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# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 95

**[Docket No. 30251; Amdt. No. 429]**

### IFR Altitudes; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

**EFFECTIVE DATE:** 0901 UTC, July 12, 2001.

**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 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

### The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment 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 95

Airspace, Navigation (air).

Issued in Washington, D.C. on May 30, 2001.

**Nicholas A. Sabatini,**

*Director, Flight Standards Service.*

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, July 12, 2001:

## PART 95—[AMENDED]

1. The authority citation for part 95 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 429 effective date: July 12, 2001]

| From | To | MEA |
|---|---|---|
| **§ 95.1001 Direct Routes—U.S. is Amended by Adding Atlantic Routes—A315** | | |
| HODGY, BS FIX | *AMBIS, BS FIX | 7000 |
| *16500—MRA | | |
| AMBIS, BS FIX | DUNNO, BS FIX | 7000 |

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 429 effective date: July 12, 2001]

| From | To | MEA |
|---|---|---|
| **Amended To Read in Part** | | |
| **Atlantic Routes—A555** | | |
| NASSAU, BS VOR/DME | LEPAS, BS FIX | 3000 |
| LEPAS, BS FIX | BOSAR, BS FIX | 3000 |
| BOSAR, BS FIX | GEROT, OA FIX | 3000 |
| **Bahama Routes—7 LIMA** | | |
| NASSAU, BS NDB<br>*1500—MOCA | HIROC, BS FIX | *2000 |
| **§ 95.6001 Victor Routes—U.S. is Amended to Read in Part** | | |
| **§ 95.6011 VOR Federal Airway 11** | | |
| GREENE COUNTY, MS VORTAC<br>*4000—MRA<br>*1800—MOCA | *SOSOE, MS FIX | **3000 |
| SOSOE, MS FIX<br>*3000—MRA<br>**2400—MOCA | *RAKIN, MS FIX | **3000 |
| **§ 95.6013 VOR Federal Airway 13** | | |
| MC ALLEN, TX VOR/DME | HARLINGEN, TX VOR/DME | 2000 |
| HARLINGEN, TX VOR/DME<br>*1500—MOCA | ASCOT, TX FIX | *5000 |
| DES MOINES, IA VORTAC<br>*3500—MCA ANKEN FIX N BND | *ANKEN, IA FIX | 2700 |
| ANKEN, IA FIX | NEVAD, IA FIX | 4000 |
| NEVAD, IA FIX<br>*2700—MOAC | ALOCK, IA FIX | *3300 |
| ALOCK, IA FIX | MASON CITY, IA VORTAC | 3000 |
| **§ 95.6017 VOR Federal Airway 17** | | |
| BROWNSVILLE, TX VORTAC<br>*2000—MOCA | HARLINGEN, TX VOR/DME | *8000 |
| **§ 95.6070 VOR Federal Airway 70** | | |
| BROWNSVILLE, TX VORTAC<br>*5000—MRA | *RAYMO, TX FIX | 1600 |
| RAYMO, TX FIX<br>*1500—MOCA | JIMIE, TX FIX | *4000 |
| **§ 95.6135 VOR Federal Airway 135** | | |
| BEATTY, NV VORTAC<br>*9600—MOCA | TEZUM, NV FIX | *11000 |
| **§ 95.6161 VOR Federal Airway 161** | | |
| DES MOINES, IA VORTAC<br>*3500—MCA ANKEN FIX N BND | *ANKEN, IA FIX | 2700 |
| ANKEN, IA FIX | NEVAD, IA FIX | 4000 |
| NEVAD, IA FIX<br>*2700—MOCA | ALOCK, IA FIX | *3300 |
| ALOCK, IA FIX | MASON CITY, IA VORTAC | 3000 |
| **§ 95.6163 VOR Federal Airway 163** | | |
| MANNY, TX FIX<br>*1500—MOCA | ASCOT, TX FIX | *5000 |
| **§ 95.6222 VOR Federal Airway 222** | | |
| EATON, MS VORTAC | PICAN, MS FIX | 2300 |
| PICAN MS FIX | MONROEVILLE, AL VORTAC | 2000 |

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 429 effective date: July 12, 2001]

| From | To | MEA |
|---|---|---|
| **§ 95.6257 VOR Federal Airway 257** | | |
| GRAND CANYON, AZ VOR/DME<br>*14500—MCA DOZIT FIX S BND<br>**11200—MOCA | *DOZIT, AZ FIX | ** 14500 |
| DOZIT, AZ FIX<br>*11200—MOCA | JALMA, AZ FIX | *14500 |
| JALMA, AZ FIX<br>* 11000—MOCA | KACIR, AZ FIX | *13000 |
| KACIR, AZ FIX | BRYCE CANYON, UT VORTAC | 11600 |
| **§ 95.6271 VOR Federal Airway 271** | | |
| MUSKEGON, MI VORTAC<br>*2400—MOCA | WELKO, MI FIX | *3000 |
| WELKO, MI FIX<br>*2100—MOCA | MANISTEE, MI VOR/DME<br>. | *4000 |
| **§ 95.6285 VOR Federal Airway 285** | | |
| WHITE CLOUD, MI VORTAC<br>*2400—MOCA | MANISTEE, MI VOR/DME<br>. | *4000 |
| **§ 95.6465 VOR Federal Airway 465** | | |
| LUNDI, ID FIX<br>*129000—MOCA | JACKSON HOLE, WY VOR/DME | *15000 |

| From | To | Changeover Points | |
|---|---|---|---|
| | | Distance | From |
| **§ 95.8003 VOR Federal Airway Changeover Points V–135 Is Amended by Adding Changeover Point** | | | |
| Airway Segment:<br>BEATTY, NV VORTAC<br>#COP 53 NM FROM AND UTILIZES COALDALE, NV VORTAC ON THE 129 M RAD | TONOPAH, NV VORTAC | 34 | BEATTY |
| **V–257 Is Amended To Modify Changeover Point** | | | |
| GRAND CANYON, AZ VOR/DME | BRYCE CANYON, UT VORTAC | 36 | GRAND CANYON |

[FR Doc. 01–14107 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR PART 165

**[CGD09–01–032]**

**RIN 2115–AA97**

## Safety Zone: U.S. Aerospace Challenge, Holland, MI

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone encompassing a portion of Lake Michigan near Holland, Michigan. This safety zone is necessary for the protection of passengers and vessels during a planned rocket launch show over Lake Michigan. The safety zone is intended to restrict vessel traffic from the waters of Lake Michigan off Holland, Michigan.

**DATES:** This temporary final rule is effective from 9 a.m. (local) and terminates at 2 p.m. (local), June 2, 2001.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CDG09–01–032 and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Chicago, Illinois 60521 or deliver them to the Coast Guard Marine Safety Office, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois and are available for inspection or copying between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** MST2 Mike Hogan, U.S. Coast Guard Marine Safety Office, 215 W. 83rd Street, Burr Ridge, Illinois 60521. The telephone number is (630) 986–2175.

**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 was

not received in time to publish an NPRM followed by a temporary final rule that would be effective before the necessary date. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to prevent possible loss of life, injury, or damage to property or the environment.

**Background and Purpose**

A temporary safety zone is required to ensure safety of vessels and spectators from hazards associated with rocket launches. Entry into, transit through, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Chicago or the designated Patrol Commander. The designated Patrol Commander on scene may be contacted on VHF Channel 16.

The safety zone will encompass all waters of Lake Michigan bounded by the lines of a triangle with corners at approximate positions 42° 46′24″ N, 086°12′57″ W; 42°46′25″ N, 086°14′08″ W; 42°47′09″ N, 086°13′33″ W. The rockets will be launched for the end of the Holland State Park Northern Pier. The Captain of the Port Chicago or his designated on scene representative have the authority to terminate the event.

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

**Regulatory Evaluation**

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed this rule under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone, and the zone is in an area where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

**Small Entities**

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

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

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of an activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the proposed zone is only in effect for few hours on the day of the event; vessel traffic can safely pass outside the proposed safety zone during the event; and traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Chicago. Before the effective period, we will issue maritime advisories widely available to users of Lake Michigan by the Ninth Coast Guard District Local Notice to Mariners, Marine information broadcasts, and facsimile broadcasts may also be made.

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

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects 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 Chicago (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 1–888–REG–FAIR (1–888–734–3247).

**Collection of Information**

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

**Federalism**

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

**Unfunded Mandates Reform Act**

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

**Taking of Private Property**

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

**Civil Justice Reform**

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

**Protection of Children**

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

**Environment**

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

**Indian Tribal Governments**

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

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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 § 165.T09–914 is added to read as follows:

**§ 165.T09–914 Safety Zone: Lake Michigan, Holland, MI.**

(a) *Location.* The following area is a safety zone: The waters of Lake Michigan off Holland State Park North Pier, bounded by the sides of a triangle with corners in approximate positions: 42°46′24″ N, 086°12′57″ W; 42°46′25″ N, 086°14′08″ W; 42°47′09″ N, 086°13′33″ W.

(b) *Effective Date.* This safety zone is effective from 9 a.m. (local) until 2 p.m. (local), June 2, 2001.

(c) *Regulations.* This safety zone is being established to protect the boating public in the vicinity of a planned rocket launch show over Lake Michigan. In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Chicago, or the designated Patrol Commander.

Dated: May 16, 2001.

**R. E. Seebald,**

*Captain, U.S. Coast Guard, Captain of the Port, Chicago.*

[FR Doc. 01–14097 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–15–U

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## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 165

**[CGD01–01–075]**

**RIN 2115–AA97**

## Safety Zone: USS DOYLE Port Visit—Boston, Massachusetts

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the USS DOYLE port visit from 7 a.m. June 1, 2001 until 2 p.m. June 4, 2001 in Boston, MA. The safety zone temporarily closes all waters of Boston Inner Harbor within a seventy five (75) foot radius of the USS DOYLE. The safety zone prohibits entry into or movement within this portion of Boston Inner Harbor during the effective period without Captain of the Port authorization. The safety zone is needed to protect the maritime community from the hazards caused by the transit of a large naval vessel, as well as to safeguard the USS DOYLE, the public and the surrounding area from sabotage or other subversive acts, accidents, or other events of a similar nature.

**DATES:** This rule is effective from 7 a.m. Friday, June 1 until 2 p.m. Monday, June 4, 2001.

**ADDRESSES:** Documents as indicated in this preamble are part of docket CGD01–01–75 and are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (junior grade) Dave Sherry, Marine Safety Office Boston, Waterways Management Division, at (617) 223–3006.

**SUPPLEMENTARY INFORMATION:**

**Regulatory History**

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after Federal Register publication. Due to security concerns for the vessel, information about the port call of the USS DOYLE was not provided to the Coast Guard until May 14, 2001, making it impossible to draft or publish a NPRM or a final rule 30 days in advance of its effective date. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to protect the maritime community from hazards created by a large naval vessel's transit through Boston Harbor. In addition, immediate action is needed to safeguard the USS DOYLE, the public and the surrounding area from sabotage or other subversive acts, accidents, or other events of a similar nature. This temporary safety zone is only effective for a three day long port call and should have negligible impact on vessel transits due to the fact that vessels can safely transit around the zone and that they are not precluded from using any portion of the waterway except the safety zone area itself.

**Background and Purpose**

This regulation establishes a moving safety zone on the waters of Boston Inner Harbor seventy five (75) foot radius of the USS DOYLE during its inbound and outbound transits between the BG buoy and Pier One in the Charlestown Navy Yard in Boston Inner Harbor. A stationary safety zone will remain effective while at its temporary berth at Pier One in the Charlestown Navy Yard. The safety zone is in effect from 7 a.m. June 1 until 2 p.m. June 4, 2001. This safety zone prohibits entry into or movement within this portion of Boston Harbor and is needed to protect the maritime community from hazards created by a large naval vessel's transit, to safeguard the USS DOYLE, the public and the surrounding area from sabotage or other subversive acts, accidents, or other events of a similar nature. Marine traffic may transit safely outside of the safety zone during the inbound and outbound transit between the BG buoy and Pier One in the Charlestown Navy Yard, and while the vessel is moored in the Charlestown Navy Yard. The Captain of the Port does not anticipate any negative impact on vessel traffic due to the establishment of this safety zone. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

**Regulatory Evaluation**

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not

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

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

Although this regulation prevents traffic from transiting a portion of Boston Harbor, the effect of this regulation will not be significant for several reasons: the minimal time that vessels will be restricted from the area, the limited extent of the safety zone, the ability for vessels to safely transit outside of the safety zone, and the advance notifications which will be made to the local maritime community by marine information broadcasts.

**Small Entities**

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Boston Inner Harbor between 7 a.m. on June 1, 2001 and 2 p.m. on June 4, 2001. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the safety zone is only 75 feet surrounding the USS DOYLE, permitting vessel traffic to safely pass outside of the safety zone, the safety zone is limited in duration, and the Coast Guard will issue marine information broadcasts before the effective period widely available to users of the Harbor.

**Assistance for Small Entities**

Due to the short notice of the need for this regulation the Coast Guard did not have time to assist small entities under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121).

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

**Collection of Information**

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

**Federalism**

The Coast Guard analyzed this rule under E.O. 13132 and has determined that this rule does not have implications for federalism under that Order.

**Unfunded Mandates Reform Act**

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

**Taking of Private Property**

This rule would not effect a taking of private property or otherwise have taking implications under E.O. 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 E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

**Protection of Children**

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

**Indian Tribal Governments**

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

**Environment**

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lC, this proposed rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

**List of Subjects in 33 CFR Part 165**

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

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01–075 to read as follows:

### § 165.T01–075 Safety Zone: USS DOYLE Port Visit—Boston, Massachusetts.

(a) *Location.* The following area is a safety zone: All waters of Boston Inner Harbor within a seventy five (75) foot radius of the USS DOYLE during its inbound and outbound transits between the ''BG'' Buoy and Pier One at the Charlestown Navy Yard. The safety zone shall remain in effect while the USS DOYLE it moored at Pier One in the Charlestown Navy Yard.

(b) *Effective Date.* This section is effective from 7 a.m. on Friday, June 1, 2001 until 2 p.m. on Monday, June 4, 2001.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the

designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: May 17, 2001.

**B. M. Salerno,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

[FR Doc. 01–14098 Filed 6–4–01; 8:45 am]

**BILLING CODE 4910–15–U**

## DEPARTMENT OF DEFENSE

## Department of the Army, Corps of Engineers

## 33 CFR Part 207

## St. Marys Falls Canal and Locks, Michigan; Use, Administration and Navigation

**AGENCY:** Army Corps of Engineers, DoD.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers is amending its regulations on procedures to navigate the St. Marys Falls Canal and Soo Locks at Sault St. Marie, Michigan, to incorporate changes in navigation safety procedures published in three Notice to Navigation Interests issued on March 29, 2000. The St. Marys Falls Canal and Locks navigation regulation is amended to delete reference to oil tankers having draft and beam permitting transit through the Canadian lock, since the Canadian lock no longer handles oil tankers. The regulation will also prohibit the cleaning and gas freeing of tanks on all hazardous material cargo vessels while either in the lock or while in any part of the Soo Locks approach canals. As an additional vessel safety measure, whenever a tank vessel is within the limits of the lock piers either above or below the locks, vessel movement will be limited to a single vessel, unless the tanker is certified gas free or is carrying non-combustible products. The regulation will allow tankers with any type cargo to transit the MacArthur Lock when the locks park is closed, while tankers carrying non-combustible products or tankers certified gas free will be allowed to transit the MacArthur Lock when the park is open. The regulation clarifies that vessels, except U.S. vessels of war and public vessels (as defined in 46 U.S.C. 2101), carrying explosives are prohibited from transiting U.S. Locks.

**DATES:** The final rule is effective July 5, 2001.

**ADDRESSES:** U.S. Army Corps of Engineers, ATTN: CECW–OD, 441 G Street, NW., Washington, DC 20314–1000.

**FOR FURTHUR INFORMATION CONTACT:** Mr. Jim Hilton, Dredging and Operations Branch (CECW–OD) at (202) 761–4669 or Mr. David L. Dulong, Chief, Engineering Technical Services, Detroit District at (313) 226–6794.

**SUPPLEMENTARY INFORMATION:** Pursuant to its authority in Section 4 of the Rivers and Harbors Act of August 18, 1894 (40 Stat. 266; 33 U.S.C. 1), the Corps is amending the regulations in 33 CFR 207.441(b)(4) and (5). The regulation governing the operation of the St. Marys Falls Canal and Locks, 33 CFR 207.441 was adopted on March 6, 1954, (19 FR 1275) and has been amended at various times.

Paragraph (b) is amended to delete reference to classes of vessels permitted to transit the U.S. locks or enter any of the United States approach canals. Paragraph (b)(4) is further amended by deleting reference to oil tankers being permitted to transit through the Canadian lock, as the Canadian lock has been refurbished and can no longer accommodate oil tankers. In addition, paragraph (b)(4) is amended by deleting reference to personnel smoking onboard tankers while in the lock area, as prohibiting smoking is included in 33 CFR 207.440(s). Paragraph (b)(4) is amended and rewritten to improve vessel safety by adding subparagraphs (i), (ii), and (iii). Subparagraph (b)(4)(i) prohibits the cleaning and gas freeing of tanks on all hazardous material cargo vessels (as defined in 49 CFR part 171), while the vessel is either in the lock or in any part of the Soo Locks approach canals from the outer end of the east center pier to the outer end of the southwest pier. Subparagraph (b)(4) (ii) is added for safety purposes to limit vessel movement to a single vessel whenever a tank vessel carrying hazardous cargo is within the limits of the lock piers either above or below the locks, unless the vessel is certified gas free or is carrying non-combustible products. Subparagraph (b)(4)(iii) is added to allow tankers carrying any type of cargo to transit MacArthur Lock when the locks park is closed. Tankers certified gas free or carrying non-combustible products that will not react hazardously with water will be allowed to transit MacArthur Lock when the park is open.

Paragraph (b)(5) is amended to add a phrase to clarify that vessels, except U.S. vessels of war or public vessels as defined in 46 U.S.C. 2101, carrying explosives are prohibited from transiting the U.S. Locks.

This final rule is not a major rule for the purposes of Executive Order 12866. As required by the Regulatory Flexibility Act, the Corps certifies that this final rule will not have a significant impact on small business entities.

### Comments on the Proposed Rule

Three comments were received to the January 23, 2001, **Federal Register** proposed rule and the January 23, 2001, public notice issued by the Detroit District. Two industry comments requested a clarifying phrase be added to § 207.441(4)(ii)(iii) to allow the release of a vessel from the lock in the direction of a approaching tank vessel, if the tanker is certified gas free and allow tankers certified gas free to transit the lock when MacArthur Lock park is open. We concur with adding the phrase ''unless the vessel is certified gas free or is carrying non-combustible products''. One comment requested that U.S. vessels of war and public vessels, as defined in 46 U.S.C. 2101, be exempt from the provision of being prohibited from transiting the U.S. Locks carrying explosives. We concur with this exemption.

### List of Subjects in 33 CFR Part 207

Navigation (water), Penalties, Reporting and recordkeeping requirements, Waterways.

For reasons set out in the preamble, Title 33, Chapter II of the Code of Federal Regulations is amended as follows:

## PART 207—NAVIGATION REGULATIONS

1. The authority citation for part 207 continues to read as follows:

**Authority:** 40 Stat. 266 (33 U.S.C. 1).

2. Section 207.441 is amended by revising paragraphs (b)(4) and (b)(5) to read as follows:

### § 207.441 St. Marys Falls Canal and Locks, Mich.; security.

* * * * *

(b) *Restrictions on transit of vessels.* * * *

(1) *Tanker vessels*—(i) *Hazardous material.* Cleaning and gas freeing of tanks on all hazardous material cargo vessels (as defined in 49 CFR part 171) shall not take place in a lock or any part of the Soo Locks approach canals from the outer end of the east center pier to the outer end of the southwest pier.

(ii) *Approaching.* Whenever a tank vessel is approaching the Soo Locks and within the limits of the lock piers (outer ends of the southwest and east center

piers) either above or below the locks, no other vessel will be released from the locks in the direction of the approaching tank vessel, unless the tank vessel is certified gas free or is carrying non-combustible products, until the tank vessel is within the lock chamber or securely moored to the approach pier. Whenever a tank vessel is within a Soo Lock Chamber, the tank vessel, unless certified gas free or is carrying non-combustible products, will not be released from the lock until the channel within the limits of the lock piers either above or below the lock, in the direction of the tank vessel, is clear of vessels or vessels therein are securely moored to the approach pier. This limits movement to a single vessel whenever a tank vessel is within the limits of the lock piers either above or below the locks, unless the tank vessel is certified gas free or is carrying non-combustible products. Tank vessels to which this paragraph (b)(4)(ii) applies include those vessels carrying fuel oil, gasoline, crude oil or other flammable liquids in bulk, including vessels that are not certified gas free where the previous cargo was one of these liquids.

(iii) *Locks park.* Except as provided in paragraph (b)(5) of this section, tankers with any type cargo will be permitted to transit the MacArthur Lock when the locks park is closed. The exact dates and times that the park is closed varies, but generally these periods are from midnight to 6 a.m. June through September with one or two hour closure extensions in the early and late seasons. Tankers carrying non-combustible products that will not react hazardously with water or tankers that have been purged of gas or hazardous fumes and certified gas free will be allowed to transit the MacArthur Lock when the park is open.

(5) *Carrying explosives.* All vessels, except U.S. vessels of war and public vessels as defined in 46 U.S.C. 2101, carrying explosives are prohibited from transiting the U.S. Locks.

* * * * *

Dated: May 23, 2001.

**Alfred H. Foxx,**

*Colonel, U.S. Army, Executive Director of Civil Works.*

[FR Doc. 01–14023 Filed 6–4–01; 8:45 am]

**BILLING CODE 3710–92–P**

## POSTAL SERVICE

## 39 CFR Part 111

## Eligibility Requirements for Attachments and Enclosures With Bound Printed Matter

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the Domestic Mail Manual (DMM) to implement changes to the standards governing permissible attachments and enclosures with Bound Printed Matter.

**EFFECTIVE DATE:** June 14, 2001.

**FOR FURTHER INFORMATION CONTACT:** Jerome M. Lease, 703–292–4184.

**SUPPLEMENTARY INFORMATION:** On March 26, 2001, the Postal Service published a proposed rule in the **Federal Register** (66 FR 16431) soliciting comments concerning the standards in the Domestic Mail Manual (DMM) governing permissible attachments and enclosures with Bound Printed Matter (BPM) eligible to be mailed at BPM rates.

Under current postal standards, the only attachments and enclosures authorized to be mailed with qualifying Bound Printed Matter at BPM rates are printed matter mailable as Standard Mail and merchandise samples meeting prescribed conditions. The proposed change would rescind the provision concerning merchandise samples. In its place, the Postal Service proposed the inclusion of ''nonprint'' attachments and enclosures so long as the amount of the attachments and enclosures is relatively modest compared to the amount of qualifying Bound Printed Matter and each has minimal value. In each case, objective standards were proposed for application of the tests. That is, the proposed rule allows for the inclusion of nonprint attachments and enclosures so long as the combined weight of all nonprint attachments and enclosures in the mailpiece is less than or equal to 25 percent of the weight of the Bound Printed Matter in the mailpiece. In addition, the individual cost of each nonprint attachment or enclosure must be less than or equal to the cost of a ''low-cost'' item as defined in DMM E670.5.11, and the combined cost of all nonprint attachments and enclosures may not exceed two times the cost of a low-cost item as defined in DMM E670.5.11. The ''low-cost'' amount for calendar year 2001 is $7.60 and this amount is adjusted for inflation annually by the Internal Revenue Service. For purposes of this test, ''cost'' is the actual cost to the mailer for the item, rather than the price for which it sells the item, represented value, market value, or other amount.

In sum, some of the nonprint attachments and enclosures permitted with Bound Printed Matter under the current standard would also be permissible under the new standard, while some of these attachments and enclosures would not be permitted under the new standard. In addition, some matter not permitted as attachments and enclosures under the current standard would be permissible under the new standard.

The Postal Service received 23 comments in response to the proposal. Twenty-two comments supported the proposal to replace the current standard with an objective standard based on the weight and value of attachments and enclosures. A number of these comments stated that the objective standards would be easier for mailers and postal personnel to understand and use, and thus would facilitate the preparation of mailings and acceptance of mail. Some comments also noted that efforts to revise standards in this manner are appropriate in view of the changes taking place in the publishing industry. Of the 22 favorable comments, 18 fully supported the proposed weight and value standards. Three commenters requested that the weight limit on nonprint attachments and enclosures be increased from 25 percent to 50 percent and one commenter requested that the limit be increased from 25 percent to 49 percent.

The Postal Service has given consideration to these requests to increase the weight of nonprint attachments and enclosures. However, the Postal Service is mindful that Bound Printed Matter rates are intended for printed matter. This is not to say that a modest amount of nonprint attachments and enclosures should be prohibited, and indeed some nonprint matter has been permitted under current standards. The Postal Service is concerned that either of these higher ratios proposed by commenters would serve to cloud the distinction between bona fide Bound Printed Matter and other Package Services mail, such as Parcel Post, or Standard Mail. Therefore, neither of the suggested higher weight limits is adopted in this final rule.

Of the comments supporting the proposed standards, five comments sought a specific ruling concerning ''binders'' as bona fide elements of Bound Printed Matter. These requests are beyond the scope of this rulemaking and are not addressed in this final rule.

The remaining comment, although taking ''no position on the merits of the proposed change,'' suggested that the

proposal would expand the permissible attachments and enclosures beyond those contemplated in the Domestic Mail Classification Schedule (DMCS), and would be beyond the authority of the Postal Service to adopt. The Postal Service respectfully disagrees. Under DMCS 544.2, Bound Printed Matter may contain attachments and enclosures ''as specified by the Postal Service.'' The comment appears to suggest that this discretion is limited by the additional phrase ''and as described in subsections a and e of section 523.1,'' which concerns order forms with books and sound recordings. Under the reading apparently favored by the commenter, the permissible attachments and enclosures under DMCS 544.2 would be limited to these order forms in accordance with standards prescribed by the Postal Service. In contrast, the Postal Service believes that the two parts of section 544.2 should be read independently. That is, the permissible attachments and enclosures include the order forms described in 523.1, and, in addition to that, any other attachment and enclosure specified by the Postal Service. Nevertheless, the Postal Service agrees with the commenter that the permissible attachments and enclosures should not be without limits. Indeed, as explained above, the Postal Service believes that the amount of nonprint attachments and enclosures should be relatively small in comparison to the qualifying Bound Printed Matter, and rejected requests that the ratio be increased beyond the standard proposed.

After full consideration of the comments received and for the reasons discussed above, the Postal Service adopts, without revisions, the proposed changes in the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111).

**List of Subjects in 39 CFR Part 111**

Administrative practice and procedure, Postal Service.

## PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise Domestic Mail Manual E712.1.2, as follows:

**Domestic Mail Manual**

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**E ELIGIBILITY**

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*E712 Bound Printed Matter*

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1.0 BASIC STANDARDS

* * * * *

**1.2 Enclosures and Attachments**

(Revise 1.2 to add new standards for attachments and enclosures as follows:)

In addition to the basic standards in E710, BPM may have the following attachments and enclosures:

a. Any printed matter mailable as Standard Mail.

b. Nonprint attachments and enclosures. The combined weight of all nonprint attachments and enclosures in the mailpiece must be less than or equal to 25 percent of the weight of the Bound Printed Matter in the mailpiece. The individual cost of each nonprint attachment or enclosure must be less than or equal to the cost of a ''low cost'' item as defined in E670.5.11. In addition, the combined cost of all nonprint attachments and enclosures must not exceed two times the cost of a ''low cost'' item as defined in E670.5.11.

