1, 2001

Part II

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Part 8
Assessement of Fees; Final Rule

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 8

[Docket No. 01–11]

RIN 1557–AB96

Assessment of Fees

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is making two changes to our assessment rule. First, we are changing the way we assess ''independent credit card banks.'' A national bank is considered independent for purposes of this final rule if it engages primarily in credit card operations and is not affiliated with a full-service national bank. Under the revised assessment structure, all credit card banks will continue to be assessed based on balance sheet assets. Independent credit card banks will pay an additional assessment component based on off-balance sheet credit receivables that are attributable to credit card accounts owned by the banks. This additional assessment will result in payment by these banks of a more appropriate share of the OCC's expenses than under the current on-balance sheet assessment structure.

We also are raising the surcharge for all institutions with composite ratings of 3, 4, or 5 under the Uniform Financial Institutions Rating System (UFIRS) (also referred to as the CAMELS rating, which rates capital, assets, management, earnings, liquidity, and sensitivity to market risk) and for Federal branches and agencies of foreign banks that receive a composite rating of 3, 4, or 5 under the ROCA rating system. This amendment will enable us to allocate more equitably the expenses the OCC incurs in supervising institutions that are experiencing significant problems. The surcharge will apply to the asset-based assessment as well as the independent credit card bank and independent trust bank assessments.

EFFECTIVE DATE: July 1, 2001.

FOR FURTHER INFORMATION CONTACT: Mitchell E. Plave, Counsel, Legislative and Regulatory Activities Division, (202) 874–5090; or Daniel L. Pearson, National Bank Examiner, Credit Risk, (202) 874–5170.

SUPPLEMENTARY INFORMATION:

Background

The OCC charters, regulates, and supervises approximately 2,200 national banks and 58 Federal branches and agencies of foreign banks in the United States, accounting for nearly 60 percent of the nation's banking assets. Our mission is to ensure a safe, sound, and competitive national banking system that supports the citizens, communities, and economy of the United States.

The OCC funds the activities it undertakes to carry out this mission through assessments on institutions regulated by the OCC. The National Bank Act authorizes the OCC to collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of the Office. 12 U.S.C. 482 (Supp. 1999). The statute requires that our charges be set to meet the Comptroller's expenses in carrying out authorized activities. Id. The OCC, under 12 CFR part 8, currently assesses national banks and Federal branches and agencies according to a formula based on factors such as a bank's size and condition and whether it is the ''lead'' bank or ''non-lead'' bank among national banks in a holding company.[1] The OCC also imposes an additional assessment on independent trust banks based on the amount of trust assets under management.[2]

Independent credit card banks. The OCC's current assessment regulations do not distinguish independent credit card banks from other national banks. As a result, independent credit card banks pay assessments according to the same formula that applies to full-service national banks. That formula is comprised of a fixed component based solely on a bank's asset size plus a variable component derived by multiplying asset amounts in excess of certain thresholds by a series of declining marginal rates.[3] The assessment amount that results from this computation may then be adjusted based on a bank's condition and on whether it is a ''lead bank'' or a ''non-lead bank.'' The amount of assets on a bank's balance sheet is, however, the most significant component of the current assessment computation.

The magnitude and complexity of the business of independent credit card banks is not fully reflected by the volume of assets reported on those banks' balance sheets as of a particular date. For example, in order to comply with restrictions governing affiliate transactions, most private label credit card banks sell their receivables within twenty-four hours of their production. Other independent credit card banks regularly securitize substantial amounts of their receivables. A credit card bank's balance sheet, therefore, is not, by itself, generally a meaningful measure of the resources the OCC must expend to supervise this type of bank, nor is it a fair measure of the value of the national bank charter to the enterprise. As a result, the assessments the OCC currently applies to these banks do not represent the banks' fair share of the OCC's overall expenses.

Institutions with composite ratings of 3, 4, or 5. The OCC adds a surcharge to the asset-based assessment for national banks and Federal branches and agencies that have composite UFIRS or ROCA[4] ratings, as appropriate, of 3, 4, or 5. This surcharge reflects the greater supervisory resources demanded by the circumstances of these lower-rated institutions. The OCC's experience since 1997, when we introduced the surcharge,[5] has shown that the current surcharge for these institutions does not adequately compensate the OCC for the additional demands on its resources given the substantial level of supervision warranted.

On April 4, 2001, we published a notice of proposed rulemaking in the **Federal Register** (66 FR 17821) to amend the OCC's assessment regulation by adding a new assessment component to the existing balance sheet assessments for independent credit card banks. The proposal also increased the surcharge for lower-rated national banks. For the reasons discussed below, the OCC is adopting the rule as proposed.

[1] A ''lead bank'' is the largest national bank controlled by a company, based on a comparison of the total assets held by each national bank controlled by that company as reported in each bank's most recent Consolidated Report of Condition (Including Domestic and Foreign Subsidiaries) (Call Report). 12 CFR 8.2(a)(6)(ii)(A).

[2] 65 FR 75859 (December 5, 2000), *to be codified* at 12 CFR 8.6(c). An ''independent trust bank'' for purposes of § 8.6 is a national bank that (a) has trust powers, (b) does not primarily offer full-service banking, and (c) is not affiliated with a full-service national bank. A bank will be considered as not primarily offering full-service banking if it derives more than 50 percent of its interest and non-interest income from credit card operations or trust activities, or the terms of the bank's charter restrict its ability to engage in a full range of permissible banking activities.

[3] The assessment formula is set out at 12 CFR 8.2. The elements of the formula, including the marginal rates, may change from year to year and are announced in the OCC's annual ''Notice of Comptroller of the Currency Fees'' (Notice of Fees). *See* 12 CFR 8.8.

[4] The ROCA rating system rates risk management, operational controls, compliance, and asset quality.

[5] *See* 62 FR 64135 (December 4, 1997); 12 CFR 8.2(a)(7); 12 CFR 8.2(b)(5).

Proposed Rule and Comments Received

Independent credit card bank assessment. We proposed to amend 12 CFR 8.2 by adding a new paragraph (c) to increase assessments on independent credit card banks by adding an off-balance sheet ''receivables attributable'' component to the assessment structure. For purposes of the proposal, we defined ''independent credit card banks'' as banks that primarily engage in credit card operations and are not affiliated with a full-service national bank.[6] Under the proposed rule, a bank is considered ''primarily engaged in credit card operations'' if it is a bank described in section 2(c)(2)(F) of the Bank Holding Company Act (a so-called ''CEBA credit card bank''),[7] or if the ratio of (a) its total gross receivables attributable to (b) the bank's balance sheet assets exceeds 50%. A bank is a ''full-service national bank'' for purposes of the proposed rule if more than 50% of its interest and non-interest income is generated by activities other than credit card operations or trust activities and the bank's charter permits it to conduct all authorized banking activities.[8] The proposal used the same test for affiliation (*i.e.*, the definition of ''affiliate'' appearing in the Federal Reserve Act at 12 U.S.C. 221a(b)) that we used in the OCC's recently adopted rule affecting independent trust banks.

The proposal defined ''receivables attributable'' as the total amount of outstanding balances due on credit card accounts owned by an independent credit card bank (the receivables attributable to those accounts) on the last day of the assessment period. We described receivables attributable as the measure of the volume of a credit card bank's business. Given that some credit card banks retain receivables on balance sheet, the proposal allowed the banks to deduct on-book receivables from total gross receivables attributable to determine ''receivables attributable.'' This provision avoids assessing the same asset twice. Under the proposal, independent credit card banks would report receivables attributable data to the OCC on a semiannual basis.

The proposed rule provided that an independent credit card bank's assessment would be determined by adding to its book asset-based assessment an additional amount determined by its level of receivables attributable. We noted that the dollar amount of the additional assessment would be published each year in the Notice of Fees,[9] and that the amounts of the additional assessment would be adjusted to reflect changes in the OCC's expenses.

We received comments on the proposal from eight independent credit card banks and two banking trade associations. Three of the commenters acknowledged that balance sheet asset assessments do not capture an independent credit card bank's business, but suggested that relative risk to the deposit insurance fund, rather than receivables attributable, would be a better measure for additional assessments. They said that the off-balance sheet and limited purpose nature of credit card banking reduce risk to the national banking system, as well as the OCC's supervisory responsibilities. The commenters also argued that the assessments should be based on the quality of bank management and reflect a bank's composite UFIRS rating.