* * * * *

This change will be published in a future issue of the Domestic Mail Manual. An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 01–13973 Filed 6–4–01; 8:45 am]

BILLING CODE 7710–12–U

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–301131; FRL–6782–5]**

**RIN 2070–AB78**

## Pyriproxyfen; Pesticide Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of pyriproxyfen in or on pistachio. The Interregional Research Project Number 4 (IR-4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

**DATES:** This regulation is effective June 5, 2001. Objections and requests for hearings, identified by docket control number OPP–301131, must be received by EPA on or before August 6, 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–301131 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 308–9368; and e-mail address: jamerson.hoyt@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<br>112<br>311<br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>Pesticide manufacturing |

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

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

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up

the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the**Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301131. 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 April 4, 2001 (66 FR 17883) (FRL–6772–4), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP 0E6081) for tolerance by IR-4, Technology Center of New Jersey, Rutgers, The State University of New Jersey, 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390. This notice included a summary of the petition prepared by Valent U.S.A. Corporation, 1333 North California Blvd., P.O. Box 8025, Walnut Creek, CA 94596–8025, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.510 be amended by establishing a tolerance for residues of the insecticide pyriproxyfen, 2-[1-methyl-2-(4-phenoxyphenoxy)ethoxypyridine, in or on pistachio at 0.02 part per million (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 pyriproxyfen on pistachio at 0.2 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 pyriproxyfen 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 | Subchronic feeding in rats (13 weeks) | NOAEL = 23.49 mg/kg/day in males 27.68 mg/kg/day in females<br>LOAEL = 117.79 milligram/kilogram/day (mg/kg/day) in males and 141.28 mg/kg/day in females based on higher mean total cholesterol and phospholipids; decreased mean red blood cells, hematocrit and hemoglobin counts and increased liver weight. |
| 870.3150 | Subchronic oral toxicity in dogs (13 weeks) | NOAEL = 100 mg/kg/day<br>LOAEL = 300 mg/kg/day based on increased absolute and relative liver weight in males and hepatocellular hypertrophy in females. These findings were also observed at 1,000 mg/kg/day and may represent adaptive changes at both 300 mg/kg/day and the limit dose of 1,000 mg/kg/day. |
| 870.3200 | 21-Day dermal toxicity (rat) | NOAEL = >1,000 mg/kg/day<br>There was no dermal or systemic toxicity at the 1,000 mg/kg/day dose, highest dose tested (HDT). |

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

| Guideline No. | Study Type | Results |
|---|---|---|
| 870.3700a | Prenatal developmental (rat) | Maternal NOAEL = 100 mg/kg/day<br>LOAEL = 300 mg/kg/day based on increased incidences in mortality and clinical signs at 1,000 mg/kg/day with decreases in food consumption, body weight, and body weight gain together with increases in water consumption at 300 and 1,000 mg/kg/day.<br>Developmental NOAEL = 300 mg/kg/day<br>LOAEL = 1,000 mg/kg/day based on increased incidences of skeletal variations and unspecified visceral variations at 1,000 mg/kg/day. |
| 870.3700b | Prenatal developmental (rabbit) | Maternal NOAEL = 100 mg/kg/day<br>LOAEL = 300 mg/kg/day based on based on premature delivery/abortions, soft stools, emaciation, decreased activity and bradypnea.<br>Developmental NOAEL = 300 mg/kg/day<br>LOAEL = 1,000 mg/kg/day. There were no effects observed in the 4 litters examined. |
| 870.3800 | Reproduction and fertility effects (rat) | Parental/systemic NOAEL = 76 mg/kg/day in males and 87 mg/kg/day in females<br>LOAEL = 386 mg/kg/day and males 442mg/kg/day in females based on decreased body weight, weight gain and food consumption in both sexes and both generations. Increased liver weight in both sexes of the $F_1$ generation and liver and kidney histopathology in $F_1$ males.<br>Reproductive NOAEL = 386 mg/kg/day in males and 442 mg/kg/day in females (highest dose tested).<br>Offspring NOAEL = 97 mg/kg/day in males and 105 mg/kg/day in females<br>LOAEL = 519 mg/kg/day in males and 554 mg/kg/day in females based on decreased pup body weight on lactation. |
| 870.3800 | Perinatal and postnatal study of pyriproxyfen orally administered to rats | Maternal NOAEL: 100 mg/kg/day<br>Maternal LOAEL: 300 mg/kg/day based on increased clinical signs, decreased body weight gains, and decreased food consumption<br>Pup NOAEL: 100 mg/kg/day<br>Pup LOAEL: 300 mg/kg/day based on decreased body weight and increased incidence of dilation of the renal pelvis. At 500 mg/kg/day, there was an increase in pup mortality during lactation<br>Pup Reproductive, Developmental, and Learning<br>NOAEL: 500 mg/kg/day<br>LOAEL: ≥500 mg/kg/day |
| 870.3800 | Non-guideline study of rats orally exposed prior to and in the early stages of pregnancy | Parental NOAEL = 100 mg/kg/day<br>Parental LOAEL = 300 mg/kg/day based on increased clinical signs, decreased body weight gains, and increased water consumption in both sexes, and increased food consumption, changes in organ weights, and gross pathological findings in the males only.<br>Developmental NOAEL = 1,000 mg/kg/day<br>Developmental LOAEL = 1,000 mg/kg/day |
| 870.4300 | Chronic toxicity/oncogenicity (rat) | NOAEL = 35.1 mg/kg/day (females)<br>LOAEL = 182.7 mg/kg/day (females) based on decrease in body weight gain in females at 182.70 mg/kg/day. There was no evidence of carcinogenic response. |
| 870.4100 | 1-Year chronic feeding (dog) | NOAEL = 100 mg/kg/day<br>LOAEL = 300 mg/kg/day based on decreased weight gain, increased absolute and relative liver weight, mild anemia, increased cholesterol and triglycerides in both sexes and slight anemia in males. |
| 870.4200 | Carcinogenicity mice | NOAEL = 84 mg/kg/day in males and 109 mg/kg/day in females<br>LOAEL = 320 mg/kg/day in males and 547 mg/kg/day in females based on renal lesions in both sexes. No statistically significant increase in tumor incidence relative to controls were observed in either sex at any dose up to the highest dose tested. |
| 870.5100 | Gene Mutation Assay (Ames Test) Reverse Mutation | Negative for induction of gene mutation measured as the reversion to histidine protrophy of 5 *S. typhimurium* strains and *E. coli* WP2 uvra at doses from 10 to 5,000 μg/plated with and withour S-9 activation. |
| 870.5300 | Gene Mutation | Negative for induction of gene mutation in Chinese hamster V79 cells with and without metabolic activation up to cytotoxic doses. |

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

| Guideline No. | Study Type | Results |
|---|---|---|
| 870.5380 | Structural ChromosomalAbberation *In vivo* | Nonclastogenic in Chinese hamster ovary cells both with and without S-9 activation up to cytotoxic doses. |
| 870.5550 | Unscheduled DNA Synthesis | Did not induce an increase in unscheduled DNA synthesis both with and without activation in HeLa cells exposed up to insoluble doses ranging to 6.4 µg/mL without activation and 51.2 µg/mL with activation. |
| 870.7485 | Metabolism | Rats were orally dosed with $^{14}$C-labeled pyriproxyfen at 2 or 1,000 mg/kg and at repeated oral doses 14 daily doses of unlabeled pyriproxyfen at 2 mg/kg followed by administration of a single oral dose of labeled pyriproxyfen at 2 mg/kg. Most radioactivity was excreted in the feces 81-92% and urine 5-12% over a 7 day collection period. Expired air was not detected. Tissue radioactivity levels were very low less than 0.3% except for fat. Examination of urine, feces, liver, kidney, bile and blood metabolites yielded numerous > 20 identified metabolites when compared to synthetic standards. The major biotransformation reactions of pyriproxyfen include: 1. Oxidation of the 4' - position of the terminal phenyl group; 2. Oxidation at the 5' - position of pyridine; 3. Cleavage of the ether linkage and conjugation of the resultant phenols with sulfuric acid. |
| 870.7600 | Dermal penetration | |

*B. Toxicological Endpoints*

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

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

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

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1 x $10^{-6}$ 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 pyriproxyfen used for human risk assessment is shown in the following Table 2:

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

| Exposure Scenario | Dose Used in Risk Assessment, UF | FQPA SF* and Level of Concern for Risk Assessment | Study and Toxicological Effects |
|---|---|---|---|
| Acute dietary all populations | Not applicable | Not applicable | No effects that could be attributed to a single exposure were observed in oral toxicity studies. |
| Chronic dietary all populations | NOAEL= 35.1 mg/kg/day<br>UF = 100<br>Chronic RfD = 0.35 mg/kg/day | FQPA SF = 1X<br>cPAD = chronic RfD ÷FQPA SF<br>=0.35 mg/kg/day | 2-Year chronic feeding study in rats<br>LOAEL = 182.7 mg/kg/day based on a decrease in body weight gains in females. |

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

| Exposure Scenario | Dose Used in Risk Assessment, UF | FQPA SF* and Level of Concern for Risk Assessment | Study and Toxicological Effects |
|---|---|---|---|
| Short-term dermal and inhalation (1 to 7 days) (residential) | Not applicable<br>Absorption rate = not more than 10% | Not applicable | 21-Day dermal toxicity study lack of dermal or systemic toxicity at the limit-dose of 1,000 mg/kg/day. |
| Intermediate-term dermal and inhalation (1 week to several months) (residential) | Not applicable<br>Absorption rate = not more than 10% | Not applicable | 21-Day dermal toxicity study<br>Lack of dermal or systemic toxicity at the limit-dose of 1,000 mg/kg/day. |
| Long-term dermal and inhalation (several months to lifetime) (residential) | 35.1 mg/kg/day | LOC for MOE = 100 (residential) | Chronic toxicity/carcinogenicity in rats<br>LOAEL = 182.7 mg/kg/day based on decreased weight gain in female rats. |
| Cancer (oral, dermal, inhalation) | ''Group E'' human carcinogen | Not applicable | There is no evidence of carcinogenic potential. |

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

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.510) for the combined residues of pyriproxyfen, in or on a variety of raw agricultural commodities. Permanent tolerances are established under 40 CFR 180.510(a) for residues of pyriproxyfen in/on the following commodities: pome fruits (crop group 11) (0.2 ppm), citrus fruits (crop group 10) (0.3 ppm), fruiting vegetables (except cucurbits) (crop group 8) (0.2 ppm), tree nuts (crop group 14) (0.02 ppm), cotton seed (0.05 ppm), cotton gin byproducts (2.0 ppm), almond hulls (2.0 ppm), citrus oil (20 ppm), and citrus pulp, dried (2.0 ppm). Tolerances are also proposed by McLaughlin Gormley King Company for residues of pyriproxyfen in/on all food commodities at 0.10 ppm from use of the pesticide in food handling establishments. Risk assessments were conducted by EPA to assess dietary exposures from pyriproxyfen in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. An acute dose and endpoint were not selected for any population subgroup because no effects that could be attributed to a single exposure were observed in oral toxicity studies. Therefore, an acute exposure assessment was not conducted.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992–nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The chronic dietary exposure analysis for pyriproxyfen assumed tolerance level residues and 100% crop treated for all commodities with established or proposed tolerances.

iii. *Cancer.* A cancer dietary exposure assessment was not performed since there was no evidence of carcinogenicity in studies conducted with 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 pyriproxyfen in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of pyriproxyfen.

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

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

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

Based on the PRZM/EXAMS and SCI-GROW models, the EECs of pyriproxyfen for acute exposures are estimated to be 0.46 parts per billion (ppb) for surface water and 0.006 ppb for ground water. The EECs for chronic

exposures are estimated to be 0.11 ppb for surface water and 0.006 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).

Pyriproxyfen is currently registered for use on residential non-dietary sites. Pyriproxyfen is the active ingredient in many registered residential (indoor, nonfood) products for flea and tick control. Formulations include foggers, aerosol sprays, emulsifiable concentrates and impregnated materials (pet collars). Pyriproxyfen residues from residential exposure to pet collars was estimated using the following assumptions: an application rate of 0.58 mg ai/day (product label), average body weight for a 1 to 6–year old child of 10 kg, the active ingredient dissipates uniformly through 365 days (the label instructs to change the collar once a year), and 1% of the active ingredient is available for dermal and inhalation exposure per day (assumption from Draft HED Standard Operating Procedures (SOPs) for Residential Exposure Assessments, December 18, 1997). The assessment also assumes an absorption rate of 100%. This is a conservative assumption since the dermal absorption was estimated to be 10%.

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

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

*D. Safety Factor for Infants and Children*

1. *Safety factor for infants and children*—i. *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.

ii. *Prenatal and postnatal sensitivity*. There is no indication of increased susceptibility of rats or rabbit fetuses to *in utero* and/or postnatal exposure in the developmental and reproductive toxicity studies.

iii. *Conclusion*. There is a complete toxicity data base for pyriproxyfen and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed (reduced to 1X). The FQPA factor is removed because: (1) The toxicology data base is complete; (2) there is no indication of increased susceptibility of rats or rabbit fetuses to *in utero* and/or postnatal exposure in the developmental and reproductive toxicity studies; (3) a developmental neurotoxicity study is not required; (4) dietary (food) exposure estimates are unrefined (assuming tolerance level residues and 100% crop treated) and likely result in an overestimate of the actual dietary exposure; (5) the models are used for ground and surface source drinking water exposure assessments result in estimates that are upper-bound concentrations; and (6) the Draft Standard Operating Procedures for Residential Exposure Assessments have been used as the basis for all calculations which normally rely on one or more upper-percentile assumptions and are considered to be protective.

*E. Aggregate Risks and Determination of Safety*

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

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

When EECs for surface water and ground water are less than the calculated DWLOCs, 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*. An acute dietary dose and endpoint was not identified. Thus the risk from acute aggregate exposure is considered to be negligible.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to pyriproxyfen from food will utilize 0.9% of the cPAD for the U.S. population, 1.6 % of the cPAD for all infants (< year) and 2.6% of the cPAD for children (1-6 years). With the exception of the pet collar uses, residential uses of pyriproxyfen result in short-term, intermittent exposures. Chronic residential postapplication risk

assessments were conducted to estimate the potential risk from the pet collar uses. The estimated chronic term MOE is 61,000 for children and 430,000 for adults. The risk estimates indicate that potential risks from pet collar use do not exceed EPA level of concern (MOEs> 100). In addition, there is potential for chronic dietary exposure to pyriproxyfen in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

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

| Population Subgroup | cPAD mg/kg/day | %cPAD (Food) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Chronic DWLOC (ppb) |
|---|---|---|---|---|---|
| U.S. Population | 0.35 | 0.9% | 0.11 | 0.006 | 12,000 |
| All Infants (<1 year) | 0.35 | 1.6% | 0.11 | 0.006 | 3,400 |
| Children (1-6 years) | 0.35 | 2.6% | 0.11 | 0.006 | 3,400 |
| Females (13-50 years) | 0.35 | 0.7% | 0.11 | 0.006 | 10,000 |

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Though residential exposure could occur with the use of pyriproxyfen, no toxicological effects have been identified for short-term toxicity. 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. *Aggregate cancer risk for U.S. population*. Pyriproxyfen is classified as Group E for human carcinogenicity; not carcinogenic in animal studies in two species.

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

## IV. Other Considerations

### *A. Analytical Enforcement Methodology*

The gas-chromotography/nitrogen-phosphorous specific flame ionization detector (NPD) and high-pressure liquid chromotography/fluorescence (FLD) method RM-33N-2 is adequate for collecting data on residues of pyriproxyfen in/on nutmeat. Adequate method validation data have been submitted for this method and EPA has successfully validated the analytical method for analysis of nutmeat. The limit of quantitation (LOQ) is 0.02 ppm for residues of pyriproxyfen in/on nutmeat.

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

### *B. International Residue Limits*

There are no CODEX, Canadian, or Mexican tolerances for pyriproxyfen residues in/on pistachios. Therefore, international harmonization is not an issue at this time.

## V. Conclusion

Therefore, the tolerance is established for residues of pyriproxyfen in or on pistachio at 0.02 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–301131 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 August 6, 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–301131, 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 special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

## VIII. Submission to Congress and the Comptroller General

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

**List of Subjects in 40 CFR Part 180**

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

Dated: May 17, 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 180.510 is amended by revising the introductory text in paragraph (a)(1) and alphabetically adding the commodity ''pistachio'' to the table to read as follows:

**§ 180.510 Pyriproxyfen; tolerances for residues.**

(a) *General.* (1) Tolerances are established for residues of the insecticide pyriproxyfen 2-[1-methyl-2-(4-phenoxyphenoxy)ethoxypyridine in or on the following food commodities:

| Commodity | Parts per million |
|---|---|
| * * * * * | |
| Pistachio | 0.02 |
| * * * * * | |

* * * * *

[FR Doc. 01–14085 Filed 6–4–01; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–301133; FRL–6783–5]**

**RIN 2070–AB78**

## Clethodim; Pesticide Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for combined residues of clethodim in or on the root vegetable (except sugar beet) subgroup. The Interregional Research Project Number 4 (IR-4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996. This final rule establishes permanent tolerances for clethodim and as part of that process the Agency has reassessed existing tolerances. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. All permanent tolerances for clethodim that existed on August 2, 1996, were previously reassessed by April 1998. Consequently, regarding the actions in this final rule, no tolerance reassessments are counted toward the August 2002 review deadline of FFDCA section 408(q).

**DATES:** This regulation is effective June 5, 2001. Objections and requests for hearings, identified by docket control number OPP–301133, must be received by EPA on or before August 6, 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–301133 in the subject line on the first page of your response.

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

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

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

| Categories | NAICS codes | Examples of potentially affected entities |
|---|---|---|
| Industry | 111<br>112<br>311<br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>Pesticide manufacturing |

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

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

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

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301133. 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 29, 2000 (65 FR 16602) (FRL–6495–5), EPA issued notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of pesticide petition (PP 0E6097) for tolerances by IR-4, Rutgers, the State University of New Jersey, 681 U.S. Highway No. 1 South, North New Brunswick, NJ 08902 and Valent USA Corporation, Walnut Creek, CA 94596–8025. This notice included a summary of the petition prepared by Valent USA Corporation, the registrant.

The petition requested that 40 CFR 180.458 be amended by establishing tolerances for combined residues of the herbicide clethodim, [(E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 5-(2-(ethylthiopropyl)cyclohexene-3-one and 5-(2-(ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, on various commodities with the following tolerance levels at parts per million (ppm): root vegetables subgroup at 1.0 ppm, leaves of root and tuber vegetables group at 2.0 ppm, leafy petiole vegetables subgroup at 0.5 ppm, melon subgroup at 2.0 ppm, squash/cucumber subgroup at 0.5 ppm, cranberry at 0.5 ppm, clover forage at 10 ppm, clover hay at 20.0 ppm, and strawberry at 5.0 ppm. In response to IR-4's petition, EPA issued a final rule in the **Federal Register** of March 14, 2001 (66 FR 14829) (FRL–6770–8) establishing tolerances for combined residues of clethodim and its metabolites in or on carrots at 0.50 ppm, radish roots at 0.50 ppm, radish tops at 0.70 ppm, leaf petioles subgroup at 0.60 ppm, melon subgroup at 2.0 ppm, squash/cucumber subgroup at 0.50 ppm, cranberry at 0.5 ppm, strawberry at 3.0 ppm, clover forage at 10.0 ppm, and clover hay at 20.0 ppm. Tolerances were established for carrot and radish roots, which are members of the root vegetable (except sugar beet) subgroup, in the final rule of March 14, 2001, but not the subgroup since EPA had not completed its evaluation of the residue data submitted in support of the subgroup tolerance. EPA has now completed the review of the residue data and has concluded that the data support a tolerance for combined residues of clethodim and its metabolites in or on the root vegetable (except sugar beet) subgroup at 1.0 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 combined residues of clethodim on the root vegetable (except sugar beet) subgroup at 1.0 ppm. EPA's assessment of exposures and risks associated with establishing this 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 clethodim are discussed in Unit III.A. of the **Federal Register** of March 14, 2001.

### *B. Toxicological Endpoints*

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

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

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

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as $1 \times 10^{-6}$ 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 clethodim used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CLETHODIM FOR USE IN HUMAN RISK ASSESSMENT

| Exposure Scenario | Dose Used in Risk Assessment, UF | FQPA SF* and Levelof Concern (LOC) for Risk Assessment | Study and Toxicological Effects |
|---|---|---|---|
| Acute dietary all populations | N/A | N/A | None selected.<br>There were no effects observed in oral toxicity studies including developmental toxicity studies in rats and rabbits that could be attributable to a single dose (exposure). Therefore, a dose and endpoint were not selected for this risk assessment. |
| Chronic dietary all populations | NOAEL= 1.0 mg/kg/day<br>UF = 100<br>Chronic RfD = 0.01 mg/kg/day | FQPA SF = 1<br>cPAD =chronic RfD<br>FQPA SF = 0.01 mg/kg/day | Chronic toxicity-dog (1 year).<br>Alterations in hematology and clinical chemistry parameters and increased absolute and relative liver weights observed at the LOAEL of 75 mg/kg/day. |
| Short-term dermal (1 to 7 days) (residental) | Oral study maternal NOAEL= 100 mg/kg/day (dermal absorption rate = 30%) | LOC for MOE = 100 (residential) | Developmental toxicity-rat.<br>LOAEL = 350 mg/kg/day based on decreased body weight gain and clinical signs of toxicity (salivation). |
| Intermediate-term dermal (1 week to several months) (residential) | Oral study NOAEL = 25 mg/kg/day (dermal absorption rate = 30%) | LOC for MOE = 100 (residential) | Subchronic toxicity-dog (90 days).<br>LOAEL = 75 mg/kg/day based on increased absolute and relative liver weights. |
| Long-term dermal (several months to lifetime) (residential) | Oral study NOAEL = 1.0 mg/kg/day (dermal absorption rate = 30%) | LOC for MOE =100 (residential) | Chronic toxicity-dog (1 year).<br>LOAEL = 75 mg/kg/day based on alterations in hematology and clinical chemistry parameters as well as increases in absolute and relative liver weights. |
| Short-term inhalation (1 to 7 days) (residential) | Oral study maternal NOAEL= 100 mg/kg/day (inhalation absorption rate = 100%) | LOC for MOE =100 (residential) | Developmental-rat.<br>LOAEL = 350 mg/kg/day based on decreased body weight gain and clinical signs of toxicity (salivation). |
| Intermediate-term inhalation (1 week to several months) (residential) | Oral study NOAEL = 25 mg/kg/day (inhalation absorption rate = 100%) | LOC for MOE = 100 (residential) | Subchronic toxicity-dog (90 days).<br>LOAEL = 75 mg/kg/day based on increased absolute and relative liver weights. |
| Long-term inhalation (several months to lifetime) (residential) | Oral study NOAEL = 1.0 mg/kg/day (dermal absorption rate = 30%) | LOC for MOE = 100 (residential) | Chronic toxicity-dog (1 year).<br>LOAEL = 75 mg/kg/day based on alterations in hematology and clinical chemistry parameters as well as increases in absolute and relative liver weights. |
| Cancer (oral, dermal, inhalation) | N/A | N/A | Clethodim is classified as a ''Not Likely'' carcinogen. |

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

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.458) for the residues of clethodim in or on a variety of food commodities: including the representative commodities of the root vegetable (except sugar beet) subgroup (carrots and radish roots at 0.5 ppm) and the related tuberous and corm vegetable subgroup at 1.0 ppm. Risk assessments were conducted by EPA to assess dietary exposures from clethodim in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. An endpoint was not identified for acute dietary exposure and risk assessment because no effects were observed in oral toxicity studies including developmental toxicity studies in rats or rabbits that could be attributable to a single dose (exposure). Therefore, an acute dietary exposure assessment was not performed.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM) analysis evaluated the individual food consumption as reported by respondents in the USDA [1989–1992] nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The 3–day average of consumption for each sub-population is combined with residues to determine average exposure as milligram/kilogram/day (mg/kg/day).

The chronic analysis was performed using tolerance level residues for all crops and animal commodities. The weighted average percent of crop treated data for existing registrations, and 100 percent crop treated (PCT) data (for new uses) were used for the analyses.

iii. *Cancer*. Clethodim has been classified as a group E carcinogen. Therefore, a cancer risk assessment was not performed.

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

The Agency used PCT information as follows:

Cotton 3%, onions 8%, peanuts 3%, soybeans 4%, sugar beets 15%, and tomatoes 1%.

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

2. *Dietary exposure from drinking water*. Known environmental characteristics of clethodim depict a compound which is stable to hydrolysis, except in acid conditions, but highly susceptible to photolysis and metabolism.

Parent clethodim is mobile, but has a short metabolic half-life of 1–3 days in soil under aerobic conditions. Therefore, parent compound should not be a ground water concern in most environments. In the event that parent clethodim did reach ground water, the available routes of disappearance would be dilution, some metabolism to persistent degradates, and slow hydrolysis with the rate depending on the pH of the ground water.

The environmental fate data indicate that clethodim, and its sulphoxide and sulphone metabolites may migrate into surface water bodies through run-off which occurs shortly after application (e.g., rainfall). Since they are not adsorbed readily to soil ($K_d$s of < 0.1 to 7), they are likely to remain in the aqueous phase, where they are subject to rapid photolysis and biodegradation. Clethodim does not show a significant potential for bio-accumulation in aquatic organisms. Although they have not been individually tested, the primary degradates are highly polar, and would not be expected to bio-accumulate.

The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for clethodim 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 clethodim.

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

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

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated

and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to clethodim, they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models, the EECs of clethodim for chronic exposures are estimated to be 24.2 ppb for surface water and 0.49 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).

Clethodim is not registered for use on any sites that would result in residential exposure. Based on clethodim labels, Select and Select 2EC are both available for weed control use in residential and/or public areas. However, the registrant has indicated that the product is not for use by homeowners. Therefore, homeowners will not handle clethodim products, and a non-occupational handler exposure assessment is not necessary. Following treatment by professional applicators, the public could potentially come into contact with clethodim residues in areas such as patios, along driveways and around golf courses and fence lines. However, weed control with clethodim in theses areas generally consists of a spot treatment, resulting in a very small treated area, and it is unlikely that children would be exposed to these treated areas. Therefore, a non-occupational postapplication exposure assessment was not performed.

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 clethodim 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, clethodim 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 clethodim 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. *Safety factor for infants and children*—i. *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.

ii. *Prenatal and postnatal sensitivity*. The oral perinatal and prenatal data demonstrated no indication of increased sensitivity of rats or rabbits to *in utero* exposure to clethodim.

2. *Conclusion*. There is a complete toxicity data base for clethodim and exposure data are complete or are estimated based on data that reasonably account for potential exposures. Based on the above, EPA determined that the 1X safety factor to protect infants and children should be removed.

*E. Aggregate Risks and Determination of Safety*

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

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

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

1. *Acute risk*. An endpoint for acute dietary exposure was not identified since no effects were observed in oral toxicity studies that could be attributable to a single dose.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to clethodim from food will utilize 29% of the cPAD for the U.S. population, 43% of the cPAD for all infants (< 1 year) and 60% of the cPAD for children 1-6 years old. There are no residential uses for clethodim that result in chronic residential exposure to clethodim. In addition, there is potential for chronic dietary exposure to clethodim in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2.

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

| Population Subgroup | cPAD (mg/kg) | % cPAD (Food) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Chronic DWLOC (ppb) |
|---|---|---|---|---|---|
| U.S. population (total) | 0.01 | 29 | 24.2 | 0.49 | 250 |
| All infants (< 1 year) | 0.01 | 43 | 24.2 | 0.49 | 57 |
| Children 1-6 years | 0.01 | 60 | 24.2 | 0.49 | 40 |
| Children 7-12 years | 0.01 | 42 | 24.2 | 0.49 | 58 |
| Females 13-50 years | 0.01 | 22 | 24.2 | 0.49 | 230 |

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

Clethodim 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. *Aggregate cancer risk for U.S. population.* Clethodim has been classified as a group E carcinogen. Therefore, clethodim is not expected to pose a cancer risk to humans.

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

## IV. Other Considerations

### *A. Analytical Enforcement Methodology*

Method RM-26B-2 was validated by IR-4 for the analyses of residues of clethodim in/on radish and carrots. The limit of quantitation (LOQ) was determined to be 0.1 ppm for carrots and 0.16 ppm for radish. Average recoveries were within the acceptable range for all fortification levels tested and all commodities. The method RM-26B-2 for the determination of clethodim and its metabolites in radish and carrots is acceptable for data collection and meets the requirements for a residue analytical method to enforce tolerances.