One of the banking trade associations commented that it believed a special assessment for independent credit card banks might be appropriate to defray supervisory costs if demands on agency resources and the risk profiles of the banks supported an additional assessment. This commenter suggested that a special assessment should be tied to whether receivables are securitized.

The tenor of these comments is that the OCC's assessments should be tied to all independent credit card banks' level of risk. In view of the purpose of assessments, as set forth in 12 U.S.C. 482, however, the risk-based approach suggested by the commenters is too narrow. Rather, our assessments should reflect the resources the OCC dedicates to supervision of national banks (which is, in itself, an indirect measure of risk) and the value of the national charter to these banks. While independent credit card banks do not engage in the full range of banking activities, they nonetheless require substantial supervision. The OCC examines credit card banks in the areas of credit risk management, which includes underwriting, account management, collections, and fraud controls; securitizations; marketing practices; credit scoring models; daily settlement practices for VISA, MasterCard, and retailer stores; affiliate transactions; internal audits; vendor management; compliance operations concerning credit card disclosure (fees, rates, and terms) and fair lending; and information technology. We also examine the relationship between the credit card bank and the banks' affiliates and parent companies. Thus, although some types of independent credit card banks may not represent the same level of direct risk to the Federal Deposit Insurance Corporation insurance fund as banks that hold a significant amount of insured deposits, the current level of assessments for this population of banks does not correlate with the resources we devote to evaluating the various types of risks they present.

In general, the need for sophisticated regulation and supervision in the credit card industry is increasing. With the increase in information technology, Internet banking, and outsourcing of services, the OCC is spending more time in the banks reviewing transaction risk, data security, vendor management, and customer privacy issues. The volume of credit card transactions that flow through the national banking system on a daily basis is significant. The volume of credit card direct mail solicitations, telephone solicitations, retail store promotions, and Internet advertisements continues to increase, as do consumer disclosures, add-on insurance-related products, third-party marketing vendors, and consumer complaints and litigation. The variation of credit card products, fees, interest rates, and disclosures is substantial. The consumer population expects regulators to oversee these activities, as is evidenced by the fact that consumer inquiries concerning credit card banks represent the highest volume of inquiries received by the OCC's Customer Assistance Group. The OCC has increased the levels of its oversight to match the level of compliance and reputation risk in this group of banks.

Several of the commenters questioned why the proposal focused on independent credit card banks rather than the whole universe of credit card banks. Where a full-service national bank elects to conduct its credit card business through a separately chartered entity, rather than in the bank itself, it has essentially made a decision about the organizational format that best suits its needs. As we stated in the proposal, where such a corporate format has been chosen, it is our experience that the aggregate assessments received from the national bank and its credit card affiliate generally are sufficient to pay the institution's fair share of the OCC's

[6] *See Charters*, Corporate Manual at 21–22 (1998) (describing credit card banks).

[7] *See* 12 U.S.C. 1841(c)(2)(F) (excluding from the definition of the term ''bank'' in the Bank Holding Company Act (BHCA) an institution that engages only in credit card operations and satisfies certain other conditions). This provision was added to the BHCA by the Competitive Equality Banking Act of 1987.

[8] This definition also applies for purposes of the independent trust bank rule. *See supra*, note 2.

[9] 12 CFR 8.8(b).

overall expenses.[10] Where the credit card bank is not affiliated with a full-service national bank, however, it typically represents a choice by a non-bank or state-chartered affiliate to use the national bank charter for the distinct benefits it affords for the operation of a credit card business under circumstances where the affiliate is not sharing equitably in defraying the OCC's costs of operation.

Moreover, where a credit card bank is affiliated with a full-service national bank, the OCC achieves efficiencies from the coordinated supervision of the affiliated banks that are not present in the supervision of independent credit card banks. Our cost of supervision, therefore, is not only that of on-site examination, but includes other supervisory costs, such as handling consumer complaints concerning these institutions.

In the proposal, we invited comment on whether we should use ''transaction flow'' instead of receivables attributable to measure an independent credit card bank's business. ''Transaction flow'' is the total net amounts charged to cards issued by the bank during each semi-annual assessment period. Three commenters addressed the transaction flow alternative. The first, an independent credit card bank, found this alternate unacceptable because it would penalize rewards-based credit cards that have significantly higher transactions per account than non-reward cards. The commenter added that the value of the charter and the costs to supervise are more closely aligned with average balances than transaction volume.

The second and third commenters, banking trade associations, strongly endorsed the receivables attributable methodology rather than transaction flow. One trade association focused on the availability of data and stated that, while receivables attributable data are readily available, transaction flow is not. The commenter also inquired about the possibility of gathering receivables attributable data from the information reported in the Consolidated Report of Condition (Including Domestic and Foreign Subsidiaries) (Call Report). In response to this point, we note that the OCC can extract receivables attributable information from only a portion of the relevant independent credit card bank population; therefore, the suggestion is not feasible. The other trade association endorsed receivables attributable over transaction flow, suggesting that seasonal changes in transaction volume could skew the assessment.

[10] 66 FR 17821, 17822 (April 4, 2001).

For these reasons, the final rule adopts the receivables-attributable methodology for independent credit card banks as proposed. We note that this methodology will result in no additional assessment for an independent credit card bank that keeps all of its receivables on its balance sheet. In such a situation, the asset-based component of the assessment rule will produce the assessment measure for the institution.

In the proposal, we stated that the initial semiannual charge to be paid in July, 2001, would be in the range of the following:[11]

If the bank's total off-balance sheet receivables attributable are		The additional semi-annual assessment is:
Over	But not over	
Column A Million	Column B Million	Column C
$0	$100	$40,000
100	1000	60,000
1000	5000	80,000
5000		100,000

We intend to charge these amounts beginning with the July, 2001, semiannual assessment period. Adjustments to these amounts thereafter may be made in our Notice of Fees.

Assessment surcharge for institutions with composite UFIRS or ROCA ratings of 3, 4, or 5. As we stated in the proposal, OCC data show that there is a significant increase in the supervisory demands on the OCC once a bank's or Federal branch's or agency's composite UFIRS or ROCA rating moves from 1 or 2 to 3, 4, or 5. Since introducing the surcharge in 1997, we have found that the demands placed on the OCC by these lower-rated institutions is greater than was anticipated in 1997. Not only have the demands on supervisory resources increased for institutions with a 3 rating, we have found they are even greater when institutions are rated 4 or 5. Accordingly, we proposed to increase the surcharge for all lower-rated institutions.

The surcharge we proposed would apply to all components of an institution's assessment, not only the asset-based assessment. Thus, for instance, an independent credit card bank would calculate its asset-based component and receivables attributable component, add those two together, and multiply the sum by the amount of the ratings-based surcharge. An independent trust bank would follow the same method, using the managed assets component.[12]

[11] *See* 66 FR 21045 (April 26, 2001) (corrected version of the chart).

Under the proposal, banks with composite UFIRS or ROCA ratings of 3 would be assessed a surcharge of 50%; banks with composite ratings of 4 or 5 would be assessed a 100% surcharge. By linking assessments with the condition of the banks, the elevated supervisory cost of lower-rated institutions would be borne by the lower-rated institutions, rather than by the national banking system as a whole.[13] This proposed approach would enable the OCC's assessment revenue to expand or contract in a way that responds to the changing demands on the OCC.

We received three comments on this proposed increase in the surcharge from banks that supported charging lower-rated institutions a higher assessment. A banking industry trade association also commented, noting that while it supports higher assessments for lower-rated institutions, it is concerned that the proposed surcharges might hasten the demise of some banks. Our experience using the surcharges in the current rule indicates that this result has not occurred. In addition, we believe it is fairer to charge the higher costs of supervising lower-rated banks to those banks, rather than to all national banks. Lower-rated banks create a significantly greater demand for the allocation of the OCC's supervisory time and resources than do better rated banks of comparable size. Well-run banks should not have to bear the burden of these additional costs. Moreover, the prospect of higher assessments should add an element of market discipline by providing an additional incentive for a bank to maintain a higher rating.