The common moiety method RM-26B-3 for the determination of clethodim and its metabolites is similar to the common moiety method RM-26B-2. The method RM-26B-2 and RM-26D-2 have completed an Independent Laboratory Validation (ILV) and also have completed Tolerance Methods Validations (TMVs) in the Agency's laboratory. Additionally, the compound specific method, EPA-RM-26D-2 is also available and is suitable for residue data collection and as a residue analytical methold to enforce tolerances. Both methods have been forwarded to FDA for inclusion in a future edition of the Pesticide Analytical Manual, Volume II (PAM II).

The methods may be requested from: Francis Griffith, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Road, Fort George G. Mead, Maryland, 20755–5350; telephone number: (410) 305–2905; e-mail address: griffith.francis@epa.gov.

### *B. International Residue Limits*

There are no established Codex maximum residue limits (MRLs) for residues of clethodim and its metabolites in/on commodity members of the root vegetable (except sugar beet subgroup); therefore, there are no questions with respect to Codex/U.S. tolerance compatibility.

## V. Conclusion

Therefore, this tolerance is established for combined residues of clethodim, [[(E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 5-(2-(ethylthiopropyl)cyclohexene-3-one and 5-(2-(ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, in or on the root vegetable (except sugar beet) subgroup at 1.0 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–301133 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 August 6, 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–301133, 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 as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

## VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement

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

**List of Subjects in 40 CFR Part 180**

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

Dated: May 23, 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 180.458 is amended by alphabetically adding the entry vegetable, root (except sugar beet) subgroup to the table in paragraph (a)(3), by revising the entry for vegetable, tuberous and corm group, and by deleting the entries for carrot and radish roots to read as follows:

**§ 180.458 [((E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one); tolerances for residues.**

(a) * * *

(3) * * *

| Commodity | Parts per million |
|---|---|
| * * * * | * |
| Vegetable, root (except sugar beet) subgroup | 1.0 |
| * * * * | * |
| Vegetable, tuberous and corm, subgroup | 1.0 |

* * * * *

[FR Doc. 01–14086 Filed 6–4–01; 8:45 am]

BILLING CODE 6560–50–S

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Parts 36 and 54

**[CC Docket Nos. 96–45 and 00–256; FCC 01–157]**

## Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission takes actions in response to the Rural Task Force's recommended reforms to rural high-cost universal service support and the proposals made by the Multi-Association Group (MAG) relating to this universal service support mechanism.

**DATES:** Effective June 5, 2001, except for §§ 36.605(c)(2), 36.611, 54.305(f), the amendments to § 54.307(b), §§ 54.313(b) and (c), 54.314, and 54.315, which contain information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

**FOR FURTHER INFORMATION CONTACT:** Genaro Fullano, Paul Garnett, or Greg Guice, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Fourteenth Report and Order, Twenty-Second Order on Reconsideration in CC Docket No. 96–45 and Report and Order in CC Docket No. 00–256 released on May 23, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC, 20554.

### I. Executive Summary

1. In this Order, we take the following actions in response to the Rural Task Force's recommended reforms to rural high-cost universal service support and the proposals made by the Multi-Association Group (MAG) relating to this mechanism:

- We adopt the Rural Task Force's recommendation to re-base the high-cost loop support fund for rural telephone companies and retain an indexed cap on the fund. We conclude that re-basing the indexed fund will ensure that rural carriers are able to are able tocontinue providing supported services at affordable and reasonably comparable rates during the transition to a more permanent high-cost support mechanism for rural carriers.
- We adopt a ''rural growth factor'' that allows the high-cost loop support fund to grow based on annual changes in the Gross Domestic Product-Chained Price Index (GDP–CPI) and the total number of working loops of rural carriers. We find that allowing the fund to grow in this fashion over the next five years will enable rural carriers to make prudent investments in rural America.
- We adopt the Rural Task Force's recommendation to freeze the national average loop cost at $240.00. We conclude that freezing the national average loop cost will provide rural carriers with greater certainty as to their eligibility for high-cost loop support.
- We adopt a modified version of the Rural Task Force's proposal as it relates to corporate operations expenses. We revise the corporate operations expense limitation calculation so that the dollar values in the formula are re-based and indexed by the GDP–CPI.
- We also raise the minimum cap in the revised corporate operations expense limitation formula. Specifically, we permit small rural carriers to receive support for corporate operations expenses of up to $600,000 or amounts derived from the revised corporate operations expense formula, whichever is greater. We find that raising the minimum cap from $300,000 to $600,000 will enable small rural carriers to receive more support for corporate operations expenses without having to file for waiver of our rules.
- We adopt a modified version of the Rural Task Force's proposed ''safety net additive'' so that a carrier will receive

support for its incremental expense adjustment associated with new investment, rather than 50 percent of the difference between capped and uncapped support in a given year as proposed by the Rural Task Force. By modifying safety net support in this way, we ensure that carriers that meet the threshold requirement for eligibility will receive support for their incremental investment, but do not recover more than the costs incurred as a result of the additional investment.

• Consistent with the Rural Task Force's recommendation, we retain § 54.305 of the Commission's rules, which provides that a carrier acquiring exchanges from an unaffiliated carrier shall receive the same per-line levels of high-cost support for which the acquired exchanges were eligible prior to their transfer. We modify the rule, however, to provide a ''safety valve'' that provides support for additional investment made in the acquired exchanges.

• We decline at this time to adopt the Rural Task Force's proposal to freeze high-cost loop support upon competitive entry in rural carrier study areas. The proposal may be of limited benefit in serving its intended purpose of preventing excessive fund growth, and in some circumstances might increase high-cost loop support levels. We also conclude that the Rural Task Force's proposal would be administratively burdensome and may have the unintended consequence of discouraging investment in rural America.

• We address the Rural Task Force's concerns regarding frequency of reporting and the lag in support in study areas with competitive eligible telecommunications carriers. First, we require all eligible telecommunications carriers serving such areas to report updated line counts on a regular quarterly basis. Second, we clarify that competitive eligible telecommunications carriers may submit data and receive high-cost loop support on a regular quarterly basis.

• We adopt, with certain modifications, the three paths for the disaggregation and targeting of high-cost universal service support proposed by the Rural Task Force. We also adopt the general requirements that the Rural Task Force proposed for all disaggregation plans. We find that providing rural carriers flexibility in the methods of disaggregation and targeting is a reasonable approach to address the significant diversity among such carriers and will facilitate competitive entry in rural areas.

• We find that the Rural Task Force's proposed framework, with certain modifications, shall remain in place for five years and implementation shall begin as of July 1, 2001.

• We adopt the use of a wireless mobile customer's billing address as the basis for determining the customer's location for purposes of delivering high-cost universal service support.

• We conclude that states should file annual certifications with the Commission to ensure that eligible telecommunications carriers providing service in the service area of a rural carrier use universal service support ''only for the provision, maintenance and upgrading of facilities and services for which the support is intended'' consistent with section 254(e) of the Act.

• Consistent with the Rural Task Force's recommendation, the Joint Board on Universal Service is currently considering the definition of supported services. We agree with the Rural Task Force that our universal service policies should not inadvertently create barriers to the provision of access to advanced services, and believe that our current universal service system does not create such barriers. We commit to further consideration of the Rural Task Force's proposed ''no barriers to advanced services'' policy in the future.

• We find the Rural Task Force's recommended principles for access reform to be reasonable and generally consistent with prior Commission actions to reform the access rate structure of price cap carriers. These principles will aid our consideration of access charge reform issues in the pending MAG proceeding. We recognize the importance of completing access reform for rate-of-return carriers and intend to act expeditiously to resolve issues raised in the MAG proceeding.

## II. Procedural Matters

### *A. Final Regulatory Flexibility Analysis*

2. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Further Notice of Proposed Rulemaking (*FNPRM*), 66 FR 7725, January 25, 2001. The Commission sought written public comment on the proposals in the *FNPRM*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for, and Objectives of, the Order

3. The 1996 Act requires the Commission to consult with the Joint Board in implementing section 254, which establishes a number of principles for the preservation and advancement of universal service in a competitive telecommunications environment. The Commission initiated this proceeding to consider the Recommended Decision of the Joint Board regarding a rural universal service plan developed by the Rural Task Force. In this Order, consistent with the recommendation of the Joint Board, we adopt interim rules for determining high-cost universal service support for rural telephone companies based upon the modified embedded cost mechanism proposed by the Rural Task Force. These rules should benefit all rural carriers because they will result in predictable levels of support so that rural carriers can continue to provide affordable service in rural America, while ensuring that consumers in all regions of the Nation, including rural areas, have access to affordable and quality telecommunications services.

4. In this Order, we take the following actions in response to the Rural Task Force's recommended reforms to the rural high-cost loop support mechanism and the proposals made by the MAG relating to these rules. First, we adopt the Rural Task Force's recommendation to re-base the high-cost loop support fund for rural telephone companies and retain an indexed cap on the fund. Second, we adopt a rural growth factor that allows growth in the high-cost loop support fund based on the annual increases in the Gross Domestic Product-Chained Price Index (GDP–CPI) and growth in the total number of working loops of rural carriers. Third, we adopt a modified version of the Rural Task Force's proposal as it relates to corporate operations expense. We revise the corporate operations expense limitation calculation so that the dollar values in the formula are re-based and indexed by the GDP–CPI. We also raise the minimum cap for those carriers with 6,000 or fewer loops. In the revised corporate operations expense formula, we allow these carriers to receive support for corporate operations expenses of up to $600,000 or amounts derived from the revised corporate operations expense formula, whichever is greater. Fourth, we adopt a modified version of the Rural Task Force's proposed safety net additive so that if certain criteria are met, a carrier may receive support for its incremental expense adjustment associated with new investment. Fifth, while we retain § 54.305 of the Commission's rules which provides that a carrier acquiring exchanges from an unaffiliated carrier shall receive the same per-line levels of

high-cost support for which the acquired exchanges were eligible prior to their transfer, we also modify the rule to provide safety valve support for additional investment made in the acquired exchanges. Sixth, we adopt, with certain modifications, the three paths for the disaggregation and targeting of high-cost universal service support proposed by the Rural Task Force. We also adopt the general requirements that the Rural Task Force proposed for all disaggregation plans. Seventh, we adopt the Rural Task Force's proposed framework, with the noted modifications, and it shall remain in place for five years. Finally, we conclude that states should file annual certifications with the Commission to ensure that rural carriers and competitive eligible telecommunications carriers providing service in the service area of a rural local exchange carrier use universal service support ''only for the provision, maintenance and upgrading of facilities and services for which the support is intended'' consistent with section 254(e) of the Act.

5. In this Order, the Commission also addresses certain issues raised in the MAG proceeding. Specifically, we find that the MAG proposal to remove the indexed cap entirely and to eliminate the limits on corporate operations expenses is unwarranted. We also decide against the MAG proposal to the extent that it recommends elimination of § 54.305 entirely. Finally, we disagree with the MAG proposal to allow rural carriers to disaggregate universal service support up to three zones per wire center. We find the Rural Task Force's recommended principles for access reform to be reasonable and generally consistent with prior Commission actions to reform the access rate structure of price cap carriers. These principles will aid our consideration of access charge reform issues in the pending MAG proceeding.

6. We find that the interim rules strike a fair and reasonable balance among the principles and goals enumerated in section 254 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996. Specifically, as the Commission continues to develop a long-term coordinated universal service plan, this interim plan will provide predictable levels of support so that rural carriers can make prudent investments in rural America.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

7. No comments were submitted in response to the IRFA, nor did commenters address the potential impact of these interim rules on small business. The Commission, however, did consider the burden that certain provisions contained in the Order may have on smaller carriers and sought to minimize that burden. For example, as the Commission states in this Order, to reduce the need for small carriers to seek a waiver under the corporate operations expense rules, we raise the minimum cap on allowable corporate operations expenses supported by universal service to $600,000 or amounts derived from the revised corporate operations expense formulas, whichever is greater. This eliminates the burden and expense associated with the waiver process for those carriers.

3. Description and Estimate of the Number of Small Entities to Which the Notice Will Apply

8. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).

9. We have included small incumbent local exchange carriers in this RFA analysis. As noted, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent carriers in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

10. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small providers of local exchange services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Trends in Telephone Service* report, 1,335 incumbent carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of local exchange carriers that would qualify as small business concerns under the SBA's definition. Of the 1,335 incumbent carriers, 13 entities are price cap carriers that are not subject to these rules. Consequently, we estimate that fewer than 1,322 providers of local exchange service are small entities or small incumbent local exchange carriers that may be affected.

11. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Trends in Telephone Service* data, 349 CAPs/competitive local exchange carriers and 60 other local exchange carriers reported that they were engaged in the provision of competitive local exchange services. We do not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 349 small entity CAPs and 60 other local exchange carriers that may be affected.

12. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company

employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. In addition, according to the most recent *Trends Report* data, 806 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 808 small cellular service carriers that may be affected.

13. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small entity PCS providers as defined by the SBA and the Commission's auction rules.

14. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

15. *Specialized Mobile Radio (SMR).* The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than $15 million in each of the three previous calendar years. In the context of both the 800 MHz and 900 MHz SMR, a definition of ''small entity'' has been approved by the SBA.

16. These fees apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this FRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

17. For geographic area licenses in the 900 MHz SMR band, there are 60 who qualified as small entities. For the 800 MHz SMRs, 38 are small or very small entities.

18. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this FRFA, we utilize the SBA's definition applicable to radiotelephone companies—*i.e.,* an entity with no more than 1,500 persons. We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

19. *39 GHz Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to 39 GHz licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. For purposes of the 39 GHz license auction, the Commission defined ''small entity'' as an entity that has average gross revenues of less than $40 million in the three previous calendar years, and ''very small entity'' as an entity that has average gross revenues of not more that $15 million for the preceding three calendar years. The Commission has granted licenses to 29 service providers in the 39 GHz service. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of 39 GHz licensees that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are no more than 29 service providers in the 39 GHz service that may be affected.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

20. In the Order, we adopt the Rural Task Force's proposal that rural carriers be given a choice of three different options for disaggregating and targeting per-line universal service high-cost support, including high-cost loop support, Long Term Support (LTS), and Local Switching Support (LSS). Rural carriers are required to choose one of the paths detailed within 270 days of the effective date of the new rules through submission to the state commissions. Rural carriers not subject to the jurisdiction of the state are required to make such submissions to the Commission. Rural carriers that elect to disaggregate and target per-line support under either Path Two or Three are required to report loops at the cost-zone level, which is a modification of the current requirement that carriers report loops at the study-area level. This change will require only minor increases in a carrier's reporting burdens, and predominantly only in the first year that the carrier revises its method of reporting. Path 1 is available to rural carriers that do not want to target high-cost support. Path Two is available to rural carriers that want state commission review and approval of a disaggregation plan. Path Three is available to rural carriers interested in self-certifying a method for

disaggregating universal service support into a maximum of two cost zones per wire center. Only a disaggregation plan filed under Path Three requires additional reporting requirements to the Commission. Under Path Three, a carrier must use a rationale that is reasonably related to the cost of providing service for each cost zone within each disaggregation category (high-cost loop support, LSS, and LTS). We estimate that the annual burden hours in the first year would be 60 hours. We estimate subsequent annual burden hours at 8 hours. We believe the burden associated with this reporting requirement is appropriately balanced with the benefits reporting rural carriers will receive.

21. The Commission also adopted the Rural Task Force's proposal to extend the section 254(e) certification process to rural carriers. Under this process, state regulatory commissions provide the Commission with annual certifications indicating that the rural carriers in their states receiving federal universal service support will use the support ''only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.'' Carriers not subject to the jurisdiction of the state must submit a sworn affidavit to the Commission stating that they will use support ''only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.'' This reporting requirement will provide states and carriers with access to federal universal service support in a way that ensures the integrity of the universal service fund. We estimate that the annual burden hours associated with the section 254(e) certification process would be 12 hours per carrier. This is a nominal burden on rural carriers and is balanced against the high degree of federal universal service benefits rural carriers would receive.

22. Finally, the Commission adopted a modification to an existing reporting requirement regarding working loops. Under the current rules, rural carriers are required to submit, on an annual basis, the number of working loops it has for each study area it serves. In this Order, we modify this reporting requirement to require that once a competitor enters a rural carriers study area, working loops are required to be reported on a quarterly basis. The Commission determined that this was necessary to prevent the overpayment of support to incumbent rural carriers, which occurs under the current rule because competitors have an incentive to update quarterly, while the incumbent has an incentive to only update annually.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

23. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

24. The Order adopted herein is the result of an analysis of a number of options for distributing federal universal service support to rural carriers. Throughout the Order, it is evident that the Commission took great strides in balancing the burdens associated with modification of the existing embedded cost mechanism and the benefits these modifications confer on rural carriers and competitive eligible telecommunications carriers. In this regard, it is important to note that we make these modifications with only minimal reporting requirements.

25. Among the significant alternatives, we considered whether modification of the corporate operations expense cap would minimize the burden and expense associated with seeking a waiver for smaller carriers. In this Order, we decide to raise the existing cap for carriers with 6,000 or fewer working loops so they can receive support for up to $600,000 or amounts derived from the revised corporate operations expense formula adopted herein, whichever is greater. We thus decrease the need of smaller carriers to request a waiver. In addition, we adopt a modified version of the safety net additive mechanism proposed by the Rural Task Force. We conclude that a modification to the safety net additive is warranted because as proposed, the mechanism potentially allowed for the recovery of more than 100 percent of incremental costs. We also consider alternative measurements of ''meaningful investment'' for purposes of calculating safety valve support. We conclude that the alternatives considered would, in some instances, deny the recovery of such meaningful investments.

26. *Report to Congress:* The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order, including the FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

*B. Paperwork Reduction Act*

27. As described, the rules we adopt in this Order reflect our efforts to balance the needs of rural carriers, while minimizing the burden on those entities that must comply with our reporting requirements. The information we request should not require significant additional resources as they are a modification of current reporting requirements. Additionally, by freezing the national average loop cost at $240, we eliminate the need for non-rural carriers to file loop cost data on a quarterly basis, thus alleviating those carriers of an administrative burden.

28. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the Act, and will go into effect once OMB approves the collection requirements. Once OMB approves the required collections the Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

*C. Effective Date of Final Rules*

29. We conclude that the amendments to our rules adopted herein shall be effective June 5, 2001, except for §§ 36.605(c)(2), 36.611, 54.305(f), 54.307(b), 54.313(b) and (c), 54.314, and 54.315, which contain information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections. The final rules must take effect prior to 30 days after their publication in the **Federal Register** in order for NECA to be able to implement the necessary changes to the high-cost loop support mechanism by July 1, 2001.

## III. Ordering Clauses

30. Pursuant to the authority contained in sections 1–4, 201–205, 214, 218–220, 254, 303(r), 403, 405, and 410 of the Communications Act of 1934, as amended, this Fourteenth Report and Order and Twenty-Second Order on Reconsideration in CC Docket No. 96–45, and Report and Order in CC Docket No. 00–256 is adopted.

31. Parts 36 and 54 of the Commission's rules, are amended as set forth hereto, effective June 5, 2001, except for §§ 36.605(c)(2), 36.611, 54.305(f), 54.307(b), 54.313(b) and (c), 54.314, and 54.315, which contain information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

32. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

## List of Subjects

*47 CFR Part 36*

Jurisdictional separations, Reporting and recordkeeping requirements, Telecommunications, Telephone.

*47 CFR Part 54*

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

## Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 36 and 54 as follows:

## PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for part 36 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i) and (j), 205, 221(c), 254, 403, and 410.

2. Amend § 36.601 by revising the first sentence of paragraph (c) to read as follows.

### § 36.601 General.

* * * * *

(c) Until June 30, 2001, the annual amount of the total nationwide expense adjustment shall consist of the amounts calculated pursuant to § 54.309 of this chapter and the amounts calculated pursuant to this subpart F.* * *

* * * * *

3. Add §§ 36.602, 36.603, 36.604, and 36.605 to subpart F under the center heading ''General'' to read as follows:

### § 36.602 Calculation of non-rural carrier portion of nationwide loop cost expense adjustment.

Effective July 1, 2001, for purposes of determining non-rural carrier interim hold-harmless support, pursuant to § 54.311 of this chapter, the annual amount of the total nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the amount of the total loop cost expense adjustment for the immediately preceding calendar year, increased by a rate equal to the rate of increase in the total number of working loops during the calendar year preceding the July 31st filing. The total loop cost expense adjustment shall consist of the loop cost expense adjustments, including amounts calculated pursuant to §§ 36.612(a) and 36.631. The rate of increase in total working loops shall be based upon the difference between the number of total working loops on December 31 of the calendar year preceding the July 31st filing and the number of total working loops on December 31 of the second calendar year preceding that filing, both determined by the company's submissions pursuant to § 36.611. Non-rural incumbent local exchange carriers and eligible telecommunications carriers serving lines in the service area of non-rural incumbent local exchange carriers shall only receive support pursuant to this subpart F to the extent that they qualify pursuant to § 54.311 of this chapter for interim hold-harmless support. Support amounts calculated pursuant to this subpart F but not received due to the phase down of interim hold-harmless support or the receipt of forward-looking support pursuant to § 54.311 of this chapter shall not be redistributed to other carriers.

### § 36.603 Calculation of rural incumbent local exchange carrier portion of nationwide loop cost expense adjustment.

(a) Effective July 1, 2001, the rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment will be recomputed by the fund administrator as if the indexed cap calculated pursuant to § 36.601(c) and the corporate operations expense limitation calculated pursuant to § 36.621 had not been in effect for the calendar year 2000. For the period July 1, 2001, to December 31, 2001, the annualized amount of the rural incumbent local exchange carrier portion of the nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the non-capped amount of the total rural incumbent local exchange carrier loop cost expense adjustment for the calendar year 2000, multiplied times one plus the Rural Growth Factor calculated pursuant to § 36.604. Beginning January 1, 2002, the annual amount of the rural incumbent local exchange carrier portion of the nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the amount of the total rural incumbent local exchange carrier loop cost expense adjustment for the immediately preceding calendar year, multiplied times one plus the Rural Growth Factor calculated pursuant to § 36.604.

(b) The annual rural incumbent local exchange carrier portion of the nationwide loop cost expense adjustment shall be reduced to reflect the transfer of rural incumbent local exchange carrier access lines that are eligible for expense adjustments pursuant to § 36.631. The reduction shall equal the amount of the § 36.631 expense adjustment available to the transferred access lines at the time of the transfer and shall be effective in the next calendar quarter after the access lines are transferred.

(c) Safety net additive support calculated pursuant to § 36.605, and transferred high-cost support and safety valve support calculated pursuant to § 54.305 of this chapter shall not be included in the rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment.

### § 36.604 Calculation of the rural growth factor.

The Rural Growth Factor (RGF) is equal to the sum of the annual percentage change in the United States Department of Commerce's Gross Domestic Product—Chained Price Index (GPD–CPI) plus the percentage change in the total number of rural incumbent local exchange carrier working loops during the calendar year preceding the July 31st filing submitted pursuant to § 36.611. The percentage change in total rural incumbent local exchange carrier working loops shall be based upon the difference between the total number of

rural incumbent local exchange carrier working loops on December 31 of the calendar year preceding the July 31st filing and the total number of rural incumbent local exchange carrier working loops on December 31 of the second calendar year preceding that filing, both determined by the company's submissions pursuant to § 36.611. Loops acquired by rural incumbent local exchange carriers shall not be included in the RGF calculation.

**§ 36.605 Calculation of safety net additive.**

(a) *''Safety net additive support.''* A rural incumbent local exchange carrier shall receive safety net additive support if it satisfies the conditions set forth in paragraph (c) of this section. Safety net additive support is support available to rural telephone companies, as conditioned in paragraph (c) of this section, in addition to support calculated pursuant to § 36.631. Safety net additive support shall not be available to rural telephone companies for exchange(s) that are subject to § 54.305 of this chapter.

(b) *Calculation of safety net additive support:* Safety net additive support is equal to the amount of capped support calculated pursuant to this subpart F in the qualifying year minus the amount of support in the year prior to qualifying for support subtracted from the difference between the uncapped expense adjustment for the study area in the qualifying year minus the uncapped expense adjustment in the year prior to qualifying for support as shown in the following equation: Safety net additive support = (Uncapped support in the qualifying year – Uncapped support in the base year) – (Capped support in the qualifying year – Amount of support received in the base year).

(c) *Operation of safety net additive support:* (1) In any year in which the total carrier loop cost expense adjustment is limited by the provisions of § 36.603 a rural incumbent local exchange carrier shall receive safety net additive support as calculated in paragraph (b) of this section, if in any study area, the rural incumbent local exchange carrier realizes growth in end of period Telecommunications Plant in Service (TPIS), as prescribed in § 32.2001 of this chapter, on a per loop basis, of at least 14 percent more than the study area's TPIS per loop investment at the end of the prior period.

(2) If paragraph (c)(1) of this section is met, the rural incumbent local exchange carrier must notify the Administrator; failure to properly notify the Administrator of eligibility shall result in disqualification of that study area for safety net additive, requiring the rural incumbent local exchange carrier to again meet the eligibility requirements in paragraph (c)(1) of this section for that study area in a subsequent period.

(3) Upon completion of verification by the Administrator that the study area meets the stated criterion in paragraphs (a), (b), (c) of this section, the Administrator shall:

(i) Pay to any qualifying rural telephone company, safety net additive support for the qualifying study area in accordance with the calculation set forth in paragraph (b) of this section; and

(ii) Continue to pay safety net additive support for the succeeding four years. Support in the four succeeding years shall be the lesser of:

(A) The amount of support paid in the qualifying year; or

(B) The amount of support based on recalculation of support pursuant to paragraph (b) in this section.

4. Amend § 36.611 by revising the introductory text to read as follows:

**§ 36.611 Submission of information to the National Exchange Carrier Association (NECA).**

In order to allow determination of the study areas and wire centers that are entitled to an expense adjustment pursuant to § 36.631, each incumbent local exchange carrier (LEC) must provide the National Exchange Carrier Association (NECA) (established pursuant to part 69 of this chapter) with the information listed for each study area in which such incumbent LEC operates, with the exception of the information listed in paragraph (h) of this section, which must be provided for each study area and, if applicable, for each wire center, as defined in part 54 of this chapter, and each disaggregation zone as established pursuant to § 54.315 of this chapter. This information is to be filed with NECA by July 31st of each year. The information provided pursuant to paragraph (h) of this section must be updated pursuant to § 36.612. Rural telephone companies that acquired exchanges subsequent to May 7, 1997, and incorporated those acquired exchanges into existing study areas shall separately provide the information required by paragraphs (a) through (h) of this section for both the acquired and existing exchanges.

* * * * *

5. Amend § 36.612 by revising paragraph (a) introductory text to read as follows:

**§ 36.612 Updating information submitted to the National Exchange Carrier Association.**

(a) Any rural telephone company, as that term is defined in § 51.5 of this chapter, may update the information submitted to the National Exchange Carrier Association (NECA) on July 31st pursuant to §§ 36.611 (a) through (h) one or more times annually on a rolling year basis according to the schedule, except that rural telephone companies in service areas where an eligible telecommunications carrier has initiated service and has reported line count data pursuant to § 54.307(c) of this chapter must update the information submitted to NECA on July 31st pursuant to § 36.611(h) according to the schedule. Every non-rural telephone company must update the information submitted to NECA on July 31st pursuant to § 36.611 (h) according to the schedule.