The trade association also questioned whether the magnitude of the proposed increase was warranted. Our analysis shows that, on average, OCC workdays devoted to institutions rated 3, 4, or 5 increase by a percentage that exceeds the percentage increases in the problem-bank surcharge. Accordingly, we believe it is appropriate to adopt the increase in the surcharge for lower-rated institutions as proposed.

Regulatory Flexibility Act

An agency must prepare a Regulatory Flexibility Analysis if a rule it proposes

[12] *See* 12 CFR 8.6(c) (assessments on independent trust banks).

[13] The regulation permits the OCC to limit the amount of the surcharge. We currently contemplate, for example, that lower-rated full-service national banks would pay a surcharge only on the first $20 billion in book assets. The OCC will publish this limit and any similar limit that may apply to surcharges on lower-rated independent credit card or independent trust banks in the Notice of Fees.

will have a ''significant economic impact'' on a ''substantial number of small entities.'' 5 U.S.C. 603, 605. If, after an analysis of a rule, an agency determines that the rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) provides that the head of the agency may so certify.

The OCC has reviewed the impact this final rule will have on small independent credit card banks. Based on that review, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of small entities. This rule will apply to a small number of national banks. For purposes of this review, the OCC defines ''small independent credit card banks'' to be those banks with less than $100 million in total assets.[14] Using this definition, the final rule will affect only nineteen small independent credit card banks, representing less than 1% of all national banks. The OCC does not believe this to be a substantial number of small entities.

The proposed rule contained an Initial Regulatory Flexibility Analysis (IRFA) that addressed the increase in the lower-rated bank surcharge and invited the public's comments on the impact of the proposed rule on small entities. As noted above, we received only three comments from independent credit card banks on the surcharge increase, all in support of the increase. We also received a comment from a bank trade association, which supported higher assessments for lower-rated institutions but suggested that the surcharge might hasten the demise of some institutions. As previously discussed, our experience using the surcharges in the current rule indicates that this result has not occurred. Given the generally positive comments on the surcharge, and that the rule currently would affect only approximately 4% of small entities, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

We note that we considered alternatives to the increase in the surcharge for lower-rated institutions when preparing this rule. At present, there is an imbalance in the surcharge between the level of our supervision of lower-rated banks and their contributions to the overall assessment pool. As a result, the current surcharge passes the burden of supervision from lower-rated institutions to higher-rated banks that consume far fewer OCC resources. We concluded that a surcharge increase on lower-rated institutions was the most equitable way to correct this imbalance and the least burdensome solution when viewed from the perspective of the national banking system as a whole.

[14] This definition is consistent with the Small Business Administration's definition of ''small entity.'' *See* 13 CFR 121.201.

Paperwork Reduction Act

The OCC may not conduct or sponsor, and an organization is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. OMB has reviewed and approved the collection of information requirements contained in this rule under emergency processing procedures under control number 1557–0223, in accordance with the Paperwork Reduction of 1995 (44 U.S.C. 3501 *et seq.*). OMB clearance will expire on October 31, 2001. The OCC is currently seeking an extension of OMB approval under ordinary OMB clearance procedures. The OCC sought comment on all aspects of the burden estimates for the information collection contained in the proposed rule. The OCC received no comments.

The information collection requirements contained in 12 CFR part 8 are contained in section 8.2(c). Under this section, the final regulation would require national banks to provide the OCC with ''receivables-attributable'' data from independent credit card banks, that is national banks that primarily engage in credit card operations and are not affiliated with a full service national bank. ''Receivables attributable'' are the total amount of outstanding balances due on credit card accounts owned by an independent credit card bank (the receivables attributable to those accounts) on the last day of the assessment period, minus receivables retained on the bank's balance sheet as of that day. The respondents are national banks.

Estimated number of respondents: 35.

Estimated number of responses: 70.

Frequency of response: Semiannually.

Estimated burden hours per response: 1 hour.

Estimated total annual burden: 70 hours.

The OCC has a continuing interest in the public's opinion regarding collections of information. Members of the public may submit comments at any time regarding any aspects of these collections of information. Comments may be sent to Jessie Dunaway, Clearance Officer, Office of the Comptroller of the Currency, 250 E Street, SW, Mailstop 8–4, Washington, DC 20219.