* * * * *

6. Amend § 36.621 by revising the last sentence of paragraph (a)(4) introductory text, by revising paragraph (a)(4)(i), and the first sentence of paragraph (a)(4)(ii), by revising paragraphs (a)(4)(ii)(A) through (a)(4)(ii)(C), and adding paragraph (a)(4)(ii)(D) to read as follows:

**§ 36.621 Study area total unseparated loop cost.**

(a) * * *

(4) * * * Total Corporate Operations Expense, for purposes of calculating universal service support payments beginning July 1, 2001, shall be limited to the lesser of:

(i) The actual average monthly per-loop Corporate Operations Expense; or

(ii) A monthly per-loop amount computed according to paragraphs (a)(4)(ii)(A), (a)(4)(ii)(B), (a)(4)(ii)(C), and (a)(4)(ii)(D) of this section.* * *

(A) For study areas with 6,000 or fewer working loops the amount monthly per working loop shall be $33.30853 – (.00246 × the number of working loops), or, $50,000 ÷ the number of working loops, whichever is greater;

(B) For study areas with more than 6,000 but fewer than 18,006 working loops, the monthly amount per working loop shall be $3.83195 + (88,429.20 ÷ the number of working loops); and

(B) For study areas with more than 6,000 but fewer than 18,006 working loops, the monthly amount per working loop shall be $3.83195 + (88,429.20 ÷ the number of working loops); and

(C) For study areas with 18,006 or more working loops, the monthly amount per working loop shall be $8.74472.

(D) Beginning January 1, 2002, the monthly per-loop amount computed according to paragraphs (a)(4)(ii)(A), (a)(4)(ii)(B), and (a)(4)(ii)(C) of this section shall be adjusted each year to reflect the annual percentage change in the United States Department of Commerce's Gross Domestic Product-Chained Price Index (GDP–CPI).

* * * * *

7. Amend § 36.622 by adding a sentence at the end of paragraph (a) introductory text to read as follows:

**§ 36.622 National and study area average unseparated loop costs.**

(a) * * * Effective July 1, 2001, the national average unseparated loop cost for purposes of calculating expense adjustments for rural incumbent local exchange carriers, as that term is defined in § 54.5 of this chapter, is frozen at $240.00.

* * * * *

## PART 54—UNIVERSAL SERVICE

8. The authority citation for part 54 continues to read as follows:

**Authority:** 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

9. Amend § 54.5 by adding the following definition in alphabetical order:

**§ 54.5 Terms and definitions.**

* * * * *

*Rural Incumbent Local Exchange Carrier.* ''Rural incumbent local exchange carrier'' is a carrier that meets the definitions of ''rural telephone company'' and ''incumbent local exchange carrier,'' as those terms are defined in § 51.5 of this chapter.

10. Amend § 54.305 by designating the undesignated text as paragraph (a) and by adding paragraphs (b), (c), (d), (e), and (f) to read as follows:

**§ 54.305 Sale or transfer of exchanges.**

* * * * *

(b) Transferred exchanges in study areas operated by rural telephone companies that are subject to the limitations on the transfer of high-cost universal service support in paragraph (a) of this section may be eligible for a safety valve loop cost expense adjustment based on the difference between a rural incumbent local exchange carrier's index year expense adjustment and subsequent year expense adjustments for the acquired exchanges. Safety valve loop cost expense adjustments shall only be available to rural incumbent local exchange carriers that, in the absence of restrictions on the transfer of high-cost support in § 54.305(a), would qualify for high-cost loop support for acquired exchanges under § 36.631 of this chapter.

(c) The index year expense adjustment for acquired exchange(s) shall be equal to the rural incumbent local exchange carrier's high-cost loop cost expense adjustment for acquired exchanges calculated at the end of the company's first year operating the acquired exchange(s). The index year expense adjustment for the acquired exchange(s) shall be established through cost data submitted in accordance with §§ 36.611 and 36.612 of this chapter and shall be calculated in accordance with § 36.631 of this chapter. For carriers establishing an index year for acquired exchanges pursuant to § 36.611 of this chapter, the index year for the acquired exchange(s) shall commence at the beginning of the next calendar year after the transfer of said exchanges. For carriers establishing an index year for acquired exchanges pursuant to § 36.612 of this chapter, the index year for the acquired exchange(s) shall commence at the beginning of the next calendar quarter after the transfer of said exchanges. The index year expense adjustment for rural telephone companies that have operated exchanges subject to this section for more than a full year on the effective date of this paragraph shall be based on loop cost data submitted in accordance with § 36.612 of this chapter for the year ending on the nearest calendar quarter following the effective date of this paragraph. At the end of each subsequent year, a loop cost expense adjustment for the acquired exchanges will be calculated pursuant to § 36.631 of this chapter and will be compared to the index year expense adjustment. A rural incumbent local exchange carrier's subsequent year expense adjustments shall end on the same calendar quarter as its index year expense adjustment. If acquired exchanges are incorporated into an existing rural incumbent local exchange carrier study area, the rural incumbent local exchange carrier shall exclude costs associated with the acquired exchanges from the costs associated with its pre-acquisition study area in its universal service data submissions filed in accordance with §§ 36.611 and 36.612 of this chapter. Such excluded costs shall be used to calculate the rural incumbent local exchange carrier's safety valve loop cost expense adjustment.

(d) Up to fifty (50) percent of any positive difference between the subsequent year loop cost expense adjustment and the index year expense adjustment will be designated as the study area's safety valve loop cost expense adjustment and will be available in addition to the amounts available to the study area under § 54.305. In no event shall a study area's safety valve loop cost expense adjustment exceed the difference between the carrier's uncapped study area loop cost expense adjustment calculated pursuant to § 36.631 of this chapter and transferred support amounts available to the acquired exchange(s) under paragraph (a) of this section. Safety valve support shall not transfer with acquired exchanges.

(e) The sum of the safety valve loop cost expense adjustment for all eligible study areas operated by rural telephone companies shall not exceed five (5) percent of the total rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment calculated pursuant to § 36.603 of this chapter. The five (5) percent cap on the safety valve mechanism shall be based on the lesser of the rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment calculated pursuant to § 36.603 of this chapter or the sum of rural incumbent local exchange carrier expense adjustments calculated pursuant to § 36.631 of this chapter. The percentage multiplier used to derive study area safety valve loop cost expense adjustments for rural telephone companies shall be the lesser of fifty (50) percent or a percentage calculated to produce the maximum total safety valve loop cost expense adjustment for all eligible study areas pursuant to this paragraph. The safety valve loop cost expense adjustment of an individual rural incumbent local exchange carrier also may be further reduced as described is paragraph (d) of this section.

(f) Once an acquisition is complete, the acquiring rural incumbent local exchange carrier shall provide written notice to the Administrator that it has acquired access lines that may be eligible for safety valve support. Rural telephone companies also shall provide written notice to the Administrator of when their index year has been established for purposes of calculating the safety valve loop cost expense adjustment.

11. Amend § 54.307 by revising paragraph (a)(1), and by revising the second sentence in paragraph (b), by adding a sentence at the end of paragraph (b), and by revising the first sentence in paragraph (c) introductory text to read as follows:

**§ 54.307 Support to a competitive eligible telecommunications carrier.**

(a) * * *

(1) A competitive eligible telecommunications carrier serving loops in the service area of a rural incumbent local exchange carrier, as that term is defined in § 54.5 of this chapter, shall receive support for each line it serves in a particular service area based on the support the incumbent LEC would receive for each such line, disaggregated by cost zone if disaggregation zones have been established within the service area pursuant to § 54.315 of this subpart. A competitive eligible telecommunications carrier serving loops in the service area of a non-rural incumbent local exchange carrier shall receive support for each line it serves in a particular wire center based on the support the incumbent LEC would receive for each such line.

* * * * *

(b) * * * For a competitive eligible telecommunications carrier serving loops in the service area of a rural incumbent local exchange carrier, as that term is defined in § 54.5 of this chapter, the carrier must report the number of working loops it serves in the service area disaggregated by cost zone if disaggregation zones have been established within the service area pursuant to § 54.315 of this subpart. * * * Competitive eligible telecommunications carriers providing mobile wireless service in an incumbent LEC's service area shall use the customer's billing address for purposes of identifying the service location of a mobile wireless customer in a service area.

(c) A competitive eligible telecommunications carrier must submit the data required pursuant to paragraph (b) of this section according to the schedule. * * *

* * * * *

12. Amend § 54.313 as follows:

a. Revise the section heading.

b. Redesignate paragraphs (b) and (c) as paragraphs (c) and (d).

c. Add a new paragraph (b).

d. Revise newly designated paragraph (c).

e. In newly redesignated paragraph (d), the reference to ''paragraph (b)'' is revised to read '' paragraph (c)''.

The addition and revisions read as follows:

**§ 54.313 State certification of support for non-rural carriers.**

* * * * *

(b) *Carriers not subject to State jurisdiction.* A non-rural incumbent local exchange carrier not subject to the jurisdiction of a state or an eligible telecommunications carrier not subject to the jurisdiction of a state serving lines in the service area of a non-rural incumbent local exchange carrier that desires to receive support pursuant to §§ 54.309 and/or 54.311 of this subpart must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided pursuant to §§ 54.309 and/or 54.311 of this subpart shall only be provided to the extent that the carrier has filed the requisite certification pursuant to this section.

(c) *Certification format.* A certification pursuant to this section may be filed in the form of a letter from the appropriate regulatory authority for the State, and must be filed with both the Office of the Secretary of the Commission clearly referencing CC Docket No. 96–45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth in paragraph (d) of this section. If provided by the appropriate regulatory authority for the state, the annual certification must identify which carriers in the State are eligible to receive federal support during the applicable 12-month period, and must certify that those carriers will only use support for the provision, maintenance, and upgrading of facilities and services for which support is intended. A State may file a supplemental certification for carriers not subject to the State's annual certification. All certificates filed by a State pursuant to this section shall become part of the public record maintained by the Commission. Non-rural incumbent local exchange carriers not subject to the jurisdiction of a state or eligible telecommunications carrier not subject to the jurisdiction of a state serving lines in the service area of a non-rural incumbent local exchange carrier, shall file a sworn affidavit executed by a corporate officer attesting to the use of the support for the provision, maintenance, and upgrading of facilities and services for which support is intended. The affidavit must be filed with both the Office of the Secretary of the Commission clearly referencing CC Docket No. 96–45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth in paragraph (d) of this section. All affidavits filed pursuant to this section shall become part of the public record maintained by the Commission.

* * * * *

13. Add § 54.314 to subpart D to read as follows:

**§ 54.314 State certification of support for rural carriers.**

(a) *State certification.* States that desire rural incumbent local exchange carriers and/or eligible telecommunications carriers serving lines in the service area of a rural incumbent local exchange carrier within their jurisdiction to receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter shall only be provided to the extent that the State has filed the requisite certification pursuant to this section.

(b) *Carriers not subject to State jurisdiction.* A rural incumbent local exchange carrier not subject to the jurisdiction of a state or an eligible telecommunications carrier not subject to the jurisdiction of a state serving lines in the service area of a rural incumbent local exchange carrier that desires to receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter shall file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter shall only be provided to the extent that the carrier has filed the requisite certification pursuant to this section.

(c) *Certification format.* A certification pursuant to this section may be filed in the form of a letter from the appropriate regulatory authority for the State, and shall be filed with both the Office of the Secretary of the Commission clearly referencing CC Docket No. 96–45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth in paragraph (d) of this section. If provided by the appropriate regulatory authority for the state, the annual certification must identify which carriers in the State

are eligible to receive federal support during the applicable 12-month period, and must certify that those carriers will only use support for the provision, maintenance, and upgrading of facilities and services for which support is intended. A State may file a supplemental certification for carriers not subject to the State's annual certification. All certificates filed by a State pursuant to this section shall become part of the public record maintained by the Commission. Rural incumbent local exchange carriers not subject to the jurisdiction of a state or eligible telecommunications carriers not subject to the jurisdiction of a state serving lines in the service area of a rural incumbent local exchange carrier, shall file a sworn affidavit executed by a corporate officer attesting to the use of the support for the provision, maintenance, and upgrading of facilities and services for which support is intended. The affidavit must be filed with both the Office of the Secretary of the Commission clearly referencing CC Docket No. 96–45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth in paragraph (d) of this section. All affidavits filed pursuant to this section shall become part of the public record maintained by the Commission.

(d) *Filing Deadlines.* Upon the filing of the certification described in paragraph (c) of this section, support shall be provided pursuant to the following schedule:

(1) *Certifications filed on or before October 1.* Carriers for which certifications are filed on or before October 1 shall receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in the first, second, third, and fourth quarters of the succeeding year.

(2) *Certifications filed on or before January 1.* Carriers for which certifications are filed on or before January 1 shall receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in the second, third, and fourth quarters of that year. Such carriers shall not receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter in the first quarter of that year.

(3) *Certifications filed on or before April 1.* Carriers for which certifications are filed on or before April 1 shall receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in the third and fourth quarters of that year. Such carriers shall not receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter in the first and second quarters of that year.

(4) *Certifications filed on or before July 1.* Carriers for which certifications are filed on or before July 1 shall receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in the fourth quarter of that year. Such carriers shall not receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter in the first, second, or third quarters of that year.

(5) *Certifications filed after July 1.* Carriers for which certifications are filed after July 1 shall not receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in that year.

14. Add § 54.315 to subpart D as follows:

**§ 54.315 Disaggregation and targeting of support by rural incumbent local exchange carriers.**

(a) Within 270 days of the effective date of this rule, all rural incumbent local exchange carriers for which high-cost universal service support pursuant to §§ 54.301, 54.303, and/or 54.305 and/or part 36, subpart F of this chapter is available must select a disaggregation path as described in paragraphs (b), (c), or (d) of this section. In study areas in which a competitive carrier has been designated as a competitive eligible telecommunications carrier prior to the effective date of this rule, the rural incumbent local exchange carrier may only disaggregate support pursuant to paragraph (b), (c), or (d)(1)(iii) of this section. A rural incumbent local exchange carrier failing to select a disaggregation path as described in paragraphs (b), (c), or (d) of this section within 270 days of the effective date of this rule will not be permitted to disaggregate and target federal high-cost support unless ordered to do so by the state commission as that term is defined in § 54.5.

(b) Path 1: Carriers Not Disaggregating and Targeting High-Cost Support:

(1) A carrier may certify to the state commission that it will not disaggregate and target high-cost universal service support.

(2) A carrier's election of this path becomes effective upon certification by the carrier to the state commission.

(3) This path shall remain in place for such carrier for at least four years from the date of certification to the state commission except as provided in paragraph (b)(4) of this section.

(4) A state commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural incumbent local exchange carrier, the disaggregation and targeting of support under paragraphs (c) or (d) of this section.

(5) A carrier not subject to the jurisdiction of a state, *e.g.*, certain tribally owned carriers, may select Path 1, but must certify to the Federal Communications Commission as described in paragraphs (1) through (4) of this section.

(c) Path 2: Carriers Seeking Prior Regulatory Approval for the Disaggregation and Targeting of Support:

(1) A carrier electing to disaggregate and target support under this paragraph must file a disaggregation and targeting plan with the state commission.

(2) Under this paragraph a carrier may propose any method of disaggregation and targeting of support consistent with the general requirements detailed in paragraph (e) of this section.

(3) A disaggregation and targeting plan under this paragraph becomes effective upon approval by the state commission.

(4) A carrier shall disaggregate and target support under this path for at least four years from the date of approval by the state commission except as provided in paragraph (c)(5) of this section.

(5) A state commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural incumbent local exchange carrier, the disaggregation and targeting of support in a different manner.

(6) A carrier not subject to the jurisdiction of a state, *e.g.*, certain tribally owned carriers, may select Path 2, but must seek approval from the Federal Communications Commission as described in paragraphs (c)(1) through (5) of this section.

(d) Path 3: Self-Certification of the Disaggregation and Targeting of Support:

(1) A carrier may file a disaggregation and targeting plan with the state commission along with a statement certifying each of the following:

(i) It has disaggregated support to the wire center level; or

(ii) It has disaggregated support into no more than two cost zones per wire center; or

(iii) That the carrier's disaggregation plan complies with a prior regulatory determination made by the state commission.

(2) Any disaggregation plan submitted pursuant to this paragraph must meet the following requirements:

(i) The plan must be supported by a description of the rationale used, including the methods and data relied

upon to develop the disaggregation zones, and a discussion of how the plan complies with the requirements of this paragraph. Such filing must provide information sufficient for interested parties to make a meaningful analysis of how the carrier derived its disaggregation plan.

(ii) The plan must be reasonably related to the cost of providing service for each disaggregation zone within each disaggregated category of support.

(iii) The plan must clearly specify the per-line level of support for each category of high-cost universal service support provided pursuant to §§ 54.301, 54.303, and/or 54.305 and/or part 36, subpart F of this chapter in each disaggregation zone.

(iv) If the plan uses a benchmark, the carrier must provide detailed information explaining what the benchmark is and how it was determined. The benchmark must be generally consistent with how the total study area level of support for each category of costs is derived to enable a competitive eligible telecommunications carrier to compare the disaggregated costs used to determine support for each cost zone.

(3) A carrier's election of this path becomes effective upon certification by the carrier to the state commission.

(4) A carrier shall disaggregate and target support under this path for at least four years from the date of certification to the state commission except as provided in paragraph (d)(5) of this section.

(5) A state commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural incumbent local exchange carrier, modification to the disaggregation and targeting of support selected under this path.

(6) A carrier not subject to the jurisdiction of a state, *e.g.*, certain tribally owned carriers, may select Path 3, but must certify to the Federal Communications Commission as described in paragraphs (d)(1) through (5) of this section.

(e) Additional Procedures Governing the Operation of Path 2 and Path 3: Disaggregation and targeting plan adopted under paragraphs (c) or (d) of this section shall be subject to the following general requirements:

(1) Support available to the rural incumbent local exchange carrier's study area under its disaggregation plan shall equal the total support available to the study area without disaggregation.

(2) The ratio of per-line support between disaggregation zones for each disaggregated category of support shall remain fixed over time, except as changes are allowed pursuant to paragraph (c) and (d) of this section.

(3) The ratio of per-line support shall be publicly available.

(4) Per-line support amounts for each disaggregation zone shall be recalculated whenever the rural incumbent local exchange carrier's total annual support amount changes using the changed support amount and lines at that point in time.

(5) Per-line support for each category of support in each disaggregation zone shall be determined such that the ratio of support between disaggregation zones is maintained and that the product of all of the rural incumbent local exchange carrier's lines for each disaggregation zone multiplied by the per-line support for those zones when added together equals the sum of the rural incumbent local exchange carrier's total support.

(6) Until a competitive eligible telecommunications carrier is certified in a study area, monthly payments to the rural incumbent local exchange carrier will be made based on total annual amounts for its study area divided by 12.

(7) When a competitive eligible telecommunications carrier is certified in a study area, per-line amounts used to determine the competitive eligible telecommunications carrier's disaggregated support shall be based on the rural incumbent local exchange carrier's then-current total support levels, lines, and disaggregated support relationships.

(f) Submission of Information to the Administrator:

(1) A rural incumbent local exchange carrier certifying under paragraph (b) of this section that it will not disaggregate and target high-cost universal service support shall submit to the Administrator a copy of the certification submitted to the state commission, or the Federal Communications Commission, when not subject to state jurisdiction.

(2) A rural incumbent local exchange carrier electing to disaggregate and target support under paragraph (c) of this section shall submit to the Administrator a copy of the order approving the disaggregation and targeting plan submitted by the carrier to the state commission, or the Federal Communications Commission, when not subject to state jurisdiction, and a copy of the disaggregation and targeting plan approved by the state commission or the Federal Communications Commission.

(3) A rural incumbent local exchange carrier electing to disaggregate and target support under paragraph (d) of this section shall submit to the Administrator a copy of the self-certification plan including the information submitted to the state commission pursuant to (d)(2)(i) and (d)(2)(iv) of this section or the Federal Communications Commission.

(4) A rural incumbent local exchange carrier electing to disaggregate and target support under paragraph (c) or (d) of this section must submit to the Administrator maps which precisely identify the boundaries of the designated disaggregation zones of support within the carrier's study area.

[FR Doc. 01–14008 Filed 6–4–01; 8:45 am]

BILLING CODE 6712–01–P

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 01–1237; MM Docket No. 01–64; RM–10074]**

### Radio Broadcasting Services; Monticello, Maine

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 234A to Monticello, Maine, in response to a petition filed by Allan H. Wiener. *See* 66 FR 14873, March 14, 2001. The coordinates for Channel 234A at Monticello, Maine, are 46–24–20 NL and 67–50–45 WL. Although Canadian concurrence has been requested for the allotment of Channel 234A at Monticello, notification has not been received. Therefore, operation with the facilities specified for Monticello herein is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the 1991 Canada-USA FM Broadcast Agreement or if specifically objected to by Canada. A filing window for Channel 234A at Monticello, Maine, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

**DATES:** Effective July 3, 2001.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 01–24, adopted May 9, 2001, and released May 18, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's

Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

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

## PART 73—RADIO BROADCAST SERVICES

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Maine, is amended by adding Monticello, Channel 234A.

Federal Communications Commission.

**John A. Karousos,**

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

[FR Doc. 01–14015 Filed 6–4–01; 8:45 am]

BILLING CODE 6712–01–P

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 01–1236; MM Docket No. 01–24; RM–10052]**

## Radio Broadcasting Services; Hewitt, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 294A to Hewitt, Texas, in response to a petition filed by Bordeaux Radio Broadcasting. *See* 66 FR 10266, February 14, 2001. The coordinates for Channel 294A at Hewitt are 31–24–52 NL and 97–11–23 WL. There is a site restriction 5.3 kilometers (3.3 miles) south of the community. A filing window for Channel 294A at Hewitt will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

**DATES:** Effective July 3, 2001.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 01–24, adopted May 9, 2001, and released May 18, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

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

## PART 73—RADIO BROADCAST SERVICES

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Hewitt, Channel 294A.

Federal Communications Commission.

**John A. Karousos,**

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

[FR Doc. 01–14016 Filed 6–4–01; 8:45 am]

BILLING CODE 6712–01–P

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 01–1238; MM Docket No. 00–228; RM–9991]**

## Radio Broadcasting Services; Linden, White Oak, Lufkin, Corrigan, Mount Enterprise and Pineland, TX and Zwolle, LA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document reallots Channel 257C2 from Linden, Texas, to White Oak, Texas, and modifies the authorization for Station KIXK to specify operation on Channel 257C2 at White Oak in response to a petition filed by Reynolds Radio, Inc., previously OARA, Inc. *See* 65 FR 75222, December 1, 2000. The coordinates for Channel 257C2 at White Oak are 32–30–32 and 94–50–41. To accommodate the allotment at White Oak we shall make the following changes: substitute Channel 261C2 for Channel 257C2 at Lufkin, Texas and modify the license for Station KUEZ accordingly at coordinates 31–24–28 and 94–45–53; substitute Channel 257A for vacant Channel 261A at Corrigan, Texas at coordinates 30–59–47 and 94–49–36; reallot Channel 260A from Mount Enterprise, Texas to Zwolle, Louisiana and modify the authorization for Station KGRI to specify operation on Channel 260A at Zwolle, Louisiana, at coordinates 31–37–53 and 93–38–38; and allot Channel 256A at Pineland, Texas, as a first local service at coordinates 31–08–48 and 93–56–53.

**DATES:** Effective July 3, 2001.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 00–228, adopted May 9, 2001, and released May 18, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

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

## PART 73—RADIO BROADCAST SERVICES

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Linden, Channel 257C2 and adding White Oak, Channel 257C2, removing Channel 257C2 and adding Channel 261C2 at Lufkin, by removing Channel 261A and adding Channel 257A at Corrigan, by removing Mount Enterprise, Channel 260A and by adding Pineland, Channel 256A.

3. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by adding Zwolle, Channel 260A.

Federal Communications Commission.

**John A. Karousos,**

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

[FR Doc. 01–14018 Filed 6–4–01; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 01–1242, MM Docket No. 99–347, RM–9751; RM–9761]**

## Radio Broadcasting Services; Exmore and Cheriton, VA, Fruitland, MD

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission grants the request of Be-More Broadcasting (''Be-More'') to withdraw its petition for rule making to substitute Channel 291B for Channel 291B1 at Exmore, VA, reallot Channel 291B to Cheriton, VA, as its first local aural service, and modify its construction permit to specify Cheriton as its community of license. The Commission grants the request of Great Scott Broadcasting (''Great Scott''), licensee of Station WKHI(FM) (''WKHI''), to substitute Channel 298B1 for Channel 298B at Exmore, VA, reallot Channel 298B1 to Fruitland, MD, as its first local aural transmission service, and modify Station WKHI's license accordingly. The *Notice of Proposed Rule Making*, in this proceeding, 64 FR 70670 (December 17, 1999), included both Be-More's proposal and Great Scott's proposal because grant of both proposals would have resulted in Exmore, Virginia, losing its only local aural transmission service. The Commission conditioned the grant of program test authority for Great Scott's future facilities in Fruitland on Be-More's receipt of a license for its new FM station at Exmore, Virginia. The coordinates for Station WKHI's new location in Fruitland, Maryland, are: 38–11–32 North Latitude and 75–41–58 West Longitude.

**DATES:** Effective July 2, 2001.

**FOR FURTHER INFORMATION CONTACT:** R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 99–347, adopted May 9, 2001, and released May 18, 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.

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

## PART—RADIO BROADCAST SERVICES

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

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

### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Maryland, is amended by adding Fruitland, Channel 298B1.

3. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by removing Channel 298B at Exmore.

Federal Communications Commission.

**John A. Karousos,**

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

[FR Doc. 01–14019 Filed 6–4–01; 8:45 am]

BILLING CODE 6712–01–P

# Proposed Rules

Federal Register
Vol. 66, No. 108
Tuesday, June 5, 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 TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 2001–CE–20–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Raytheon Aircraft Company Beech Models 1900, 1900C, and 1900D Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Raytheon Aircraft Company (Raytheon) Beech Models 1900, 1900C, and 1900D airplanes. The proposed AD would require you to inspect all four flap flexible shaft assemblies for the correct diagonal wrap and the correct installation. The proposed AD would also require you to replace any flap flexible shaft assembly that has an incorrect diagonal wrap or incorrect installation. The proposed AD is the result of several occurrences of flap extension/retraction failures on the affected airplanes due to the inner flexible shaft ends separating or disengaging. The actions specified by the proposed Ad are intended to prevent these flap extension/retraction failures due to incorrectly configured flap flexible shaft assemblies. Such failure could result in an asymmetric flap condition during flight if the flap safety switch fails to function properly.

**DATES:** The Federal Aviation Administration (FAA) must receive any comments on this rule on or before August 3, 2001.

**ADDRESSES:** Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–20–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140. This information also may be examined at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Paul DeVore, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4142; facsimile: (316) 946–4407.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

*How do I comment on the proposed AD?* The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES**. The FAA will consider all comments received on or before the closing date. We may amend the proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the proposed AD action and determining whether we need to take additional rulemaking action.

*Are there any specific portions of the proposed AD I should pay attention to?* The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of the proposed AD.

We are re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clear, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.plainlanguage.gov.

*How can I be sure FAA received my comment?* If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2001–CE–20–AD.'' We will date stamp and mail the postcard back to you.

### Discussion

*What events have caused this AD?* The FAA has received reports of flap extension/retraction system failures on Raytheon Model 1900D airplanes. The failures occurred when the inner flexible shaft ends separated or disengaged. One of these failures resulted in an asymmetric flap condition when the flap safety switch failed to function properly.

The flap flexible shafts are designed to carry more torque in one direction than the other. If installed on the wrong side of the airplane, the excessive torque load leads to these failures. Raytheon informed FAA that the flap flexible shafts may have been installed on the wrong side of the airplane on certain Beech Models 1900, 1900C, and 1900D airplanes.

*What are the consequences if the condition is not corrected?* Flap extension/retraction failures caused by incorrectly configured flap flexible shaft assemblies could result in loss of flap function or an asymmetric flap condition during flight if the flap safety switch fails to function properly.

### Relevant Service Information

*Is there service information that applies to this subject?* Raytheon has issued Mandatory Service Bulletin SB 27–3397, Issued: January, 2001.

*What are the provisions of this service bulletin?* The service bulletin inclues procedures for:

—Inspecting the inner flexible (drive) shaft of all four flap flexible shaft assemblies for the correct diagonal wrap and the correct installation; and

—Replacing any flap flexible shaft assembly that has an incorrect diagonal wrap or incorrect installation.

**The FAA's Determination and an Explanation of the Provisions of the Proposed AD**

*What has FAA decided?* After examining the circumstances and reviewing all available information related to the incidents described above, including the referenced service bulletin, we have determined that:

—The unsafe condition referenced in this document exists or could develop on other Raytheon Beech Models 1900, 1900C, and 1900D airplanes of the same type design;

—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

*What would the proposed AD require?* This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.

**Cost Impact**

*How many airplanes would the proposed AD impact?* We estimate that the proposed AD would affect 205 airplanes in the U.S. registry.

*What would be the cost impact of the proposed AD on owners/operators of the affected airplanes?* We estimate the following costs to accomplish the proposed inspection:

| Labor cost | Parts cost | Total cost per airplane | Total cost on U.S. operators |
|---|---|---|---|
| 2 workhours × $60 per hour = $120 | No parts required for the inspection | $120 per airplane | $24,600. |

We estimate the following costs to accomplish any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need such replacements.

| Labor cost | Parts cost | Cost per flap shaft |
|---|---|---|
| 8 workhours per flap shaft × $60 per hour = $480. | $232 per flap shaft | $712 per flap shaft (total of four per airplane). |

The manufacturer will provide warranty credit for labor and parts to the extent noted under the Warranty Credit section of Raytheon Mandatory Service Bulletin SB 27–3397, Issued: January, 2001.

**Regulatory Impact**

*Would this proposed AD impact various entities?* The regulations proposed herein 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. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations 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. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

**Raytheon Aircraft Company:** Docket No. 2001–CE–20–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following model and serial number airplanes that are certified in any category:

| Model | Serial No. |
|---|---|
| Beech Model 1900 | UA–2 and UA–3. |
| Beech Model 1900C | UB–1 through UB–74 and UC–1 through UC–174. |
| Beech Model 1900C (C–12J) | UD–1 through UD–6. |
| Beech Model 1900D | UE–1 through UE–345; UE–347 through UE–361; UE–364; UN–367; UE–373; and UE–379. |

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplane must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent flap extension/retraction failures due to incorrectly configured flap flexible shaft assemblies. Such failure could result in any asymmetric flap condition during flight if the flap safety switch fails to function properly.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

| Actions | Compliance | Procedures |
|---|---|---|
| (1) Inspect the inner flexible (drive) shaft of all four flap flexible shaft assemblies for the correct diagonal wrap and the correct installation. | Within the next 200 hours time-in-service (TIS) after the effective date of this AD, unless already accomplish. | In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Aircraft Mandatory Service Bulletin SB 27–3397, Issued: January 2, 2001. |
| (2) Replace any flap flexible shaft assembly found to have an incorrect diagonal wrap or incorrect installation during the inspection required by paragraph (d)(1) of this AD. | Prior to further flight after the inspection required in paragraph (d)(1) of this AD. | In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Aircraft Mandatory Service Bulletin SB 27–3397, Issued: January, 2001, and the applicable maintenance manual. |

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Paul DeVore, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4142; facsimile: (316) 946–4407.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone (800) 429–5372 or (316) 676–3140. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 25, 2001.

**James E. Jackson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01–14006 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–163–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; McDonnell Douglas Model DC–9–81, –82, –83, and –87 Series Airplanes, and Model MD–88 Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, that currently requires an inspection to detect damage, burn marks, or discoloration at certain electrical plugs and receptacles of the sidewall lighting in the passenger cabin, and correction of discrepancies. That AD also requires modification of the electrical connectors, which terminates the inspection requirement. That action was prompted by reports of failures of the electrical connectors in the sidewall fluorescent lighting, which resulted in smoke or lighting interruption in the passenger cabin. This action would expand the applicability of the existing AD to include additional airplanes. The actions specified by the proposed AD are intended to prevent failures of the electrical connectors, which could result in poor socket/pin contact, excessive heat, electrical arcing, and subsequently, connector burn through and smoke and/or fire in the passenger cabin.

**DATES:** Comments must be received by July 20, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–163–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–163–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

**FOR FURTHER INFORMATION CONTACT:** Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5344; fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–163–AD.'' The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–163–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

**Discussion**

On September 7, 1995, the FAA issued AD 95–19–09, amendment 39–9371 (60 FR 48639, September 20, 1995), applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, to require an inspection to detect damage, burn marks, or discoloration at certain electrical plugs and receptacles of the sidewall lighting in the passenger cabin, and correction of discrepancies. That AD also requires modification of the electrical connectors, which terminates the inspection requirement. That action was prompted by reports of failures of the electrical connectors in the sidewall fluorescent lighting, which resulted in smoke or lighting interruption in the passenger cabin. The requirements of that AD are intended to prevent failures of the electrical connectors, which could result in poor socket/pin contact, excessive heat, electrical arcing, and subsequently, connector burn through and smoke in the passenger cabin.

**Actions Since Issuance of Previous Rule**

Since the issuance of that AD, the FAA has reviewed and approved McDonnell Douglas MD–80 Service Bulletin 33–99, Revision 02, dated December 15, 1995, and Boeing Alert Service Bulletin MD80–33A099, Revision 03, dated January 27, 2000. The inspection, replacement, if necessary, and modification procedures described in these revisions are essentially identical to those in Revision 01 of the service bulletin, which was referenced in AD 95–19–09 as the appropriate source of service information for accomplishing the required actions in that AD. However, Revision 02 of the service bulletin added additional airplanes to the effectivity listing that are subject to the identified unsafe condition. Accomplishment of the actions specified in these service bulletins is intended to adequately address the identified unsafe condition.

**Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 95–19–09 to continue to require an inspection to detect damage, burn marks, or discoloration at certain electrical plugs and receptacles of the sidewall lighting in the passenger cabin, and correction of discrepancies. The proposed AD also would continue to require modification of the electrical connectors, which would terminate the inspection requirement. In addition, the proposed AD would expand the applicability of the existing AD to include additional airplanes. The actions would be required to be accomplished in accordance with the service bulletins described previously.

**Cost Impact**

There are approximately 970 Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 470 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are proposed in this AD action would take approximately between 24 and 31 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $1,199 per airplane. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be between $1,240,330, and $1,437,730, or between $2,639, and $3,059 per airplane.

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

**Regulatory Impact**

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. Section 39.13 is amended by removing amendment 39–9371 (60 FR 48639, September 20, 1995), and by adding a new airworthiness directive (AD), to read as follows:

**McDonnell Douglas:** Docket 2000–NM–163–AD. Supersedes AD 95–19–09, Amendment 39–9371.

*Applicability:* Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, as listed in Boeing Alert Service Bulletin MD80–33A099, Revision 03, dated January 27, 2000; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

**Note 2:** Actions required by this AD that were done before the effective date of this AD per McDonnell Douglas MD–80 Service Bulletin 33–99, Revision 1, dated February 23, 1995, or Revision 02, dated December 15, 1995, are considered acceptable for compliance with the requirements of this AD.

To prevent failures of the electrical connectors, which could result in poor socket/pin contact, excessive heat, electrical arcing, and subsequently, connector burn through and smoke and/or fire in the passenger cabin, accomplish the following:

**General Visual Inspection**

(a) At the applicable time indicated in Table 1 of this AD, do a general visual inspection to detect damage, burn marks, or black or brown discoloration caused by electrical arcing at electrical plugs, having part number (P/N) MS3126F–15P, and receptacles, having P/N MS3124E–15S, of the sidewall lighting in the passenger cabin, per Boeing Alert Service Bulletin MD80–33A099, Revision 03, dated January 27, 2000.

TABLE 1

| Affected airplanes | Compliance time |
|---|---|
| (1) DC–9–81, –82, –83, and –87 series airplanes, and MD–88 airplanes, serial numbers 49614, 49626 through 49632 inclusive, 49668, and 49707. | Within 18 months after October 5, 1995 (the effective date of AD 95–19–09). |
| (2) Other than those airplanes identified in paragraph (a)(1) of this AD | Within 18 months after the effective date of this AD. |

**Note 3:** For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

**Corrective Action**

(b) If any discrepancy is found during the inspection required by paragraph (a) of this AD, before further flight, replace the damaged connectors, pins, sockets, or wire with new parts, per Boeing Alert Service Bulletin MD80–33A099, Revision 03, dated January 27, 2000.

**Modification**

(c) At the applicable time indicated in Table 1 of this AD, modify the electrical connectors of the sidewall lighting in the passenger cabin, per Boeing Alert Service Bulletin MD80–33A099, Revision 03, dated January 27, 2000. Accomplishment of this modification constitutes compliance with the requirements of this AD.

**Alternative Methods of Compliance**

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

**Note 4:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

**Special Flight Permits**

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

Issued in Renton, Washington, on May 25, 2001.

**Vi L. Lipski,**

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

[FR Doc. 01–14005 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–162–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; McDonnell Douglas DC–9–81, –82, –83, and –87 Series Airplanes, and Model MD–88 Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes. This proposal would require replacing the interface connectors of the cabin fluorescent lighting ballast in the wiring harness of the overhead stowage compartment with new connectors. This action is necessary to prevent electrical shorting and arcing due to the presence of water in the lighting ballast interface connectors, which could result in smoke in the main cabin. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by July 20, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–162–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–162–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must

be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

**FOR FURTHER INFORMATION CONTACT:**

Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–162–AD.'' The postcard will be date stamped and returned to the commenter.

## Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–162–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

## Discussion

As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of incidents of smoke in the main cabin on certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes. Investigation revealed the presence of water in the lighting ballast interface connectors, which can cause electrical shorts and arcing of the connectors. This condition, if not corrected, could result in smoke in main cabin.

## Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This proposed airworthiness directive (AD) is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

## Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD80–33A096, Revision 02, dated November 1, 1999. The service bulletin describes procedures for replacing the interface connectors of the cabin fluorescent lighting ballast in the wiring harness of the overhead stowage compartment with new connectors. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

## Explanation of Requirements of Proposed Rule

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

## Differences Between the Proposed AD and the Referenced Service Bulletin

Operators should note that, even though the effectivity listing of the referenced service bulletin only lists ''MD–80'' series airplanes, the manufacturer's fuselage numbers listed in the effectivity listing include Model MD–88 airplanes. Therefore, the applicability of the proposed AD includes Model MD–88 airplanes, as well as Model DC–9–81, –82, –83, and –87 series airplanes.

## Cost Impact

There are approximately 747 airplanes of the affected design in the worldwide fleet. The FAA estimates that 486 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 15 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost $510 per airplane. Based on these figures, the cost impact of the inspections proposed AD on U.S. operators is estimated to be $685,260, or $1,410 per airplane.

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

## Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**McDonnell Douglas:** Docket 2000–NM–162–AD.

*Applicability:* Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD80–33A096, Revision 02, dated November 1, 1999; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent electrical shorting and arcing due to the presence of water in the lighting ballast interface connectors, which could result in smoke in the main cabin, accomplish the following:

**Modification**

(a) Within 18 months after the effective date of this AD, replace the interface connectors of the cabin fluorescent lighting ballast in the wiring harness of the overhead stowage compartment with new connectors, in accordance with McDonnell Douglas Alert Service Bulletin MD80–33A096, Revision 02, dated November 1, 1999.

**Note 2:** Replacement of connectors prior to the effective date of this AD in accordance with McDonnell Douglas MD80 Service Bulletin 33–96, dated December 15, 1993; or Revision 1, dated February 28, 1994; is considered acceptable for compliance with the requirements of paragraph (a) of this AD.

**Spares**

(b) As of the effective date of this AD, no person shall install any connector, part number MB10R6, on any airplane.

**Alternative Methods of Compliance**

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

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

**Special Flight Permits**

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

Issued in Renton, Washington, on May 25, 2001.

**Vi L. Lipski,**

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

[FR Doc. 01–14004 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–161–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; McDonnell Douglas Model DC–9–81, –82, –83, and –87 Series Airplanes, and Model MD–88 Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes. This proposal would require a detailed visual inspection of certain wires to detect chafing and preload; repair, if necessary; and modification of certain wire assemblies. This action is necessary to prevent insufficient clearance between wire assemblies and the ice protection airduct and airstair door interlock rod, chafing, and consequent arcing of wire assemblies. Such arcing could result in damage to electronic equipment and adjacent structure, or cause the insulation blankets to ignite, which could result in smoke and fire in the flight deck and main cabin. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by July 20, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–161–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–161–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

**FOR FURTHER INFORMATION CONTACT:** Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–161–AD.'' The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–161–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

**Discussion**

As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of instances of tripped circuit breakers, smoke, and odor of an electrical fire in the flight compartment or forward entrance area on certain McDonnell Douglas Model DC–9–80 series airplanes (i.e., Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes). Investigation revealed the cause to be chafed and burned wire assemblies in the electrical/electronics (E/E) compartment, left-side, between stations Y=148.000 and Y=160.000. The chafing and consequent arcing occurred between the air duct shroud of the strake ice protection system or airstair door interlock rod and adjacent wire assemblies. The chafing is caused by insufficient clearance between the wire assemblies and ice protection airduct and airstair door interlock rod. This condition, if not corrected, could result in chafing and consequent arcing of wire assemblies. Such arcing could result in damage to electronic equipment and adjacent structure, or could cause the insulation blankets to ignite, which could result in smoke and fire in the flight deck and main cabin.

**Other Related Rulemaking**

The FAA, in conjunction with Boeing and operators of McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This proposed airworthiness directive (AD) is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

**Explanation of Relevant Service Information**

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD80–24A126, Revision 02, dated September 22, 1999, which describes procedures for a visual inspection of certain wires to detect chafing and preload; repair, if necessary; and modification of certain wire assemblies. The modification includes tying back wire bundles, and installing spacers and sta-straps. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

**Explanation of Requirements of Proposed Rule**

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

**Cost Impact**

There are approximately 1,037 Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 830 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed detailed visual inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection proposed AD on U.S. operators is estimated to be $49,800, or $60 per airplane.

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

**Regulatory Impact**

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**McDonnell Douglas:** Docket 2000–NM–161–AD.

*Applicability:* Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes airplanes; as listed in McDonnell Douglas Alert Service Bulletin MD80–24A126, Revision 02, dated September 22, 1999; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent smoke and fire in the flight deck and main cabin due to insufficient clearance between wire assemblies and the ice protection airduct and airstair door interlock rod, chafing, and consequent arcing of wire assemblies, accomplish the following:

**Inspection and Modification**

(a) Within 6 months after the effective date of this AD, perform a detailed visual inspection of wires runs in the electrical/equipment compartment to detect chafing and preload against the airduct shroud assembly of the strake ice protection system and/or airstair door interlock rod between stations Y=148.00 and Y=160.000, in accordance with McDonnell Douglas Alert Service Bulletin MD80–24A126, Revision 02, dated September 22, 1999.

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

(1) If no chafed or preloaded wire is found, prior to further flight, install spacers, sta-straps, and tie back wire bundles, in accordance with the service bulletin.

(2) If any chafed or preloaded wire is found, prior to further flight, repair, and install spacers, sta-straps, and tie-back wire bundles, in accordance with the service bulletin.

**Alternative Methods of Compliance**

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

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

**Special Flight Permit**

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

Issued in Renton, Washington, on May 25, 2001.

**Vi L. Lipski,**

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

[FR Doc. 01–14003 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–NM–287–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes; and C–9 (Military) Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; and C–9 (military) airplanes. This proposal would require a one-time visual inspection of circuit breakers to determine the manufacturer of the circuit breakers, and corrective action, if necessary. This action is necessary to prevent internal overheating and arcing of circuit breakers and airplane wiring due to long-term use and breakdown of internal components of the circuit breakers, which could result in smoke and fire in the flight compartment and main cabin. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by July 20, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–287–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–287–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

**FOR FURTHER INFORMATION CONTACT:** Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address

specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–287–AD.'' The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–287–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

**Discussion**

As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of instances of smoke and electrical odor in the flight compartment and cabin area of McDonnell Douglas Model DC–9 series airplanes. Investigation revealed that long-term use and break down of the internal components of the circuit breakers, manufactured by Wood Electric Corporation or Wood Electric Division of Potter Brumfield Corporation, attributed to internal overheating and arcing of the circuit breakers. This condition, if not corrected, could result in smoke and fire in the flight compartment and main cabin.

**Other Related Rulemaking**

The FAA, in conjunction with Boeing and operators of McDonnell Douglas Model DC–9 series airplanes is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This proposed airworthiness directive (AD) is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

**Explanation of Relevant Service Information**

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9–24A171, Revision 01, dated September 21, 1999, which describes procedures for a one-time visual inspection of circuit breakers to determine the manufacturer of the circuit breakers, and replacement of any circuit breaker manufactured by Wood Electric Corporation or Wood Electric Division of Potter Brumfield Corporation with a new circuit breaker. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

**Explanation of Requirements of Proposed Rule**

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

**Differences Between Proposed AD and Service Bulletin**

Operators should note that the proposed AD would require replacement of any circuit breaker manufactured by Wood Electric Corporation or Wood Electric Division of Potter Brumfield Corporation with a new circuit breaker within 18 months after the effective date of this AD. The service bulletin recommends that the replacement should be accomplished within 12 months from issuance of the service bulletin. In developing an appropriate compliance time for this proposed action, the FAA considered not only the manufacturer's recommendation, but the availability of required parts. We find that 18 months represents an appropriate time allowable wherein an ample number of required parts will be available for modification of the U.S. fleet within the proposed compliance period. We also find that such a compliance time will not adversely affect the safety of the affected airplanes.

**Cost Impact**

There are approximately 830 Model DC–9 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 540 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 80 work hours per airplane to accomplish the proposed inspection of circuit breakers (over 700 installed on each airplane), and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $2,592,000, or $4,800 per airplane.

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

**Regulatory Impact**

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**McDonnell Douglas:** Docket 99–NM–287–AD.

*Applicability:* Model DC–9–10, –20, –30, –40, and –50 series airplanes; and C–9 (military) airplanes, as listed in McDonnell Douglas Alert Service Bulletin DC9–24A171, Revision 01, dated September 21, 1999; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent internal overheating and arcing of circuit breakers and airplane wiring due to long-term use and breakdown of internal components of the circuit breakers, which could result in smoke and fire in the flight compartment and main cabin, accomplish the following:

**Inspection and Replacement, If Necessary**

(a) Within 18 months after the effective date of this AD: Perform a one-time general visual inspection of circuit breakers to determine the manufacturer of the circuit breaker, in accordance with McDonnell Douglas Alert Service Bulletin DC9–24A171, Revision 01, dated September 21, 1999.

**Note 2:** For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) If no Wood Electric Corporation or Wood Electric Division of Potter Brumfield Corporation circuit breaker is found, no further action is required by this AD.

(2) If any Wood Electric Corporation or Wood Electric Division of Potter Brumfield Corporation circuit breaker is found, prior to further flight, replace the circuit breaker with a new circuit breaker in accordance with the service bulletin.

**Spares**

(b) As of the effective date of this AD, no person shall install, on any airplane, a circuit breaker having a part number listed in paragraph 1.A.2., ''Spares Affected,'' of McDonnell Douglas Alert Service Bulletin DC9–24A171, Revision 01, dated September 21, 1999.

**Alternative Methods of Compliance**

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

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

**Special Flight Permit**

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

Issued in Renton, Washington, on May 25, 2001.

**Vi L. Lipski,**

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

[FR Doc. 01–14002 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NM–06–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; BAe Systems (Operations) Limited Model BAe 146 and Avro 146–RJ Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain BAe Systems (Operations) Limited Model BAe 146 and Avro 146–RJ series airplanes. This proposal would require identifying the discharge valves and cabin pressure controllers, and replacing them with new parts if necessary. This action is necessary to prevent the installation of incorrect pressurization discharge valves and cabin pressure controllers, which could subject the airframe to excess stress and adversely affect the airframe fatigue life. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by July 5, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–06–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9–anm–nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–06–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as

they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–06–AD.'' The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–06–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

**Discussion**

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain BAe Systems (Operations) Limited Model BAe 146 and Avro 146–RJ series airplanes. The CAA advises of two reports indicating that incorrect front and/or rear pressurization discharge valves were found installed on some affected airplanes. In addition, it is possible that some operators may have installed incorrect flight deck-mounted cabin pressure controllers. Because of pressurization problems associated with use of the incorrect discharge valves and cabin pressure controllers, the airframe may be subject to excess stress. This condition, if not corrected, could adversely affect the airframe fatigue life.

**Explanation of Relevant Service Information**

The manufacturer has issued Inspection Service Bulletin ISB.21–148, Revision 1, dated February 6, 2001, which describes procedures for identifying the part numbers of the front and rear pressurization discharge valves and the cabin pressure controllers, and replacing any incorrect part with a new, correct part. For airplanes installed with certain auto-pressurization equipment (installed during BAe Systems Modification HCM50258A), the service bulletin recommends limiting the airplane ceiling until the incorrect parts can be replaced. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 003–11–2000 to ensure the continued airworthiness of these airplanes in the United Kingdom.

**FAA's Conclusions**

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

**Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

**Cost Impact**

The FAA estimates that 20 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $3,600, or $180 per airplane.

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

**Regulatory Impact**

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**BAe Systems (Operations) Limited** (Formerly British Aerospace Regional Aircraft): Docket 2001–NM–06–AD.

*Applicability:* Model BAe 146 and Avro 146–RJ series airplanes, certificated in any category, as listed in BAe Systems (Operations) Limited Inspection Service Bulletin ISB.21–148, Revision 1, dated February 6, 2001.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent the installation of incorrect pressurization discharge valves and cabin pressure controllers, which could subject the airframe to excess stress and adversely affect the airframe fatigue life, accomplish the following:

**Parts Identification**

(a) As specified in paragraph (a)(1) or (a)(2), as applicable, of this AD: Identify the part numbers of the pressurization discharge valves and cabin pressure controllers to determine if any installed part is incorrect, as defined by and in accordance with BAe Systems (Operations) Limited Inspection Service Bulletin ISB.21–148, Revision 1, dated February 6, 2001.

(1) For airplanes post-Modification HCM50258A: Identify the part numbers within 30 days after the effective date of this AD; and, if any part is incorrect, limit the airplane ceiling to 31,000 feet until the incorrect part is replaced, as specified by paragraph (b) of this AD.

(2) For airplanes pre-Modification HCM50258A: Identify the part numbers within 6 months after the effective date of this AD.

**Corrective Action**

(b) For any incorrect part identified in accordance with paragraph (a) of this AD: Within 500 flight cycles thereafter, replace it with a new, correct part, in accordance with BAe Systems (Operations) Limited Inspection Service Bulletin ISB.21–148, Revision 1, dated February 6, 2001. Prior to further flight thereafter, perform a structural inspection and accomplish applicable corrective actions, in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the The Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

**Note 2:** Accomplishment of the actions specified in this AD in accordance with BAe Systems (Operations) Limited Inspection Service Bulletin ISB.21–148, dated November 17, 2000, is also acceptable for compliance with the requirements of this AD.

**Alternative Methods of Compliance**

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

**Special Flight Permits**

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

**Note 4:** The subject of this AD is addressed in British airworthiness directive 003–11–2000.

Issued in Renton, Washington, on May 30, 2001.

**Vi L. Lipski,**

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

[FR Doc. 01–14046 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–378–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 707 and 720 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 707 and 720 series airplanes. This proposal would require a preventive modification of the front spar fitting on the outboard engine nacelle. This action is necessary to prevent fatigue cracking of the front spar fitting on the outboard engine nacelle, which could reduce the structural integrity of the nacelle, and result in separation of the engine from the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by July 20, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–378–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–378–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Duong Tran, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2773; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

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

Submit comments using the following format:

• Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a

request to change the service bulletin reference as two separate issues.

- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000-NM–378-AD.'' The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–378–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

**Discussion**

The FAA has received reports that fatigue cracks have been found in the front spar fitting on the outboard engine nacelle on certain Boeing Model 707 and 720 series airplanes. The cracks originated at the rearmost of the seven fasteners which attach the front spar fitting to the front spar chord. Such cracking, if not corrected, could reduce the structural integrity of the nacelle, and result in separation of the engine from the airplane.

**Explanation of Relevant Service Information**

The FAA has reviewed and approved Boeing Service Bulletin 1541, Revision 3, dated February 15, 1967, which describes procedures for, among other actions, installation of a preventive modification of the front spar fitting on the outboard engine nacelle. The modification involves replacement of the front spar fitting with a new, improved (stronger) fitting and modification of the front spar chord to distribute stress loads over the entire front spar fitting. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

**Explanation of Requirements of Proposed Rule**

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

**Differences Between Proposed Rule and Service Bulletin**

This proposed rule differs from the service bulletin in the compliance time for the proposed modification. For certain airplanes, the service bulletin recommends accomplishment of the modification of the front spar fitting, but does not specify a compliance time; for other airplanes, the service bulletin specifies that the modification is optional and may be installed on an attrition basis. This proposed AD would require installation of the modification prior to the accumulation of 20,000 total flight cycles, or within 24 months after the effective date of this AD, whichever occurs later. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the actions. In light of all of these factors, the FAA finds that the proposed compliance time for completing the required actions represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

The proposed rule also differs from the service bulletin in that it would not require the repetitive inspections to detect cracking of the front spar fitting, which are described in the service bulletin. The decision to mandate the preventive modification of the front spar fitting is based on the FAA's determination that long-term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not provide the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed modification requirement is consistent with these findings.

Operators should note that Section 3., Part II, ''l,'' of the service bulletin refers to an incorrect part number for the new, improved front spar fitting. That item reads, ''Install applicable new fitting 65–13347–4* * *''; the FAA has determined that the correct part number for the new, improved fitting in this case is 65–13347–5. Figure 1 of the service bulletin references the correct part number.

**Cost Impact**

There are approximately 13 airplanes of the affected design in the worldwide fleet. The FAA estimates that 3 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 64 work hours per airplane to accomplish the proposed modification, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,300 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $15,420, or $5,140 per airplane.

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

**Regulatory Impact**

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this

action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Boeing:** Docket 2000–NM–378–AD.

*Applicability:* Model 707 and 720 series airplanes, listed in Boeing Service Bulletin 1541, Revision 3, dated February 15, 1967; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the front spar fitting on the outboard engine nacelle, which could reduce the structural integrity of the nacelle, and result in separation of the engine from the airplane, accomplish the following:

**Preventive Modification**

(a) Prior to the accumulation of 20,000 total flight cycles, or within 24 months after the effective date of this AD, whichever occurs later, install the preventive modification of the front spar fitting on the outboard engine nacelle. Do the modification (including replacement of the front spar fitting with a new, improved (stronger) fitting, and modification of the front spar chord to distribute stress loads over the entire front spar fitting) according to Boeing Service Bulletin 1541, Revision 3, dated February 15, 1967.

**Note 2:** Modification of the front spar fitting on the outboard engine nacelle (including replacement of the front spar fitting with a new, improved (stronger) fitting, and modification of the front spar chord to distribute stress loads over the entire front spar fitting) accomplished prior to the effective date of this AD according to Boeing Service Bulletin 1541, dated July 1, 1962; Revision 1, dated January 29, 1963; Revision 2, dated February 11, 1964; or Supplement 1541(R–2)A, dated April 2, 1964; is acceptable for compliance with the requirements of paragraph (a) of this AD.

**Spares**

(b) As of the effective date of this AD, no person shall install a front spar fitting, part number 65–2532 or 65–2532–5, on the outboard engine nacelle on any airplane.

**Alternative Methods of Compliance**

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

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

**Special Flight Permits**

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

Issued in Renton, Washington, on May 30, 2001.

**Vi L. Lipski,**

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

[FR Doc. 01–14045 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–373–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Raytheon Model DH.125, HS.125, BH.125, and BAe 125 (U–125 and C–29A) Series Airplanes, and Hawker 800, Hawker 800 (U–125A), Hawker 800XP, and Hawker 1000 Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Raytheon Model DH.125, HS.125, BH.125, and BAe 125 (U–125 and C–29A) series airplanes, and Hawker 800, Hawker 800 (U–125A), Hawker 800XP, and Hawker 1000 airplanes. This proposed AD would require an inspection for cracking or corrosion of the cylinder head lugs of the main landing gear (MLG) actuator and follow-on/corrective actions. This proposed AD is prompted by reports of attachment lugs cracking at the actuator cylinder head. This action is necessary to prevent separation of the cylinder head lugs, which could prevent the MLG from extending and result in a partial gear-up landing. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by July 20, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–373–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–373–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas.