Executive Order 12866

The OCC has determined that this final rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the final rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, this rulemaking requires no further analysis under the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 8

National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the OCC amends part 8 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 8—ASSESSMENT OF FEES

1. The authority citation for part 8 continues to read as follows:

Authority: 12 U.S.C. 93a, 481, 482, 1867, 3102, and 3108; 15 U.S.C. 78c and 781; and 26 D.C. Code 102.

2. In § 8.2:

A. Paragraphs (a)(7) and (b)(5) are removed; and

B. New paragraphs (c) and (d) are added to read as follows:

§ 8.2 Semiannual assessment.

* * * * *

(c) *Additional assessment for independent credit card banks*—(1) *General rule.* In addition to the assessment calculated according to paragraph (a) of this section, each independent credit card bank will pay an assessment based on receivables attributable to credit card accounts owned by the bank. This assessment will be computed by adding to its asset-based assessment an additional amount determined by its level of receivables

attributable. The dollar amount of the additional assessment will be published in the ''Notice of Comptroller of the Currency Notice of Fees,'' described at § 8.8.

(2) *Credit card banks affiliated with full-service national banks.* The OCC will assess an independent credit card bank in accordance with paragraph (c)(1) of this section, notwithstanding that the bank is affiliated with a full-service national bank, if the OCC concludes that the affiliation is intended to evade this part.

(3) *Definitions.* For purposes of this paragraph (c), the following definitions apply:

(i) *Affiliate* has the same meaning as this term has in 12 U.S.C. 221a(b).

(ii) *Engaged primarily in card operations* means a bank described in section 2(c)(2)(F) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)(F)) or whose ratio of total gross receivables attributable to the bank's balance sheet assets exceeds 50%.

(iii) *Full-service national bank* is a national bank that generates more than 50% of its interest and non-interest income from activities other than credit card operations or trust activities and is authorized according to its charter to engage in all types of permissible banking activities.

(iv) *Independent credit card bank* is a national bank that engages primarily in credit card operations and is not affiliated with a full-service national bank.

(v) *Receivables attributable* is the total amount of outstanding balances due on credit card accounts owned by an independent credit card bank (the receivables attributable to those accounts) on the last day of the assessment period, minus receivables retained on the bank's balance sheet as of that day.

(4) *Reports of receivables attributable.* Independent credit card banks will report receivables attributable data to the OCC semiannually at a time specified by the OCC.

(d) *Surcharge based on the condition of the bank.* Subject to any limit that the OCC prescribes in the Notice of the Comptroller of the Currency Fees, the OCC shall apply a surcharge to the semiannual assessment computed in accordance with paragraphs (a) through (c) of this section. This surcharge will be determined by multiplying the semiannual assessment computed in accordance with paragraphs (a) through (c) of this section by—

(1) 1.5, in the case of any bank that receives a composite rating of 3 under the Uniform Financial Institutions Rating System (UFIRS) and any Federal branch or agency that receives a composite rating of 3 under the ROCA rating system (which rates risk management, operational controls, compliance, and asset quality) at its most recent examination; and

(2) 2.0, in the case of any bank that receives a composite UFIRS rating of 4 or 5 and any Federal branch or agency that receives a composite rating of 4 or 5 under the ROCA rating system at its most recent examination.

3. In § 8.6:

A. A new paragraph (c)(1)(iii) is added; and

B. Paragraphs (c)(3)(ii) and (c)(3)(iii) are redesignated as paragraphs (c)(3)(iii) and (c)(3)(iv), and a new paragraph (c)(3)(ii) is added to read as follows:

§ 8.6 Fees for special examinations and investigations.

* * * * *

(c) * * *

(1) * * *

(iii) *Surcharge based on the condition of the bank.* Subject to any limit that the OCC prescribes in the Notice of the Comptroller of the Currency Fees, the OCC shall adjust the semiannual assessment computed in accordance with paragraphs (c)(1)(i) and (ii) of this section by multiplying that figure by 1.5 for each independent trust bank that receives a composite rating of 3 under the Uniform Financial Institutions Rating System (UFIRS) at its most recent examination and by 2.0 for each bank that receives a composite UFIRS rating of 4 or 5 at such examination.