**FOR FURTHER INFORMATION CONTACT:** David Ostrodka, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone (316) 946–4129; fax (316) 946–4407.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–373–AD.'' The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–373–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

**Discussion**

The FAA has received reports of cracking of the cylinder head lugs of the main landing gear (MLG) actuator. Such cracking of the cylinder heads could result in separation of the cylinder head lugs, which could prevent the MLG from extending. This condition, if not corrected, could result in a partial gear-up landing.

**Explanation of Relevant Service Information**

The FAA has reviewed and approved Raytheon Service Bulletin (SB) 32–3391, dated August 2000. The service bulletin describes procedures for performing a one-time eddy current inspection to detect cracking or corrosion of the cylinder head lugs of the MLG and follow-on/corrective actions. The follow-on/corrective actions include ''vibro-etching'' the MLG actuator data plate, painting a blue stripe on the actuator cylinder head, and replacing bushings; applying corrosion protection to the lug bores; and replacing the actuator with a new or overhauled actuator or replacement of the actuator cylinder head with a new cylinder head, as applicable.

**Additional Source of Service Information**

The Raytheon service bulletin references Precision Hydraulics Cylinder Maintenance Manual 32–30–1105 for additional service information regarding the replacement of the actuator cylinder head with a new cylinder head.

**Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require doing the actions specified in the Raytheon service bulletin described previously. The actions would be required to be accomplished in accordance with the Raytheon service bulletin described previously.

**Cost Impact**

There are approximately 1,000 airplanes of the affected design in the worldwide fleet. The FAA estimates that this proposed AD would affect 650 airplanes of U.S. registry. The proposed inspection would take approximately 20 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $780,000, or $1,200 per airplane.

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

**Regulatory Impact**

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Raytheon Aircraft Company:** Docket 2000–NM–373–AD.

*Applicability:* Model DH.125, HS.125, BH.125, and BAe 125 (U–125 and C–29A) series airplanes, and Hawker 800, Hawker 800 (U–125A), Hawker 800XP, and Hawker 1000 airplanes, as listed in Raytheon Service Bulletin SB 32–3391, dated August 2000; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent separation of the cylinder head lugs, which could prevent the main landing gear (MLG) from extending and result in a partial gear-up landing, do the following:

**Inspection**

(a) Perform an eddy current inspection of the actuator cylinder head lugs for cracking or corrosion per Raytheon Service Bulletin SB 32–3391, dated August 2000, at the time specified in paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this AD, as applicable.

(1) For actuator cylinder heads that have 3,000 or less total landings as of the effective date of this AD: Perform the eddy current inspection within 24 months after the effective date of this AD.

(2) For actuator cylinder heads that have 3,001 to 4,000 total landings as of the effective date of this AD: Perform the eddy current inspection within 6 months after the effective date of this AD.

(3) For actuator cylinder heads that have been in service for more than 7 years as of the effective date of this AD: Perform the eddy current inspection within 6 months of the effective date of this AD.

(4) For actuator cylinder heads that have 4,001 or more total landings as of the effective date of this AD: Perform the eddy current inspection within 10 landings after the effective date of this AD.

**If No Cracking or Corrosion**

(b) If no cracking or corrosion is found during the inspection required by paragraph (a) of this AD, before further flight, accomplish the follow-on actions (e.g., ''vibro-etching'' the MLG actuator data plate, painting a blue stripe on the actuator cylinder head to indicate 1/32 inch oversize bushings, replacing bushings, and applying corrosion protection to the lug bores), per Raytheon Service Bulletin SB 32–3391, dated August 2000.

**If Any Cracking or Corrosion**

(c) If any cracking or corrosion is found during the inspection required by paragraph (a) of this AD, before further flight, accomplish either of the actions specified in paragraph (c)(1) or (c)(2) of this AD, per Raytheon Service Bulletin SB 32–3391, dated August 2000.

(1) Replace the actuator of the MLG with a new or serviceable actuator, or

(2) Replace the actuator cylinder head with a new cylinder head.

**Note 2:** Raytheon Service Bulletin SB 32–3391, dated August 2000, references Precision Hydraulics Cylinder Maintenance Manual (CMM) 32–30–1105 as an additional source of service information.

**Alternative Methods of Compliance**

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

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

**Special Flight Permit**

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

Issued in Renton, Washington, on May 30, 2001.

**Vi L. Lipski,**

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

[FR Doc. 01–14044 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–220–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 747 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Boeing Model 747 series airplanes, that currently requires a one-time inspection of the fuselage skin adjacent to the drag splice fitting to detect cracking, and follow-on actions, if necessary. This action would mandate new repetitive inspections for cracking of the fuselage skin adjacent to the drag splice fitting. This proposal is prompted by reports of fatigue cracking in the fuselage skin and adjacent structure. The actions specified by the proposed AD are intended to detect and correct such cracking, which could result in reduced structural integrity of the fuselage, and consequent rapid depressurization of the airplane.

**DATES:** Comments must be received by July 20, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–220–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–220–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

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

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–220–AD.'' The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–220–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

**Discussion**

On July 3, 2000, the FAA issued AD 2000–14–04, amendment 39–11813 (65 FR 43219, July 13, 2000), applicable to all Boeing Model 747 series airplanes, to require a one-time inspection of the fuselage skin adjacent to the drag splice fitting to detect cracking, and follow-on actions, if necessary. The requirements of that AD are intended to detect and correct fatigue cracking of the fuselage skin, which could result in reduced structural integrity of the fuselage, and consequent rapid depressurization of the airplane.

**Actions Since Issuance of Previous Rule**

In the preamble to AD 2000–14–04, the FAA specified that the actions required by that AD were considered ''interim action'' and that the FAA was considering a separate rulemaking action to address the procedures for repetitive ultrasonic, high frequency eddy current, and detailed visual inspections of the fuselage skin adjacent to the drag splice fitting to detect additional cracking, and repair of any cracking detected, as described in Boeing Service Bulletin 747–53A2444, Revision 1, dated June 15, 2000 (which was referenced as the appropriate source of service information in that AD). The FAA now has determined that further rulemaking action is indeed necessary, and this proposed AD follows from that determination.

**New Service Information**

Since the issuance of AD 2000–14–04, the FAA has received a report of severe cracking on a Model 747 series airplane at approximately 14,540 flight cycles. In light of this report, the FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2444, Revision 2, dated May 24, 2001. Revision 2 is essentially the same as Revision 1 of the service bulletin, but Revision 2 specifies more comprehensive repetitive inspection procedures and reduces the compliance times specified in Revision 1. Revision 2 also references a procedure in the 747 Structural Repair Manual for the repair of certain cracking without further FAA approval.

**Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 2000–14–04 to continue to require a one-time inspection of the fuselage skin adjacent to the drag splice fitting to detect cracking, and follow-on actions, if necessary. This proposed AD also mandates new repetitive inspections for cracking of the fuselage skin adjacent to the drag splice fitting.

**Differences Between Alert Service Bulletin and This Proposed AD**

The service bulletin references the 747 Structural Repair Manual (SRM) Subject 53–30–03, Figure 60, as an appropriate source of service information for accomplishment of the repair of the fuselage skin. Certain revisions to this chapter of the 747 SRM allow the use of 7075–T6 aluminum as an option for skin replacement when accomplishing the repair on the fuselage skin. Because 7075–T6 aluminum is significantly less durable than 2024–T3 aluminum, the FAA has determined that use of 7075–T6 as a repair material cannot be allowed. Future repairs of the subject area that require skin replacement may only use the 2024–T3 material. Existing repairs of the subject area already made from 7075–T6 aluminum will require follow-on inspections accomplished in a manner approved by the FAA.

Although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle Aircraft Certification Office, to make such findings.

**Interim Action**

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

**Cost Impact**

There are approximately 1,301 airplanes of the affected design in the worldwide fleet. The FAA estimates that 260 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 2000–14–04 take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $31,200, or $120 per airplane.

The new inspections that are proposed in this AD action would take approximately 7 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new proposed requirements of this AD on U.S. operators is estimated to be $109,200, or $420 per airplane, per inspection cycle.

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

**Regulatory Impact**

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1)

is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11813 (65 FR 43219, July 13, 2000), and by adding a new airworthiness directive (AD), to read as follows:

**Boeing:** Docket 2000–NM–220–AD. Supersedes AD 2000–14–04, Amendment 39–11813.

*Applicability:* All Model 747 series airplanes, certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of certain areas of the fuselage skin, which could result in reduced structural integrity of the fuselage, and consequent rapid depressurization of the airplane; accomplish the following:

**Restatement of Requirements of AD 2000–14–04**

*One-Time Detailed Visual Inspection*

(a) Prior to the accumulation of 13,000 total flight cycles or within 60 days after July 28, 2000 (the effective date of AD 2000–14–04, amendment 39–11813), whichever occurs later: Perform a one-time external detailed visual inspection of the fuselage skin adjacent to the drag splice fitting as illustrated in Figure 2 of Boeing Service Bulletin 747–53A2444, Revision 1, dated June 15, 2000. If no cracking is detected, no further action is required by this paragraph.

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

*Corrective Action*

(b) If any cracking is detected during any inspection required by this AD, prior to further flight, repair in accordance with Boeing Alert Service Bulletin 747–53A2444, Revision 2, dated May 24, 2001. Where the service bulletin specifies to contact Boeing for repair instructions, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

**Note 3:** Repairs accomplished prior to the effective date of this AD in accordance with a method approved by the Manager, Seattle ACO, FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company DER, are considered acceptable for compliance with the repair specified in paragraph (b) of this AD.

**Note 4:** Boeing Alert Service Bulletin 747–53A2444, Revision 2, dated May 24, 2001, references the 747 Structural Repair Manual (SRM) as an appropriate source of service information for accomplishment of the repair of the fuselage skin. However, the use of 7075-T6 aluminum as specified in certain revisions of the SRM is not an option for skin replacement when accomplishing the subject repair.

*Secondary Inspection*

(c) For airplanes on which cracking is detected during any inspection required by paragraph (a) or (d) of this AD, prior to further flight after accomplishment of paragraph (b) of this AD: Determine if a secondary inspection of adjacent structure is required, using the Logic Diagram illustrated in Figure 1 of Boeing Service Bulletin 747–53A2444, Revision 1, dated June 15, 2000, or Boeing Alert Service Bulletin 747–53A2444, Revision 2, dated May 24, 2001. If required, before further flight, accomplish the inspection in accordance with the service bulletin.

**Note 5:** Inspections and repairs accomplished prior to July 28, 2000, in accordance with Boeing Alert Service Bulletin 747–53A2444, dated May 25, 2000, are considered acceptable for compliance with the applicable actions specified in this amendment.

**New Requirements of This AD**

*Repetitive Inspections*

(d) Perform ultrasonic, high frequency eddy current, and detailed visual inspections in accordance with the Work Instructions of Boeing Alert Service Bulletin 747–53A2444, Revision 2, dated May 24, 2001, at the applicable times specified in Figure 1 of the Logic Diagram of the service bulletin; except where the compliance time in the logic diagram specifies an interval of ''after the release date of the service bulletin,'' this AD requires compliance within the interval specified in the service bulletin ''after the effective date of this AD.'' Repeat the applicable inspections at the intervals shown in Figure 1 of the Logic Diagram of the service bulletin. Accomplishment of the inspections required by this paragraph ends the inspections required by paragraph (a) of this AD.

**Note 6:** Where there are differences between the AD and the service bulletin, the AD prevails.

*Alternative Methods of Compliance*

(e)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 2000–14–04, amendment 39–11813, are approved as alternative methods of compliance with this AD.

**Note 7:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

**Special Flight Permits**

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

Issued in Renton, Washington, on May 30, 2001.

**Vi L. Lipski,**

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

[FR Doc. 01–14043 Filed 6–4–01; 8:45 am]

**BILLING CODE 4910–13–U**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–19–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 767 Series Airplanes Powered by Pratt & Whitney Model PW4000 Series Engines

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Supplemental notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** This document revises an earlier proposed airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that would have required a one-time detailed visual inspection of certain wire bundles located in the aft section of the strut forward fairing panel of both engine struts to detect chafing damage, and repair or replacement of wiring, if necessary. This new action revises the proposed rule by adding replacement of wires repaired by splicing and damaged wires that require splicing, and replacement of the support brackets of the existing wire bundles with new brackets and clamps, which would terminate the existing requirements. The actions specified by this new proposed AD are intended to prevent the potential for dual wire faults from grounded, separated, or shorted wires; which could result in inadvertent takeoff thrust overboost, in-flight loss of thrust, or engine shutdown.

**DATES:** Comments must be received by July 2, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–19–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–19–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Dennis Kammers, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2956; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–19–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–19–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on September 18, 2000 (65 FR 56264). That NPRM would have required a one-time detailed visual inspection of certain wire bundles located in the aft section of the strut forward fairing panel of both engine struts to detect chafing damage, and repair or replacement of wiring, if necessary. That NPRM was prompted by reports indicating several incidents of severe wire chafing of certain wire bundles in both engine struts. That condition, if not corrected, could result in the potential for dual wire faults from grounded, separated, or shorted wires; and consequent inadvertent takeoff thrust overboost, in-flight loss of thrust, or engine shutdown.

### Actions Since Issuance of Notice of Proposed Rulemaking (NPRM)

Since issuance of the NPRM, the FAA has reviewed and approved Boeing Service Bulletin 767–73A0049, Revision 3, dated December 20, 2000, which contained certain changes from Revision 2 of the service bulletin (referenced as the appropriate source of service information for accomplishment of the actions specified in the proposed rule). Revision 3 adds airplanes that have been manufactured since the issuance of the NPRM; updates warranty information; corrects a wire part number, and clarifies repair/splice instructions for fire zone wiring. Revision 3 has been added as a revised source of service information for accomplishment of the specified actions, and the references to Revision 2 have been removed from the supplemental NPRM. Additionally, paragraph (a)(2) of the NPRM has been revised. The reference to the repair of the wires as specified in the wiring practices manual has been removed

from paragraph (a)(2) because Revision 3 corrects the errors contained in Revision 2 describing repair/splice instructions for wires installed in the fire zone. Paragraph (a)(3) has been changed to a new (b)(1), which specifies the replacement of any wires that are damaged and require a splice repair.

The FAA also has reviewed and approved Boeing Service Bulletin 767–73A0049, Revision 4, dated April 5, 2001. Revision 4 is essentially the same as Revision 3 (above), but eliminates one airplane that was inadvertently included in the effectivity section of Revision 3. Revision 4 has been added to the supplemental NPRM as an additional source of service information for accomplishment of the specified actions.

**Comments**

Due consideration has been given to the comments received in response to the NPRM. Certain comments have resulted in changes to the NPRM.

**Terminating Action**

One commenter asks that Boeing Service Bulletin 767–73–0051, dated December 20, 2000, replace Boeing Service Bulletin 767–73A0049, which was referenced as the appropriate source of service information for accomplishment of the actions specified in the NPRM. The commenter states that the new service bulletin would provide final corrective action for the unsafe condition, and would eliminate the need for further rulemaking. Another commenter states that the action specified in the NPRM was interim action and asks that the manufacturer's final action be included in the supplemental NPRM.

The FAA partially concurs with the commenters. Since the issuance of the NPRM, the FAA has reviewed and approved Boeing Service Bulletin 767–73–0051. The service bulletin describes procedures for replacement of the support brackets of the existing wire bundle with a new bridge bracket, support bracket, and wire bundle clamps. Accomplishment of the replacement eliminates the need for the inspection and corrective action required by the NPRM, and as the final action, addresses the unsafe condition. Additionally, the applicability in the NPRM has been changed to the same effectivity listed in the service bulletin, because airplanes having line number 822 and after have been delivered with the new bracket installed. A new paragraph (b) has been added to include the replacement as terminating action, and a spares paragraph has been added to ensure that existing parts are not used for the replacement. However, the new service bulletin (above) will not replace the service bulletin referenced in the NPRM because the existing actions will continue to be required until accomplishment of the terminating action.

**Conclusion**

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

**Differences Between Service Bulletin and Proposed Rule**

Boeing Service Bulletin 767–73–0049 recommends that damaged wires repaired by splicing, as specified in paragraph (a)(2) of the NPRM, be replaced at the next scheduled strut system maintenance check. This supplemental NPRM would require that any wires repaired by splicing, and any damaged wires that need to be spliced, be replaced concurrent with the incorporation of the terminating action specified in Boeing Service Bulletin 767–73–0051.

Although Boeing Service Bulletin 767–73–0051 recommends doing the replacement at the next convenient opportunity where facilities and manpower are available, the FAA has determined that this compliance time may not ensure that the identified unsafe condition is addressed in a timely manner. In developing an appropriate compliance time for this proposed AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the proposed AD. In light of all of these factors, the FAA finds a compliance time of within 6,000 flight hours or 18 months after the effective date of this AD, whichever occurs later, to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

**Cost Impact**

There are approximately 185 airplanes of the affected design in the worldwide fleet. The FAA estimates that 79 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 2 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $9,480, or $120 per airplane.

It would take approximately 3 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would cost approximately $1,570 per airplane. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be $138,250, or $1,750 per airplane.

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

**Regulatory Impact**

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Boeing:** Docket 2000–NM–19–AD.

*Applicability:* Model 767 series airplanes as listed in Boeing Service Bulletin 767–73–0051, dated December 20, 2000, certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent the potential for dual wire faults from grounded, separated, or shorted wires; which could result in inadvertent takeoff thrust overboost, in-flight loss of thrust, or engine shutdown, accomplish the following:

**Detailed Visual Inspection**

(a) Prior to the accumulation of 10,000 hours time-in-service or within 180 days after the effective date of this AD, whichever occurs later: Do a one-time detailed visual inspection of the wire bundles located in the aft section of the strut forward fairing panel of both engine struts to detect chafing damage, per Boeing Service Bulletin 767–73A0049, Revision 3, dated December 20, 2000, or Revision 4, dated April 5, 2001.

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

**Corrective Action**

(1) If any chafing damage of any wire bundle is detected: Before further flight, repair the wire bundle per the service bulletin, except as provided by paragraph (a)(2) of this AD.

(2) Replace all spliced wires with new wires per the service bulletin, concurrent with accomplishment of the terminating action required by paragraph (b)(2) of this AD.

**Terminating Action**

(b) Within 6,000 flight hours or 18 months after the effective date of this AD, whichever occurs later, do the actions specified in paragraphs (b)(1) and (b)(2) of this AD per the Accomplishment Instructions of Boeing Service Bulletin 767–73–0051, dated December 20, 2000.

(1) Do a detailed visual inspection of the wire bundles to detect chafing damage; if any damaged wires are found, replace the wires that require a splice repair with new wires concurrent with accomplishment of the terminating action specified in paragraph (b)(2) of this AD.

(2) Replace the existing support bracket of the wire bundle with a new bridge bracket, support bracket, and wire bundle clamps. Accomplishment of this replacement terminates the requirements of this AD.

**Report Inspection Results**

(c) Following accomplishment of paragraph (a) or (b) of this AD: Report inspection results, as described in Boeing Service Bulletin 767–73A0049, Revision 3, dated December 20, 2000, or Revision 4, dated April 5, 2001, to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207.

**Spares**

(d) As of the effective date of this AD, no person shall install on any airplane any bracket identified in the ''Existing Part Number'' column of Paragraph 2.E. of Boeing Service Bulletin 767–73–0051, dated December 20, 2000.

**Alternative Methods of Compliance**

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

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

**Special Flight Permit**

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

Issued in Renton, Washington, on May 30, 2001.

**Vi L. Lipski,**

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

[FR Doc. 01–14041 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–146–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 737 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Supplemental notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** This document revises an earlier proposed airworthiness directive (AD), applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, that would have required inspection of wire bundles in two junction boxes in the main wheel well to detect chafing or damage, and follow-on actions. This new action revises the proposed rule by expanding the applicability to include additional airplanes and models, and by adding new inspections for chafing or damage of two additional junction boxes in the main wheel well and follow-on actions for those boxes. This action is necessary to prevent wire damage, which could result in arcing and consequent fire in the main wheel well or passenger cabin, or inability to stop the flow of fuel to an engine or to the auxiliary power unit in the event of a fire. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by July 10, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–146–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–146–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group,

P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–146–AD.'' The postcard will be date-stamped and returned to the commenter.

## Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–146–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

## Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on June 27, 2000 (65 FR 39574). That NPRM would have required inspection of wire bundles in two junction boxes in the main wheel well to detect chafing or damage, and follow-on actions. That NPRM was prompted by reports indicating that damaged electrical wiring has been found in a junction box formed by electrical disconnect brackets on the right side of the main wheel well on certain Boeing Model 737 series airplanes. That condition, if not corrected, could result in arcing and consequent fire in the main wheel well or passenger cabin, or inability to stop the flow of fuel to an engine or to the auxiliary power unit in the event of a fire.

## Comments

Due consideration has been given to the comments received in response to the NPRM. One comment has resulted in changes to the proposed rule, which are discussed below.

## Expand Inspection Area, Applicability

One commenter, the airplane manufacturer, requests that the FAA revise the NPRM in the following ways:

- Expand applicability to include all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes; and Boeing Model 737–600, –700, –800, and –900 series airplanes, with line numbers 1 through 706 inclusive.
- Expand subject area of inspections and follow-on actions to include two additional junction boxes in the main wheel well.
- Reference revised service information.

The commenter explains that, though the NPRM specified inspections and follow-on actions for only two junction boxes in the main wheel well on certain Boeing Model 737 series airplanes, there are four junction boxes in the main wheel well area that have the same design. Also, junction boxes of the same design are installed on certain Boeing Model 737–600, –700, –800, and –900 series airplanes. The commenter requests that the FAA revise the NPRM to reference new service information that addresses these issues.

The FAA concurs with the commenter's requests. Since the issuance of the proposed rule, the FAA has reviewed and approved Boeing Service Letter 737–SL–24–111–B, dated January 16, 2001. (The NPRM referenced Boeing Service Letter 737–SL–24–111, dated February 27, 1996, as the appropriate source of service information for the actions described in the NPRM.) Boeing Service Letter 737–SL–24–111–B differs from the original issue by featuring an expanded effectivity (including Model 737–600, –700, –800, and –900) and an expanded inspection area (four junction boxes instead of two). The new service letter also incorporates new instructions for rerouting the wiring that are intended to better protect the wiring from future damage due to chafing than would the instructions in the original service letter. Also, the revised service letter refers only to Boeing Standard Wiring Practices Manual D6–54446, Subject 20–10–13, as an appropriate source of repair instructions if any damaged wiring is found. Accomplishment of the actions in the revised service letter described above is intended to adequately address the unsafe condition.

## Conclusion

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

## Explanation of New Requirements of Supplemental NPRM

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the supplemental NPRM would require accomplishment of the actions specified in the revised service letter described previously, except as discussed below.

## Difference Between Service Letter and This Proposed AD

Operators should note that, while the service letter does not specify the type of inspection of the wire bundles to detect chafing, this proposed AD would require a detailed visual inspection to detect chafing of the wire bundles. A note has been included in this proposed rule to define that inspection.

Operators also should note that this proposed AD would require the inspection be accomplished within 12 months after the effective date of the AD. The service letter specifies that the actions therein should be accomplished ''at a convenient opportunity when

facilities and manpower are available.'' In developing an appropriate compliance time for this proposed AD, the FAA considered the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the actions (approximately 4 hours). In light of all of these factors, the FAA finds a 12-month compliance time for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

### Cost Impact

There are approximately 3,719 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,467 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The cost of required parts would be negligible. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $704,160, or $480 per airplane.

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

### Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Boeing:** Docket 2000–NM–146–AD.

*Applicability:* All Model 737–100, –200, –300, –400, and –500 series airplanes; and Model 737–600, –700, –800, and –900 series airplanes, line numbers 1 through 706 inclusive; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent chafing of wire bundles in four junction boxes in the main wheel well, which could result in arcing and consequent fire in the main wheel well or passenger cabin, or inability to stop the flow of fuel to an engine or to the auxiliary power unit in the event of fire, accomplish the following:

#### Inspection

(a) Within 12 months after the effective date of this AD, perform a detailed visual inspection of the wire bundles in the four junction boxes formed by electrical disconnect brackets on the left and right sides of the main wheel wells to detect damage or chafing, as specified in Boeing Service Letter 737–SL–24–111–B, dated January 16, 2001.

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

(1) If no chafing is detected, prior to further flight, protect the wire bundles from chafing against the cover plate of the junction box, according to the service letter.

(2) If any chafing is detected, prior to further flight, repair the wiring in accordance with the service letter, and protect the wire bundles from chafing against the cover plate of the junction box, according to the service letter.

**Note 3:** Boeing Service Letter 737–SL–24–111–B, dated January 16, 2001, refers to Boeing Standard Wiring Practices Manual D6–54446, Subject 20–10–13, as the appropriate source of repair instructions if any damaged wiring is found.

#### Alternative Methods of Compliance

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

**Note 4:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

#### Special Flight Permits

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

Issued in Renton, Washington, on May 30, 2001.

**Vi L. Lipski,**

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

[FR Doc. 01–14042 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

**[Airspace Docket No. 01–AWP–8]**

## Proposed Modification to Glendale Municipal Airport Class D Surface Area; Glendale, AZ

**AGENCY:** Federal Aviation Administration (FAA) DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This action proposes to modify the ceiling of the Class D Surface Area at Glendale Municipal Airport in Glendale, Arizona. A review of airspace classification and air traffic procedures has made this action necessary. The proposed action would lower the ceiling of the Glendale Municipal Airport Class D Surface Area so that it would extend upward from the surface to, but not including, 3,000 feet above Mean Sea Level (MSL).

**DATES:** Comments must be received on or before July 20, 2001.

**ADDRESSES:** Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 01–AWP–8, Air Traffic Division, P.O. Box 92007, Los Angeles, California 90009. The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261. An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jeri Carson, Airspace Specialist, Airspace Branch, AWP–520.11, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone number (310) 725–6611.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AWP–8.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Airspace Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, 15000 Aviation Boulevard, Lawndale, California 90261. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

### The Proposal

The FAA is considering an amendment to 14 CFR part 71 that would modify the Glendale Municipal Airport Class D Surface Area at Glendale, AZ. A review of airspace classification and air traffic procedures has made this action necessary. This action proposes to lower the ceiling of the Class D Surface Area so that it would extend from the surface up to, but not including, 3,000 feet MSL. This action would enhance safety of air traffic operations by allowing the airspace to be charted in a manner more consistent with the nature of the operations conducted at Glendale Municipal Airport. Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, through September 15, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation, as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would 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 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

*Paragraph 5000 Class D Airspace*

* * * * *

**AWP AZ D Glendale, AZ [REVISED]**

Glendale Municipal Airport, AZ
(Lat. 33°31′38″N, long. 112°17′42″W)

That airspace extending upward from the surface to, but not including, 3,000 feet MSL within a 3-mile radius of Glendale Municipal Airport excluding that portion west of a line beginning at lat. 33°29′00″N, long.

112°19′26″W; to lat. 33°29′29″N, long. 112°19′29″W; to lat. 33°33′24″N, long. 112°18′04″W; to lat. 33°34′32″N, long. 112°16′43″W; This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on May 21, 2001.

**John Clancy,**

*Manager, Air Traffic Division, Western-Pacific Region.*

[FR Doc. 01–14103 Filed 6–4–01; 8:45 am]

**BILLING CODE 4910–13–M**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 01–AWP–11]**

## Proposed Modification to Phoenix-Goodyear Municipal Airport Class D Surface Area; Phoenix, AZ

**AGENCY:** Federal Aviation Administration (FAA) DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This action proposes to modify the ceiling of the Class D Surface Area at Phoenix-Goodyear Municipal Airport in Phoenix, Arizona. A review of airspace classification and air traffic procedures has made this action necessary. The proposed action would lower the ceiling of the Phoenix-Goodyear Municipal Airport Class D Surface Area so that it would extend upward from the surface to, but not including, 3,000 feet above Mean Sea Level (MSL).