* * * * *

(3) * * *

(ii) *Full-service national bank* is a national bank that generates more than 50% of its interest and non-interest income from activities other than credit card operations or trust activities and is authorized according to its charter to engage in all types of permissible banking activities.

* * * * *

Dated: May 24, 2001.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 01–13723 filed 5–31–01; 8:45am]

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CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JUNE 1, 2001

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Food stamp program:

Personal Responsibility and Work Opportunity Reconciliation Act of 1996; implementation—

Personal responsibility provisions; effective date delay; published 2-5-01

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Northeastern United States fisheries—

Scup; published 6-1-01

DEFENSE DEPARTMENT

Vocational rehabilitation and education:

Reservists education—

Monthly verification of enrollment and other reports; published 10-16-00

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Prohexadione calcium; published 6-1-01

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Immigration:

Aliens—

Legal Immigration Family Equity Act and LIFE Act Amendments; legalization and family unity provisions; status adjustment; published 6-1-01

Employment-based petitions and applications; Premium Processing Service establishment; published 6-1-01

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Acquisition regulations:

Cost accounting standards waivers; published 6-1-01

NASA Inspector General hotline posters; published 6-1-01

Priorities and allocations systems; published 6-1-01

SBIR Contracts; class deviations; extension; published 6-1-01

NORTHEAST DAIRY COMPACT COMMISSION

Over-order price regulations:

Supply Management Refund Program; correction; published 5-10-01

PENSION BENEFIT GUARANTY CORPORATION

Single employer plans:

Allocation of assets—

Interest assumptions for valuing and paying benefits; published 5-15-01

TRANSPORTATION DEPARTMENT

Coast Guard

Vocational rehabilitation and education:

Reservists education—

Monthly verification of enrollment and other reports; published 10-16-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; published 4-27-01

Lockheed; published 4-27-01

VETERANS AFFAIRS DEPARTMENT

Adjudication; pensions, compensation, dependency, etc.:

Benefit claims decisions; review; published 5-2-01

Vocational rehabilitation and education:

Reservists education—

Monthly verification of enrollment and other reports; published 10-16-00

COMMENTS DUE NEXT WEEK

COMMERCE DEPARTMENT

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Fishery conservation and management:

Magnuson-Stevens Act provisions—

Domestic fisheries; exempted fishing permits; comments due by 6-6-01; published 5-22-01

Northeastern United States fisheries—

Atlantic deep-sea red crab; comments due by 6-7-01; published 5-8-01

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; withdrawn; comments due by 6-4-01; published 4-3-01

Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; comments due by 6-4-01; published 4-3-01

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

South Carolina; comments due by 6-6-01; published 5-7-01

Air quality implementation plans; approval and promulgation; various States:

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Kentucky; comments due by 6-8-01; published 5-9-01

Maryland; comments due by 6-6-01; published 5-7-01

Pennsylvania; comments due by 6-4-01; published 5-3-01

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:

Tennessee; comments due by 6-4-01; published 5-3-01

Air quality planning purposes; designation of areas:

Louisiana; comments due by 6-8-01; published 5-9-01

Hazardous waste:

Project XL program; site-specific projects—

Yolo County Landfill, Davis, CA; comments due by 6-8-01; published 5-9-01

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Colorado; comments due by 6-4-01; published 5-1-01

Television stations; table of assignments:

Texas; comments due by 6-4-01; published 5-1-01

FEDERAL DEPOSIT INSURANCE CORPORATION

Riegle-Neal Interstate Banking and Branching Efficiency Act; implementation:

Interstate branches used primarily for deposit production; prohibition; comments due by 6-8-01; published 4-9-01

FEDERAL ELECTION COMMISSION

Independent expenditure reporting; comments due by 6-8-01; published 5-9-01

FEDERAL RESERVE SYSTEM

Riegle-Neal Interstate Banking and Branching Efficiency Act; implementation:

Interstate branches used primarily for deposit production; prohibition; comments due by 6-8-01; published 4-9-01

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Premerger notification; reporting and waiting period requirements; comments due by 6-8-01; published 5-9-01

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Federal Acquisition Regulation (FAR):

Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; withdrawn; comments due by 6-4-01; published 4-3-01

Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; comments due by 6-4-01; published 4-3-01

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Medicare and Medicaid:

Physicians' referrals to health care entitties with which they have financial relationships; comments due by 6-4-01; published 4-4-01

INTERIOR DEPARTMENT

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Endangered and threatened species:

Critical habitat designations—
Robust spineflower; correction; comments due by 6-4-01; published 5-3-01
Rock gnome lichen; comments due by 6-4-01; published 4-5-01
Sacramento splittail; comments due by 6-7-01; published 5-8-01

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Federal Acquisition Regulation (FAR):
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; withdrawn; comments due by 6-4-01; published 4-3-01
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; comments due by 6-4-01; published 4-3-01

TRANSPORTATION DEPARTMENT

Coast Guard

Anchorage regulations, regattas and marine parades, and ports and waterways safety:
Sail Detroit and Tall Ship Celebration, Detroit and Saginaw Rivers, MI; safety zones; comments due by 6-8-01; published 4-9-01
Ports and waterways safety:
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Seattle Seafair Unlimited Hydroplane Race; comments due by 6-5-01; published 4-6-01

TRANSPORTATION DEPARTMENT

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TRANSPORTATION DEPARTMENT

Federal Aviation Administration

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Airbus; comments due by 6-4-01; published 5-4-01
Boeing; comments due by 6-4-01; published 4-19-01
Dornier; comments due by 6-4-01; published 5-4-01
Eurocopter France; comments due by 6-8-01; published 4-9-01
McDonnell Douglas; comments due by 6-4-01; published 4-19-01
Airworthiness standards:
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Ayres Corp. Model LM 200 airplane; comments due by 6-7-01; published 5-8-01
Bombardier Inc. Model CL-600-1A11 airplanes; comments due by 6-4-01; published 5-4-01
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Class E5 airspace; comments due by 6-4-01; published 5-4-01

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Comptroller of the Currency

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Interstate branches used primarily for deposit production; prohibition; comments due by 6-8-01; published 4-9-01

TREASURY DEPARTMENT

Thrift Supervision Office

Stock form depository institution conversion to Federal stock association; comments due by 6-7-01; published 5-8-01

VETERANS AFFAIRS DEPARTMENT

Board of Veterans Appeals:
Appeals regulations and rules of practice—
Jurisdiction clarification and proceedings notification procedures; comments due by 6-4-01; published 4-4-01

LIST OF PUBLIC LAWS

This is 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.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 802/P.L. 107–12

Public Safety Officer Medal of Valor Act of 2001 (May 30, 2001; 115 Stat. 20)

Last List May 30, 2001

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—JUNE 2001

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
June 1	June 18	July 2	July 16	July 31	August 30
June 4	June 19	July 5	July 19	August 3	Sept 4
June 5	June 20	July 5	July 20	August 6	Sept 4
June 6	June 21	July 6	July 23	August 6	Sept 4
June 7	June 22	July 9	July 23	August 6	Sept 5
June 8	June 25	July 9	July 23	August 7	Sept 6
June 11	June 26	July 11	July 26	August 10	Sept 10
June 12	June 27	July 12	July 27	August 13	Sept 10
June 13	June 28	July 13	July 30	August 13	Sept 11
June 14	June 29	July 16	July 30	August 13	Sept 12
June 15	July 2	July 16	July 30	August 14	Sept 13
June 18	July 3	July 18	August 2	August 17	Sept 17
June 19	July 5	July 19	August 3	August 20	Sept 17
June 20	July 5	July 20	August 6	August 20	Sept 18
June 21	July 6	July 23	August 6	August 20	Sept 19
June 22	July 9	July 23	August 6	August 21	Sept 20
June 25	July 10	July 25	August 9	August 24	Sept 24
June 26	July 11	July 26	August 10	August 27	Sept 24
June 27	July 12	July 27	August 13	August 27	Sept 25
June 28	July 13	July 30	August 13	August 27	Sept 26
June 29	July 16	July 30	August 13	August 28	Sept 27