**DATES:** Comments must be received on or before July 20, 2001.

**ADDRESSES:** Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 01–AWP–11, Air Traffic Division, P.O. Box 92007, Los Angeles, California 90009. The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261. An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jeri Carson, Airspace Specialist, Airspace Branch, AWP–520.11, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone number (310) 725–6611.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Comments wishing the FAA to acknowledge receipt of their comments on this action must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AWP–11.'' The postcard will be date-time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Airspace Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, 15000 Aviation Boulevard, Lawndale, California 90261. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

### The Proposal

The FAA is considering an amendment to 14 CFR part 71 that would modify the Phoenix-Goodyear Municipal Airport Class D Surface Area at Phoenix, AZ. A review of airspace classification and air traffic procedures has made this action necessary. This action proposes to lower the ceiling of the Class D Surface Area so that it would extend from the surface up to, but not including 3,000 feet MSL. This action would enhance safety of air traffic operations by allowing the airspace to be charted in a manner more consistent the nature of the operations conducted at Phoenix-Goodyear Municipal Airport. Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, through September 15, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation, as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would 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 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

*Paragraph 5000 Class D Airspace*

* * * * *

**AWP AZ D Phoenix-Goodyear Municipal Airport, AZ [REVISED]**

Phoenix-Goodyear Municipal Airport, AZ (Lat. 33°25′22″, long. 111°22′34″W)

That airspace extending upward from the surface to, but not including, 3,000 feet MSL within a 3-mile radius of Phoenix-Goodyear Municipal Airport, excluding the portion within the Phoenix, Luke AFB, AZ, Class D airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on May 21, 2001.

**John Clancy,**

*Manager, Air Traffic Division, Western-Pacific Region.*

[FR Doc. 01–14104 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 01–AWP–10]**

## Proposed Modification to Phoenix-Deer Valley Municipal Airport Class D Surface Area; Phoenix, AZ

**AGENCY:** Federal Aviation Administration (FAA) DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This action to modify the ceiling of the Class D Surface Area at Phoenix-Deer Valley Municipal Airport in Phoenix, Arizona. A review of airspace classification and air traffic procedures has made this action necessary. The proposed action would lower the ceiling of the Phoenix-Deer Valley Municipal Airport Class D Surface Area so that it would extend upward from the surface to, but not including, 4,000 feet above Mean Sea Level (MSL).

**DATES:** Comments must be received on or before July 20, 2001.

**ADDRESSES:** Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 01–AWP–10, Air Traffic Division, P.O. Box 92007, Los Angeles, California 90009. The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261. An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jeri Carson, Airspace Specialist, Airspace Branch, AWP–520.11, Air Traffic Division, Western Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone number (310) 725–6611.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AWP–10.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Airspace Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, 15000 Aviation Boulevard, Lawndale, California 90261. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

### The Proposal

The FAA is considering an amendment to 14 CFR part 71 that would modify the Phoenix-Deer Valley Municipal Airport Class D Surface Area at Phoenix, AZ. A review of airspace classification and air traffic procedures has made this action necessary. This action proposes to lower the ceiling of the Class D Surface Area so that it would extend from the surface up to, but not including, 4,000 feet MSL. This action would enhance safety of air traffic operations by allowing the airspace to be charted in a manner more consistent with the nature of the operations conducted at Phoenix-Deer Valley Municipal Airport. Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, through September 15, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation, as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would 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 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

*Paragraph 5000 Class D Airspace*

* * * * *

**AWP AZ D Phoenix, Deer Valley Municipal Airport, AZ [REVISED]**

Phoenix, Deer Valley Municipal Airport, AZ (Lat. 33°41′18″N, long. 112°04′57″W)

That airspace extending upward from the surface to, but not including, 4,000 feet MSL within a 4.4-mile radius of Phoenix-Deer Valley Municipal Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Los Angeles, California, on May 21, 2001.

**John Clancy,**

*Manager, Air Traffic Division, Western-Pacific Region.*

[FR Doc. 01–14105 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 01–AWP–3]**

## Proposed Modification to Chandler Municipal Airport Class D Surface Area; Chandler, AZ

**AGENCY:** Federal Aviation Administration (FAA) DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This action proposes to modify the ceiling of the Class D Surface Area at Chandler Municipal airport in Chandler, Arizona. A review of airspace classification and air traffic procedures has made this action necessary. The proposed action would lower the ceiling of the Chandler Municipal Airport Class D Surface Area so that it would extend upward from the surface to, but not including, 3,000 feet above Mean Sea Level (MSL).

**DATES:** Comments must be received on or before July 20, 2001.

**ADDRESSES:** Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 01–AWP–3, Air Traffic Division, P.O. Box 92007, Los Angeles, California 90009. The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jeri Carson, Airspace Specialist, Airspace Branch, AWP–520.11, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone number (310) 725–6611.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AWP–3.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Airspace Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRM**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, 15000 Aviation Boulevard, Lawndale, California 90261. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

**The Proposal**

The FAA is considering an amendment to 14 CFR part 71 that would modify the Chandler Municipal Airport Class D Surface Area at Chandler, AZ. A review of airspace classification and air traffic procedures has made this action necessary. This action proposes to lower the ceiling of the Class D Surface Area so that it would extend from the surface up to, but not including, 3,000 feet MSL. This action would enhance safety of air traffic operations by allowing the airspace to be charted in a manner more consistent with the nature of the operations conducted at Chandler Municipal Airport. Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, through September 15, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT

Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation, as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would 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 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

*Paragraph 5000 Class D Airspace*

* * * * *

**AWP AZ D Chandler Municipal Airport, AZ [REVISED]**

Chandler Municipal Airport, AZ
(Lat. 33°16′09″ N, long. 111°48′40″ W)
Williams Gateway Airport, AZ
(Lat. 33°18′28″ N, long. 111°39′19″ W)

That airspace extending upward from the surface to, but not including, 3,000 feet MSL within a 4-mile radius of Chandler Municipal Airport, excluding the portion within the Williams Gateway Airport, AZ, Class D airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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Issued in Los Angeles, California, on May 21, 2001.

**John Clancy,**

*Manager, Air Traffic Division, Western-Pacific Region.*

[FR Doc. 01–14106 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF THE INTERIOR

## Minerals Management Service

## 30 CFR Parts 206, 210, 216, and 218

**RIN 1010–AC86**

## Solid Minerals Reporting Requirements

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** MMS is proposing to revise its solid minerals reporting regulations. The new reporting requirements would replace several existing information collections and decrease the reporting burden for solid mineral reporters. The new requirements would also improve MMS's ability to verify that revenues due the government have been paid correctly under applicable laws, regulations and lease terms.

**EFFECTIVE DATE:** Comments must be submitted on or before July 5, 2001.

**ADDRESSES:** Address your comments, suggestions, or objections regarding this proposed rule to:

*By regular U.S. mail.* Minerals Management Service, Minerals Revenue Management, Regulations and FOIA Team, P.O. Box 25165, MS 320B2, Denver, Colorado 80225–0165; or

*By overnight mail or courier.* Minerals Management Service, Minerals Revenue Management, Building 85, Room F421, Denver Federal Center, Denver, Colorado 80225; or

*By e-mail.* MRM.comments@mms.gov. Please submit Internet comments as an ASCII file and avoid the use of special characters and any form of encryption. Also, please include ''Attn: RIN 1010–AC86'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, call the contact person listed below.

**FOR FURTHER INFORMATION CONTACT:** Paul A. Knueven, Chief, Regulations and FOIA Team, Minerals Revenue Management, MMS, telephone (303) 231–3316, fax (303) 231–3385, or e-mail *MRM.comments@mms.gov.*

**SUPPLEMENTARY INFORMATION:** MMS is limiting the comment period for this proposed rulemaking to 30 days in order to receive comments from the public, make adjustments, and issue a final rule as quickly as possible. Solid mineral reporters need to know our final reporting requirements as much in advance of the October 1, 2001, effective date as possible in order to train employees and modify existing reporting procedures. The date for implementing the reporting changes in this proposed rulemaking cannot be delayed because MMS will be installing its new computer system as of October 1, 2001.

The principal authors of this rule are Glenn W. Kepler, Sr., Cynthia Stuckey, and Herb Wincentsen, of Solid Minerals and Geothermal Compliance and Asset Management, Minerals Revenue Management, MMS, and Geoffrey Heath of the Office of the Solicitor, Department of the Interior.

### I. Background

In April 1996, MMS initiated a reengineering effort to examine our compliance strategy and determine the best approach for the future. In April 1997, we decided to move beyond compliance and reengineer all of our core business processes including our reporting and financial processes. In November 1998, we initiated an operational model for solid minerals to test proposed reengineered business processes and new reporting formats. Our two major goals were as follows:

1. Reduce our compliance time frame from 5 or 6 years to 3 years or less; and
2. Develop and implement more efficient, less burdensome reporting requirements.

We included State and tribal partners from four States and two Indian tribes as full participating members in the operational model. We sought input on our reengineering efforts from MMS's Royalty Policy Committee (RPC), Coal Subcommittee, which is comprised of representatives from industry, States, tribes, and the public. We provided periodic updates to the Coal Subcommittee throughout our reengineering efforts. Each of the solid mineral model respondents was a member of the RPC Coal Subcommittee.

We began the solid minerals operational model with 6 large coal companies that initially reported on 17 mines. These mines included 72 Federal and Indian coal leases and over 40 percent of Federal and Indian coal production. We requested that the original 6 coal companies participate in our reengineering efforts because of the different compliance scenarios their mines presented for testing. For example, these mines included coal washing operations, arm's-length and

non-arm's-length sales, free-on-board destination sales, and transportation allowances. In late 2000, we expanded the model to include two additional coal mines and two Indian sand and gravel operations.

On November 24, 1998, the Office of Management and Budget (OMB) approved our emergency information collection request (OMB Control Number 1010–0120) to collect and test reporting formats and frequencies in the solid minerals operational model. This approval included the use of three forms: Form MMS–4430, Solid Minerals Production and Royalty Report; Form MMS–4431, Facility Report; and Form MMS–4432, Marketing Profile. A revised information collection request was submitted to OMB which eliminated Forms MMS–4431 and MMS–4432 because we found industry could submit data using their own internal reports. OMB approved this revision.

During the model, we asked participants whether our reengineered reporting formats were the best option. Several of the model participants responded with letters supporting Form MMS–4430. Some of the reasons given for their support are as follows:

- Form MMS–4430 is designed to collect the appropriate information from solid mineral lessees at the appropriate time in the business cycle;
- Form MMS–4430 and the three other data collections replace eight separate forms that companies are currently required to file;
- Form MMS–4430 allows for the net reporting of prior period adjustments thus reducing reporting burden by approximately 40 percent; and
- Form MMS–4430, as designed, reduces reporter burden and enhances the accuracy of the data submitted because many fields are automatically populated with and edited against data that MMS maintains.

Because of the success of the operational model, MMS is proposing to revise our reporting requirements for coal and other solid minerals to include all solid mineral reporters in our reengineered compliance process. We believe these requirements will reduce the reporting burden currently placed on industry and enhance our ability to verify that proper royalties were paid.

## II. Reasons for Revising Reporting Requirements

The new reporting requirements presented in this proposed rulemaking would replace eight existing royalty and production forms with a single form and three other data collections.

*Form MMS–4430, Solid Minerals Production and Royalty Report*

Our proposed Form MMS–4430 would provide many improvements over existing reporting requirements including:

- *No reporting of codes or converted lease numbers.* No product, transaction or adjustment reason codes would be required on Form MMS–4430. Also, we would use the Bureau of Land Management's (BLM) lease serial number rather than MMS's converted lease number. This would reduce the time required for a reporter to complete the form but provide the same substantive information.
- *Net adjustments reporting.* The proposed Form MMS–4430 would allow net reporting so that you would report only the net change in a transaction. Thus, it would eliminate double line entry (that is, line reversal and reentry) when reporting an adjustment.
- *Electronic reporting.* Our proposed Internet submission of Form MMS–4430 is consistent with our electronic reporting rule for oil and gas leases at 30 CFR parts 210 and 216. Like the oil and gas rule, this would help meet our paperwork reduction goals and reduce our costs associated with document handling. Also, a reporter would be able to access online its historical production and royalty data.
- *Form functionality.* Our proposed Form MMS–4430 would provide several features that would contribute to reduced reporting burden and error-free submissions. First, the proposed form would combine most production and royalty reporting into a single form. Second, the proposed form would automatically populate various static data fields that are essential to the production and royalty reporting process, including lease number, royalty rate, and products produced. Third, our form would provide arithmetic functions and built-in tools to provide support for mine production and sales allocations back to the individual leases. Fourth, our proposed form would contain electronic edits (internal integrity checks). These edits would prevent the submission of forms containing errors or omissions resulting from oversight or data entry error. Reporter burden, as well as MMS burden, associated with error correction should decrease significantly.
- *Eliminate compliance issues from reports.* The proposed Form MMS–4430 would eliminate selling arrangement codes that are the source of many compliance issues. We would determine arm's-length and non-arm's-length transactions through the other document submissions discussed below. Further, many solid mineral producers, particularly of coal and metals, have contract provisions that allow for price true-up after the initial sale. Such price true-ups are not normally interest-bearing if they are invoiced timely to the purchaser and if royalty is timely paid. Our proposed form would permit the reporter to indicate on the form that the retroactive price adjustment is not interest-bearing. Our compliance process would determine whether further review of the reported retroactive price adjustment is necessary.
- *Eliminate BLM's collection of supplementary information.* During BLM's production verification duties, BLM often supplements the data we provide with additional mine data collected from the producer. Our proposed Form MMS–4430 would collect total mine production and sales data. We believe collecting all of the data needed in one data submission will reduce reporter burden and assist BLM with its production verification duties.
- *Create a central database for all lease/mine information accessible to all BLM offices nationwide.* Data that MMS collects would be immediately accessible to BLM offices nationwide and would eliminate delays found in existing interagency data-sharing processes.
- *Collect lease-level data for the entire mine.* Form MMS–4430 would collect lease-level production and sales value and volume information for the entire mine (including non-Federal and non-Indian production data). These data were not previously collected in any of our existing forms. Unlike oil and gas lease production occurring from units, communitization agreements or participating agreements, solid mineral lease production from within a mine constantly varies as production panels and pits shift across leases. A basic compliance requirement is to assure that the revenues generated from the mine's sales are allocated to the lease where the production occurred. During the course of a royalty compliance audit, we would normally verify production allocation. Under our reengineered compliance strategy, we would conduct this compliance check contemporaneously.

*Other Proposed Data Collections*

In addition to Form MMS–4430 described above, we are proposing three other regular data submissions by reporters. These proposed information collections are contract submissions (for certain minerals), sales summaries, and facility data. This data is created and maintained by the reporter as part of its

normal business practices. Our goal is to utilize the same data the reporter uses, thus eliminating the need for additional information gathering and preparation. These other data submissions would replace several existing form-based data submissions and would also provide us earlier access to the information normally collected in the audit process.

We need the three associated data submissions as well as the Form MMS–4430 because each individual form or document, standing alone, cannot provide the data necessary to monitor compliance contemporaneously. For example, we removed the selling arrangement code from Form MMS–4430 because other data submittals such as contract documents and sales summaries would provide us information on affiliate sales. The same compliance follow-up would occur had the lessee reported selling arrangement code 200 (non-arm's-length sales) on the Form MMS–2014, Report of Sales and Royalty Remittance. Another example is the elimination of several production reports, including the Form MMS–4060, Solid Minerals Facility Report Parts A and B. Facility data that the reporter uses as part of its internal process to monitor processing operations would supplant this production report. We believe this approach is less burdensome to the reporter yet results in equal or better data collected on mineral processing operations.

## III. Analysis of Regulatory Changes

### Part 206—Product Valuation

Almost all of the amendments in part 206 would be nomenclature changes. First, the ''Royalty Management Program'' reorganized and changed its name to ''Minerals Revenue Management'' effective October 1, 2000. We would insert the new name of our organization, wherever the old name occurs, and change management titles and the names and addresses of internal working groups that were also affected by the reorganization. Second, we would replace ''Form MMS–2014'' with ''Form MMS–4430'' to reflect the proposed reporting requirements in this rulemaking. You will see many of these types of changes throughout the remainder of this proposed rulemaking so they will not be discussed again.

In addition, we propose to remove the requirements in §§ 206.254(a) and 206.453(a) to report quality data on solid minerals because the existing production forms that capture quality data would be eliminated. Therefore, we have inserted more new comprehensive quality requirements for sales summary data in § 210.202 which is summarized in a table. We would also remove §§ 206.263 and 206.462 because the requirement to submit sales contracts in these two sections duplicate or contradict our proposed reporting requirements. The procedures for valuing coal and other solid minerals for royalty purposes would not be affected by this proposed rule.

### Part 210—Forms and Report

### Subpart A—General Provisions

*Section 210.10 Information Collection*

We would revise § 210.10 to add our proposed information collections to the list of collections approved by the Office of Management and Budget (OMB) and remove other information collections eliminated by this rulemaking. See our discussion of §§ 210.200 through 210.205 below for a complete explanation of the new reporting requirements.

### Subpart E—Solid Minerals, General

We would remove existing §§ 210.200 through 210.204 because they pertain to forms that would be eliminated in this proposed rulemaking. We would add new §§ 210.200 through 210.205 to explain our proposed reporting requirements.

*Section 210.200 What Is the Purpose of This Subpart?*

This section would explain that the purpose of this subpart is to specify your production and royalty reporting requirements for Federal and Indian solid mineral leases.

*Section 210.201 How Do I Submit Form MMS–4430, Solid Minerals Production and Royalty Report?*

*What to submit.* We would add this section to explain the requirements to submit Form MMS–4430. Form MMS–4430 would replace Form MMS–2014, Report of Sales and Royalty Remittance, and Form MMS–4059, Solid Minerals Operations Report Parts A and B.

Form MMS–4430 would significantly change what data is reported to MMS using a form. For production that is processed prior to sale (*e.g.*, washed coal, soda ash, potash, or metal concentrates), you would not report the raw ore production volumes on Form MMS–4430. You would only report the tons that are actually sold and on which royalty is due. For example, if you produce 1,600 tons of trona ore and you refine 1,000 tons of soda ash from that raw production, you would only report the tons of soda ash produced and, separately, the tons sold and the sales proceeds. Raw production and the associated processing activity would be captured on another data submission. This submission called ''facility data'' is discussed later in this preamble.

Proposed Form MMS–4430 would eliminate reporting of specific but related products and, instead, group related products into a family of products. For example, potash producers, instead of reporting muriates of potash (chemical, coarse, fine, granular, industrial, soluable, or standard) as required by current reporting instructions, would group these muriates of potash and report production only as potash.

Form MMS–4430 also incorporates a new reporting requirement based on the use of remote storage and sales points. If you move unsold production to five or fewer remote storage sites and conduct sales from those sites, you would be required to report the sales for each site separately on the Form MMS–4430. If you conduct sales from more than five remote storage sites, you would be required to combine the sales from all sites on one Form MMS–4430. Our experience from the solid minerals operational model showed that some producers move production, unsold, from the mine to distant points such as from Utah coal mines to the Port of Los Angeles Export Terminal. Producers ship coal to this port facility over several months until a sufficient quantity of coal has accumulated to supply a vessel sale. These remote storage and sales points operate similarly to a mine, gaining and losing inventory based on sales activities. However, inventories at remote storage sites function independently of the mine's inventories. Thus, when a sale occurs at the remote storage site, the allocations of sales proceeds back to the leases would be different from the sales occurring at the mine. Because Form MMS–4430 includes inventory management functions, the sales from five or fewer remote storage sites would be reported separately on the Form MMS–4430.

*When to submit.* Form MMS–4430 would be due at the end of the month following the month activity occurs assuming your lease requires royalty payments on a monthly cycle. If your lease requires a different royalty payment cycle, you would submit this form at the same time your payment is due in accordance with your lease terms. If the information on a previously reported Form MMS–4430 is incorrect, you must submit a revised report by the end of the month in which you discover the error.

*How to submit.* Form MMS–4430 would be submitted to MMS using the Internet. The production and royalty

module associated with this Internet application would allow solid mineral reporters to submit and maintain solid mineral data via the Internet for the first time. A system user would be furnished a valid log-in identification and password. MMS's Internet application would handle all security and authentication required by system users.

We have provided two exceptions to the electronic reporting requirement to prevent undue burden on small businesses. One, you would not be required to report electronically if you report only annual obligations such as rent or minimum royalty. Two, you would not be required to report electronically if you are a small business, as defined by the U.S. Small Business Administration, and you have no computer and no plans to purchase a computer or contract with an electronic reporting service.

*Section 210.202 How Do I Submit Sales Summaries?*

*What to submit.* We intend to collect the sales summary data in the least burdensome manner. This means, to the extent possible, using information that you, as a solid minerals reporter, have already generated as part of your normal business practices. The following table summarizes the sales summary data elements you would be required to submit for a specific lease type or mineral:

| Data element | Coal | Sodium/potassium | Western phosphate | Metals | All other leases with ad valorem royalty terms | All other leases with no ad valorem royalty terms |
|---|---|---|---|---|---|---|
| Purchaser name or unique ID. | Monthly | As requested | Monthly | Monthly | Monthly | As requested. |
| Sales units | Monthly | Monthly | Monthly | Monthly | Monthly | Monthly. |
| Gross proceeds | Monthly | Monthly | Not required | Monthly | Monthly | Not required. |
| Processing or washing costs. | Monthly | Monthly | Not required | Monthly | Monthly | Not required. |
| Transportation costs. | Monthly | Monthly | Not required | Monthly | Monthly | Not required. |
| Name of product type sold. | Not required | Monthly | Not required | Monthly | Monthly | As requested. |
| Btu/lb | Monthly | Not required | Not required | Not required | Not required | Not required. |
| Ash % | Monthly | Not required | Not required | Not required | Not required | Not required. |
| Sulfur % | Monthly | Not required | Not required | Not required | Not required | Not required. |
| lbs $SO_2$ | Monthly | Not required | Not required | Not required | Not required | Not required. |
| Moisture % | Monthly | Not required | Monthly | Not required | Not required | Not required. |
| By-product units | Not required | As requested | Monthly | As requested | As requested | Not required. |
| $P_2O_5$ % | Not required | Not required | Monthly | Not required | Not required | Not required. |
| Size | Monthly | Not required | Not required | Not required | As requested | Not required. |
| Net smelter return data. | Not required | Not required | Not required | Monthly | Not required | Not required. |
| Other data e.g., royalty calculation worksheet. | As requested | Monthly | As requested | As requested | As requested | As requested. |

*When to submit.* For leases with ad valorem royalty terms, you would be required to submit sales summaries monthly. For leases with no ad valorem royalty terms (that is, leases with royalty terms that do not depend upon sales value to determine royalty due such as cents-per-ton or dollars-per-unit), you would submit sales summaries monthly only if you are specifically requested to do so.

*How to submit.* Sales summary data is not submitted on a form. Sales summary data would be submitted in the same format the producer uses. Our experience from the solid minerals operational model shows that most companies maintain sales summary data using off-the-shelf spreadsheet software such as Microsoft *Excel.* We would prefer that you submit these data electronically, using electronic mail. Electronic submission of data allows us to transfer that data to our internal systems and formats for analysis. We would establish an electronic mailbox for receipt of these data. We would also accept sales summary data in paper copy; however, this approach is not preferred because of the additional cost, handling and storage burden.

*Section 210.203 How Do I Submit Sales Contracts?*

*What to submit.* You would be required to submit sales contracts, agreements, contract amendments or other documents that affect gross proceeds received for the sale of lease production.

*When to submit.* You would be required to submit sales contracts, agreements, contract amendments or other documents affecting gross proceeds as follows:

- If you produce Federal or Indian coal, you would submit your sales contracts to us quarterly. Contracts or contract amendments entered into during the preceding quarter would be submitted to us whether or not sales under that contract had commenced.
- If you produce sodium or potassium compounds from Federal or Indian leases, you would submit sales contracts to us quarterly only if requested by MMS. We are proposing less frequent contract submission for sodium and potassium producers because most sodium and potassium products are sold in refined form that have identical quality from month to month and from customer to customer. Thus, many of the pricing issues related to quality variables that appear in coal and metal concentrate contracts do not occur in sodium and potassium sales agreements.
- Phosphate producers consume most, if not all, production internally in complex chemical processing plants, which produce elemental phosphorus and different fertilizer compounds. MMS determines value in these cases using a non-arm's-length valuation process. However, some phosphate ore by-products are produced and sold at arm's-length. For these sales, you would submit sales contracts quarterly only if requested by MMS.
- If you produce metals from Federal or Indian leases, you would submit your

sales contracts (typically net smelter return contracts) to us quarterly.

• If you produce from any other ad valorem lease, you would submit sales contracts on a quarterly basis only if requested by MMS. Minerals in this category vary considerably and include, for example, garnets, limestone, gilsonite, quartz crystals, and some sand and gravel leases.

• If you produce from any other lease with no ad valorem royalty terms—that is, leases in which the royalty due is not dependent upon sales price such as cents-per-ton or dollars-per-unit—you would not be required to submit sales contracts.

*How to submit.* You would be required to submit paper copies of your contracts to us using either courier service or the U.S. Postal Service and the addresses in § 210.203(c).

*Section 210.204 How Do I Submit Facility Data?*

*What to submit.* We are proposing to eliminate the Form MMS–4060, Solid Minerals Facility Report Parts A and B, relating to solid mineral processing operations. We would replace the data normally supplied on these forms with other types of facility data. The facility data you would supply would include the total throughput of the plant, including Federal, Indian, non-Federal, and non-Indian lease production. This approach to collecting facility data is consistent with the physical operations of processing plants because production from the various leases in the mine is normally commingled at the time the production is input to the plant.

*How to submit.* Facility data would not be submitted on a form. Generally, facility data would be submitted in the same format normally used by the producer because all producers who process solid minerals prior to sale maintain records of processing plant operations. As a minimum, your facility data submissions must include identification of your facility, the mines served, input quantity, output quantity, and output quality or product grades. We would prefer that you submit these data electronically, using electronic mail. Electronic submission of data allows us to transfer data to our internal systems and formats for analysis. We would establish an electronic mailbox for receipt of these data. We would also accept facility data in paper copy; however, this approach is not preferred because of the additional costs, handling and storage burden.

*When to submit.* You would be required to submit monthly facility data for the following leaseable minerals:

1. *Coal*—If you wash coal, you would submit facility data.

2. *Sodium or potassium*—If you refine sodium or potassium products, including dissolution, crystallization, compacting, or other processing to make products to which ad valorem royalty terms apply, you would submit facility data.

3. *Metals*—If you concentrate metal-bearing ores to produce a metal concentrate to which ad valorem royalty terms apply, you would submit facility data.

4. *All other ad valorem lease production*—If you process raw lease production through any form of a beneficiation, concentration, or any other mineral processing prior to sale, and ad valorem royalty terms apply to the value of the processed product, you would submit facility data.

*Section 210.205 Do I Need To Submit Additional Documents or Evidence to MMS?*

We added this section to emphasize that Federal and Indian lease terms allow us to request other information to support our compliance activities; however, we will request the additional information only as needed, not as a regular submission.

**Part 216—Production Accounting**

**Subpart A—General Provisions**

*Section 216.11 Electronic Reporting*

We would revise § 216.11 to add the reference to electronic reporting requirements for Form MMS–4430.

*Section 216.15 Reporting Instructions*

We would revise § 216.15 to inform solid minerals reporters where they may obtain solid mineral reporting instructions.

*Section 216.16 Where to Report*

In § 216.16, we would add MMS addresses where reporters would send paper reports for solid mineral leases.

*Section 216.21 General Obligations of the Reporter*

We would revise § 216.21 to remove the references to the Production Accounting and Auditing System (PAAS) because it will be replaced by a new system effective October 1, 2001.

*Section 216.40 Assessments for Incorrect or Late Reports and Failure to Report*

We would revise § 216.40 to include assessments for lines related to production reported on the Form MMS–4430.

*Sections 216.200 through 216.204*

We would remove §§ 216.200 through 216.204 that describe existing reports and reporting requirements. These reports would be eliminated by the proposed information collection in this rule.

**Part 218—Collection of Royalties and Rentals, Bonuses and Other Monies Due the Federal Government**

*Section 218.40 Assessments for Incorrect or Late Reports and Failure To Report*

We would revise § 218.40 to add assessments for lines related to royalty reported on the Form MMS–4430. We are also making a technical correction to remove assessments under this section with respect to oil and gas leases. Assessments for oil and gas leases for chronic erroneous reporting are now governed by 30 U.S.C. 1725, enacted as part of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.

*Section 218.51 How to Make Payments*

We would make nomenclature and address changes as necessary.

*Section 218.201 Method of Payment*

We would refer solid mineral reporters to § 218.51 for reporting instructions except that:

(1) The definition of ''report'' would be Form MMS–4430, rather than Form MMS–2014;

(2) Solid mineral reporters would include both their customer identification and customer document identification numbers on their payment document, rather than the information required under § 218.51(f)(1); and

(3) For rental payments not reported on Form MMS–4430, solid mineral reporters would include the MMS Courtesy Notice, when provided, or write their customer identification number and government-assigned lease number on the payment document, rather than the information required under § 218.51(f)(4)(iii).

*Section 218.203 Recoupment of Overpayments on Indian Mineral Leases*

We would make nomenclature and address changes as necessary.

**IV. Procedural Matters**

*1. Public Comment Policy*

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours and on our Internet site at www.mrm.mms.gov. Individual respondents may request that we withhold their home address from the rulemaking record, which we will

honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

*2. Summary Cost and Benefit Data*

We have summarized below the economic impacts of this rule on the groups affected by our regulations: Industry, State and local governments, Indian tribes and allottees, and the Federal Government. All costs summarized below are associated with reporting changes. As stated previously, this rule does not affect the valuation—for royalty purposes—of Federal or Indian coal or other solid minerals. The cost and benefit information in this Item 2 of Procedural Matters is used as the basis for the Departmental certifications in Items 3–12.

A. Industry

The effect of the information collection changes in this proposed rulemaking would be a net savings of $173,000 per year for all solid minerals reporters, calculated as follows:

*Cost—New Information Collection.* We estimate that there are 200 solid mineral lessees who are required to report production and royalty information to us. Using the annual reporting burden experienced by the participants in the operational model, we estimate the annual cost of the new information collection proposed in this rulemaking to be $68,100, calculated as follows:

*Form MMS–4430.* The average reporting burden for completing Form MMS–4430 is 20 minutes per month. We estimate that all 200 solid minerals lessees will submit Form MMS–4430, and that this annual reporting burden will be 800 hours (200 lessees × ⅓ hour per month × 12 months).

*Sales summaries.* The average reporting burden for sales summaries is 15 minutes per month. We estimate that 120 lessees will submit sales summary data and that this annual reporting burden will be 360 hours (120 lessees × ¼ hour per month × 12 months).

*Facility data.* The average reporting burden for facility data is 15 minutes per month. We estimate that 30 lessees will submit facility data and that this annual reporting burden will be 90 hours (30 lessees × ¼ hour per month × 12 months).

*Contracts and contract amendments.* Contracts and contract amendments will be copied and sent to MMS. The average reporting burden for providing contracts and contract amendments to us is 1 hour. We estimate that 90 lessees (predominantly coal companies) will submit contracts and contract amendments. Consequently, the annual reporting burden is 90 hours (90 lessees × 1 hour per year).

*Additional documents or evidence.* Federal and Indian lease terms allow us to request detailed statements, documents, or other evidence that supports our compliance and asset management responsibilities. We will request this additional information as we need it, not as a regular submission. We estimate that 10 percent of the 200 solid minerals lessees, or 20 lessees, will submit this additional information annually, and that each lessee will require 1 hour to submit this information for a total annual reporting burden of 20 hours.

*Method of Payment.* Each payment document associated with Form MMS–4430 (Electronic Funds Transfer or hard copy check) must be annotated with the lessee's customer identification and the customer document identification numbers. For each rental payment document not reported on Form MMS–4430, the lessee must include the MMS Courtesy Notice, when provided, or annotate the payment document with the customer identification number and Government-assigned lease number. This requirement will help MMS link payments with Form MMS–4430 submittals.

The annual reporting burden for all of these documents is summarized below:

| Document name | Estimated hours to prepare and submit | Total cost hrs × $50/hr |
|---|---|---|
| Form MMS–4430 .. | 800 | $40,000 |
| Sales summaries .. | 360 | 18,000 |
| Facility data ..... | 90 | 4,500 |
| Contracts and subsequent amendments ..... | 90 | 4,500 |
| Other documents .. | 20 | 1,000 |
| Method of payments ..... | 2 | 100 |
| Total ..... | 1,362 | $68,100 |

*Cost—Planning Meetings.* Submitting this information to us will not require an initial capital cost by the respondent. We will meet with each reporter's information technology staff to coordinate computer-related issues with the implementation of this information collection and to assist us in developing software requirements and describing the company's hardware and software configuration. We will provide the necessary electronic reporting software interface with our financial and production application systems for the companies to submit the required information.

*Benefit—Eliminating Eight Existing Reports.* MMS currently requires solid minerals reporters to submit eight separate forms:

1. Form MMS–4030, Payor Information Form (PIF), OMB Control Number 1010–0064. This form is used to establish and maintain the payor accounts required for processing Form MMS–2014. Estimated annual burden hours are 173.

2. Form MMS–2014, Report of Sales and Royalty Remittance, OMB Control Number 1010–0022. This form serves as the monthly report form on which payors report all royalty and lease-level transactions. Estimated annual burden hours for solid mineral payors are 1,884.

3. Form MMS–4050, Mine Information Form (MIF), OMB Control Number 1010–0063. This form is used to establish and maintain mine-level production reporting. Estimated annual burden hours for forms in this number 3 and numbers 4 through 8 below are 2,763.

4. Form MMS–4051, Facility and Measurement Information Form (FMIF), OMB Control Number 1010–0063. This form is used to establish and maintain facilities in the volume-tracking system including identifying key sales/transfer measurement points that are required to track production and identify all secondary processing and remote storage facilities.

5. Form MMS–4059–A, Solid Minerals Operations Report, Part A (SMOR–A), OMB Control Number 1010–0063. This form is used to identify, for a mine, the quantity and quality of all raw material produced from each Federal or Indian lease, specify the disposition of those raw materials including sales, transfers, and adjustments, and track raw material inventories.

6. Form MMS–4059–B, Solid Minerals Operations Report, Part B (SMOR–B), OMB Control Number 1010–0063. This form is used to allocate sales from a secondary processing or remote storage facility back to individual Federal or Indian leases within a mine.

7. Form MMS–4060–A, Solid Minerals Facility Report, Part A (SMFR–A), OMB Control Number 1010–0063. This form is used to provide detailed

information on a secondary processing facility's inputs/outputs.

8. Form MMS–4060–B, Solid Minerals Facility Report, Part B (SMFR–B), OMB Control Number 1010–0063. This form is used to show a secondary processing or remote storage facility's raw material receipts, production, inventory, and disposition.

These eight forms would be replaced by Form MMS–4430 and other data submissions described in the cost section above. The combined annual burden that will be eliminated if these eight forms are no longer submitted by solid mineral reporters is 4,820 hours or a total cost of $241,000. The effect of replacing these eight forms with the new information collection (costing $68,100) would be an estimated savings of $173,000 per year.

*Issues Affecting Small Businesses.* Approximately 200 solid mineral reporters submit forms and other information to MMS, 91 percent of which are small businesses because they have 500 employees or less. As noted earlier, the effect of the information collection changes in this proposed rulemaking would be a net savings of $173,000 per year for all solid minerals reporters. We expect small businesses to benefit proportionately from the reduction in reporting burden.

Using the experience gained through the model, our reengineered initiative ensures that the information requested is the minimum necessary and places the least possible burden on industry. We have further provided two exceptions to the requirement to submit the Form MMS–4430 electronically to avoid placing undue burden on small businesses. You would not be required to report electronically if you report only annual obligations such as rent or minimum royalty. Further, you would not be required to report electronically if you are a small business, as defined by the U.S. Small Business Administration, and you have no computer and no plans to purchase a computer or contract with an electronic reporting service. For other data submissions, respondents including small businesses or other small entities would have the flexibility to submit information to us via hard copy or electronic submissions.

During the summer 2001, we plan to hold several seminars to explain the revised reporting requirements. We will encourage all solid mineral lessees to attend one of these seminars to familiarize themselves with the revised reporting requirements and to prepare to implement these requirements.

We will meet with each company's information technology staff to assist in setting up hardware and software configuration. We plan to provide the necessary electronic reporting software that will interface with our financial and production application systems. We will also cover the cost associated with the development and implementation of the reporting software. We will provide any initial software formatting or other assistance needed to get a company ready to comply with the new information collection proposed in this rule by October 1, 2001.

B. State and Local Governments

This rulemaking would not impose any additional costs on State or local governments.

C. Indian Tribes and Allottees

This rulemaking would not impose any additional costs on Indian tribes or allottees.

D. Federal Government

MMS is reengineering its financial and compliance processes to transform its function-based program to a process-centered organization. The new reengineered MMS will be highly integrated and positioned to provide royalty management services at less cost to the Nation. Some of the more important goals for the reengineering initiative include cutting in half the time necessary to collect and verify mineral revenues, distributing revenue to States and Indian mineral owners within 1 business day, reducing industry reporting requirements, and modernizing our computer and software systems.

We are undertaking this reengineering initiative because new legislative mandates, such as the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, and market changes require MMS to replace its outdated computer systems to facilitate a more cost-effective operation. MMS expects significant reduction in annual operating costs of administration, accelerated cash flows through reductions in current business cycle times, and increased revenue through improved compliance coverage.

Although all benefits of this rulemaking cannot be quantified at this time, the Federal Government should see significant savings and far greater efficiencies.

The quantifiable costs and benefits of this proposed rulemaking to the Federal Government is a cost of $424,700 in the first two years after this rule is effective and a savings of $20,800 each year thereafter, as calculated below.

*Benefit—Personnel.* We estimate that Solid Minerals and Geothermal Compliance and Asset Management's 23 employees will allocate about 10 percent of their time to collect and analyze contracts, sales summaries, and facility data required by this rulemaking for a total cost of $239,200 (2.3 employees × 2,080 hours/year × $50/hour) annually. However, under current reporting processes, Solid Minerals and Geothermal Compliance and Asset Management allocates the equivalent of 2.5 employees annually to error correction. Under this rulemaking error correction is expected to be negligible. Therefore this rulemaking nets no additional personnel cost but rather a minimal savings of .2 employees or $20,800 (.2 employees × 2,080 hours/year × $50/hour) annually.

These employees will also resolve compliance issues using end-to-end processes that eliminate handoffs that would otherwise occur between functionally aligned units which also improves efficiencies.

This rule would allow substantial administrative dollar savings to MMS. Owing to the elimination of eight separate reporting forms under this proposed rule, MMS can utilize its solid minerals personnel more efficiently and effectively for verification of mineral revenues. Solid minerals personnel would review and process only one reporting form in place of eight existing reporting forms, which would result in associated reductions in error corrections, document handling issues, data entry problems, and time spent correcting those issues with industry personnel.

*Cost—Computer software.* MMS is also building a computer platform and associated database as the host for data collected. This computer platform, and associated cost to MMS, will involve data from the Onshore, Offshore, and Solid Minerals Operational Models and all exception processing and compliance activity. We estimate the cost for the solid minerals portion of the new computer system to be about $445,500 within the first and second years after implementation of this rule or $891,000 over 2 fiscal years ($891,000 ÷ 2 = $445,500).

MMS has allocated the cost of its solid minerals portion of the new computer system in its reengineering budget requests. Accordingly, MMS will not need additional funds for computer systems as a result of the provisions proposed in this rulemaking.

*3. Regulatory Planning and Review (Executive Order 12866)*

This document is not a significant rule and is not subject to review by the

Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

*4. Regulatory Flexibility Act*

The Department of the Interior certifies that this document will not have a significant adverse effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). For additional information on small business issues, see the cost and benefit data in item 2 of these Procedural Matters.

*Your comments are important.* The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions in this rule, call 1–888–734–3247.

*5. Small Business Regulatory Enforcement Act (SBREFA)*

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 or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

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.

*6. Unfunded Mandates Reform Act*

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

*7. Takings (Executive Order 12630)*

In accordance with Executive Order 12630, this proposed rule does not have significant takings implications. This rule does not impose conditions or limitations on the use of any private property; consequently, a takings implication assessment is not required.

*8. Federalism (Executive Order 13132)*

In accordance with Executive Order 13132, this proposed rule does not have Federalism implications. This rule does not substantially or directly affect the relationship between the Federal and State governments or impose costs on States or localities.

*9. Civil Justice Reform (Executive Order 12988)*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*10. Paperwork Reduction Act of 1995*

We are soliciting comments on the information collection associated with this rulemaking. The information collection is titled ''Solid Minerals Compliance and Asset Management Process'' and has been submitted to OMB for review and approval. Written comments should be submitted on or before July 5, 2001.

You may submit comments directly to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Interior Department (OMB Control No. 1010–0120), 725 17th Street, NW, Washington, DC 20503. Also, please submit copies of your comments to Carol Shelby, Regulatory Specialist, Regulations and FOIA Team, Minerals Revenue Management, MS 320B2, P.O. Box 25165, Denver, CO 80225–0165. Courier or overnight delivery address is Building 85, Room F421, Denver Federal Center, Denver, Colorado 80225.

You may also comment via the Internet to *mrm.comments@mms.gov*. Submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Also include the title of the information collection and the OMB control number along with your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact Carol Shelby at (303) 231–3151 or FAX (303) 231–3385.

After the comment period closes, we will post public comments on the Internet at *http://www.mrm.mms.gov*. We make paper copies of these comments, including names and addresses of respondents, available for public review during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may also be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Section 3506(c)(2)(A) of the Paperwork Reduction Act requires each agency ''to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated techniques and other forms of information technology.

On August 3, 2000, we published a **Federal Register** Notice (65 FR 47802), soliciting comments on revising the Solid Minerals Operational Model information collection (OMB Control Number 1010–0120).

**Note:** We are requesting OMB approval to revise the information collection requirements under the currently approved information collection titled ''Solid Minerals Operational Model'' so that the requirements apply to all solid minerals lessees and to change the title to ''Solid Minerals Compliance and Asset Management Process.'')

We received comments from two organizations on the August 3, 2000,

notice—one from an industry partner in the operational model and one from an association whose membership includes coal, metal and non-metal mineral producers as well as manufacturers of mining and processing equipment and engineering, consulting and financial institutions serving the industry. These comments are addressed in the information collection request submitted to OMB.

We estimate that there are 200 solid mineral lessees who are required to report production and royalty information to us. Using the annual reporting burden experienced by the participants in the operational model, we estimate the annual reporting burden for this information collection is 1,362 hours.

*Form MMS–4430.* The average reporting burden for completing Form MMS–4430 is 20 minutes per month. We estimate that all 200 solid minerals lessees will submit Form MMS–4430, and that this annual reporting burden will be 800 hours (200 lessees × ⅓ hour per month × 12 months).

*Sales summaries.* The average reporting burden for sales summaries is 15 minutes per month. We estimate that 120 lessees will submit sales summary data and that this annual reporting burden will be 360 hours (120 lessees × ¼ hour per month × 12 months).

*Facility data.* The average reporting burden for facility data is 15 minutes per month. We estimate that 30 lessees will submit facility data and that this annual reporting burden will be 90 hours (30 lessees × 1.4 hour per month × 12 months).

*Contracts and contract amendments.* Contracts and contract amendments will be copied and sent to MMS. The average reporting burden for providing contracts and contract amendments to us is 1 hour. We estimate that 90 lessees (predominantly coal companies) will submit contracts and contract amendments. Consequently, the annual reporting burden is 90 hours (90 lessees × 1 hour per year).

*Additional documents or evidence.* Federal and Indian lease terms allow us to request detailed statements, documents, or other evidence that supports our compliance and asset management responsibilities. We will only request this additional information as we need it, not as a regular submission. We estimate that 10 percent of the 200 solid mineral lessees, or 20 lessees, will submit this additional information annually, and that each lessee will require 1 hour to submit this information for a total annual reporting burden of 20 hours.

*Method of Payment.* Each payment document associated with Form MMS–4430 (Electronic Funds Transfer or hard copy check) must be annotated with the lessee's customer identification and the customer document identification numbers. For each rental payment document not reported on Form MMS–4430, the lessee must include the MMS Courtesy Notice, when provided, or annotate the payment document with the customer identification number and Government-assigned lease number. This requirement will help MMS link payments with Form MMS–4430 submittals.

The annual reporting burden for all of these documents is as follows:

| Document Name | Estimated hours to prepare and submit |
|---|---|
| Form MMS–4430 | 800 |
| Sales summaries | 360 |
| Facility data | 90 |
| Contracts and subsequent amendments | 90 |
| Other documents | 20 |
| Method of payments | 2 |
| Total | 1,362 |

Using an average cost of $50 per hour, we estimate the annual cost to respondents for the hour burden will be $68,100 (1,362 hours × $50).

The PRA provides that 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.

*11. National Environmental Policy Act*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

*12. Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, this proposed rule does not have tribal implications that impose substantial direct compliance costs on Indian tribal governments.

*13. Clarity of This Regulation*

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with this clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading, for example, ''§ 210.200 What is the purpose of this subpart?'') (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW, Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

**List of Subjects**

*30 CFR part 206*

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

*30 CFR part 210*

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

*30 CFR part 216*

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

*30 CFR part 218*

Coal, Continental shelf, Electronic funds transfers, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: May 30, 2001.

**Piet deWitt,**

*Acting Assistant Secretary, Land and Minerals Management.*

For reasons set out in the preamble, 30 CFR parts 206, 210, 216, and 218 are proposed to be amended as follows:

## PART 206—PRODUCT VALUATION

1. The authority citation for part 206 continues to read as follows:

**Authority:** 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C. 9701; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

**§ 206.251 [Amended]**

2. In § 206.251, definition of ''netting,'' remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

**§ 206.254 [Amended]**

3. Amend § 206.254 as follows:

a. Remove paragraph (a).

b. In paragraph (b), last sentence, remove the words ''Report of Sales and Royalty Remittance, Form MMS–2014'' and add in their place the words ''Solid Minerals Production and Royalty Report, Form MMS–4430.''

c. Remove the paragraph designation for paragraph (b).

**§ 206.257 [Amended]**

4. Amend § 206.257 as follows:

a. In paragraph (d)(3), second sentence, remove the title ''Associate Director for Royalty Management'' and add in its place ''Associate Director for Minerals Revenue Management.''

b. In paragraph (d)(3), last sentence, remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

**§ 206.259 [Amended]**

5. In § 206.259, paragraphs (a)(1), (b)(1), (c)(1)(i), (c)(2)(i), (d)(1), (e)(1) and (e)(2), remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

**§ 206.262 [Amended]**

6. In § 206.262, paragraphs (a)(1), (b)(1), (c)(1)(i), (c)(2)(i), (d)(1), (e)(1) [occurs twice] and (e)(2), remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

**§ 206.263 [Removed]**

7. Remove § 206.263.

**§ 206.453 [Amended]**

8. Amend § 206.453 as follows:

a. Remove paragraph (a).

b. In paragraph (b), remove the words ''Report of Sales and Royalty Remittance, Form MMS–2014'' and add in their place the words ''Solid Minerals Production and Royalty Report, Form MMS–4430.''

c. Remove the paragraph designation from paragraph (b).

**§ 206.456 [Amended]**

9. Amend § 206.456 as follows:

a. In paragraph (d)(3), second sentence, remove the title ''Associate Director for Royalty Management'' and add in its place the title ''Associate Director for Minerals Revenue Management.''

b. In paragraph (d)(3), last sentence, remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

**§ 206.458 [Amended]**

10. Amend § 206.458 as follows:

a. In paragraphs (c)(1)(i) and (c)(2)(i), remove the words ''Form MMS–2014, Report of Sales and Royalty Remittance'' and add in their place the words ''Form MMS–4430, Solid Minerals Production and Royalty Report'' and remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

b. In paragraphs (c)(4), (d)(1), (e)(1), and (e)(2), remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

**§ 206.461 [Amended]**

11. Amend § 206.461 as follows:

a. In paragraphs (c)(1)(i) and (c)(2)(i), remove the words ''Form MMS–2014, Report of Sales and Royalty Remittance,'' and add in their place the words ''Form MMS–4430, Solid Minerals Production and Royalty Report.''

b. In paragraphs (c)(4), (d)(1), (e)(1) and (e)(2), remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

**§ 206.462 [Removed]**

12. Remove § 206.462.

## PART 210—FORMS AND REPORTS

13. The authority citation for part 210 continues to read as follows:

**Authority:** 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396, 2107; 30 U.S.C. 189, 190, 359, 1023, 1751(a); 31 U.S.C. 3716, 9701; 43 U.S.C. 1334, 1801 *et seq.*; and 44 U.S.C. 3506(a).

14. Amend § 210.10 as follows:

a. In paragraph (a), first sentence, remove the name ''Royalty Management Program'' and add in its place ''Minerals Revenue Management.''

b. In paragraph (a), revise the table to read as follows:

**§ 210.10 Information collection.**

(a) * * *

| Form No., name, and filing date | OMB No. |
|---|---|
| MMS–2014—Report of Sales and Royalty Remittance—Due by the end of first month following production month for royalty payment and for rentals no later than anniversary date of the lease | 1010–0022 |
| MMS–3160—Monthly Report of Operations—Due by the 15th day of the second month following the production month | 1010–0040 |
| MMS–4025—Oil and Gas Payor Information Form— Due 30 days after issuance of a new lease or change to an existing lease | 1010–0033 |
| MMS–4051—Facility and Measurement Information Form and Supplement—Due at the request of MMS during the initial conversion of the facility and measurement device operators | 1010–0040 |
| MMS–4053—First Purchaser Report—Due at the request of MMS | 1010–0040 |
| MMS–4054—Oil and Gas Operations Report—Due by the 15th day of the second month following the production month | 1010–0040 |
| MMS–4055—Gas Analysis Report—Due by the 15th day of the second month following the production month | 1010–0040 |
| MMS–4056—Gas Plant Operations Report—Due by the 15th day of the second month following the production month | 1010–0040 |
| MMS–4058—Production Allocation Schedule Report—Due by the 15th day of the second month following the production month | 1010–0040 |
| MMS–4070—Application of the Purchase of Royalty Oil—Due prior to the date of sale in accordance with the instructions in the Notice of Availability of Royalty Oil | 1010–0042 |
| MMS–4109—Gas Processing Allowance Summary Report—Initial report due within 3 months following the last day of the month for which an allowance is first claimed, unless a longer period is approved by MMS | 1010–0075 |
| MMS–4110—Oil Transportation Allowance Report—Initial report due within 3 months following the last day of the month for which an allowance is first claimed, unless a longer period is approved by MMS | 1010–0061 |
| MMS–4280—Application for Reward for Original Information— Due when a reward is claimed for information provided which may lead to the recovery of royalty or other payments owed to the United States | 1010–0076 |
| MMS–4292—Coal Washing Allowance Report—Due prior to or at the same time that the allowance is first reported on Form MMS–4430 and annually thereafter if the allowance does not change | 1010–0074 |
| MMS–4293—Coal Transportation Allowance Report—Due prior to or at the same time that the allowance is first reported on Form. | |
| MMS–4430 and annually thereafter if the allowance does not change | 1010–0074 |
| MMS–4295—Gas Transportation Allowance Report—Initial report due within 3 months following the last day of month for which an allowance is first claimed unless a longer period is approved by MMS | 1010–0075 |

| Form No., name, and filing date | OMB No. |
|---|---|
| MMS–4377—Stripper Royalty Rate Reduction Notification—Due for each 12-month qualifying period that a reduced royalty rate is granted by the Bureau of Land Management | 1010–0090 |
| MMS–4430—Solid Minerals Production and Royalty Report—Due by the end of the month following the month of production or sale and for rentals no later than the payment date specified in your lease | 1010–0120 |
| Facility Data—Due monthly or as requested for specific solid mineral products and lease types; see § 210.204 | 1010–0120 |
| Sales Contracts—Due quarterly or as requested on certain solid mineral products and lease types; see § 210.203 | 1010–0120 |
| Sales Summaries—Due monthly or as requested for specific solid mineral products and lease types; see § 210.202 | 1010–0120 |

* * * * *

c. In paragraph (b)(2), first sentence, remove the words ''or MMS–4030.'' Also, remove the name ''Royalty Management Program'' and add in its place the name ''Minerals Revenue Management.''

d. In paragraph (b)(3), first sentence, remove the words ''MMS–4059, MMS–4060,.'' Also, remove the name ''Royalty Management Program'' and add in its place ''Minerals Revenue Management.''

e. Remove paragraph (b)(6).

f. Add paragraphs (b)(6) through (b)(9) to read as follows:

**§ 210.10 Information collection.**

* * * * *

(b) * * *

(6) Requests for Form MMS–4430 should be addressed to Minerals Management Service, Minerals Revenue Management, Solid Minerals and Geothermal Compliance and Asset Management, P.O. Box 25165, MS 390G1, Denver, Colorado 80225–0165. Completed forms should be mailed to Minerals Management Service, Minerals Revenue Management, Solid Minerals and Geothermal Compliance and Asset Management, P.O. Box 17110, Denver, Colorado 80217–0110.

(7) Facility data and sales summaries—when not submitted electronically—should be mailed to Minerals Management Service, Minerals Revenue Management, Solid Minerals and Geothermal Compliance and Asset Management, P.O. Box 25165, Mail Stop 390G1, Denver, Colorado 80225–0165.

(8) Sales contracts should be mailed to Minerals Management Service, Minerals Revenue Management, Solid Minerals and Geothermal Compliance and Asset Management, P.O. Box 25165, MS 390G1, Denver, Colorado 80225–0165.

(9) Reports sent by special couriers or overnight mail (excluding U.S. Postal Service Express Mail) should be addressed as follows:

(i) For oil and gas and geothermal leases, the address is: Minerals Management Service, Minerals Revenue Management, Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225; and

(ii) For solid mineral leases, the address is: Minerals Management Service, Solid Minerals and Geothermal Compliance and Asset Management, Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225.

* * * * *

g. Remove paragraphs (c)(4), (c)(11), and (c)(12).

h. Redesignate paragraphs (c)(5) through (c)(10) as paragraphs (c)(4) through (c)(9).

i. Redesignate paragraphs (c)(13) through (c)(20) as paragraphs (c)(10) through (c)(17).

j. Add paragraphs (c)(18) through (c)(21) to read as follows:

**§ 210.10 Information collection.**

* * * * *

(c) * * *

(18) *MMS–4430*—Submitted monthly to report production from and royalty due on all Federal and Indian solid minerals leases (See § 210.201). The data is used to distribute payments to appropriate recipients and to determine if lessees properly paid lease obligations. Public reporting burden is estimated to be 20 minutes per month per reporter. Comments submitted relating to this information collection should reference OMB Control Number 1010–0120.

(19) *Facility Data*—Submitted monthly by operators of wash plant, refining, ore concentration, or other processing facilities for specific solid minerals produced from specific Federal and Indian lease types or when otherwise requested by MMS (see § 210.204). The data is used to assure that Federal or Indian lease processed production (the output of process plants) is consistent with the input of raw production. Public reporting burden is estimated to be approximately 15 minutes per reporter per month to compile in-house formatted information and submit that information electronically. Comments submitted relating to this information collection should reference OMB Control Number 1010–0120.

(20) *Sales Contracts*—Submitted each calendar quarter by producers of specific solid mineral products on specific Federal and Indian lease types or when otherwise requested by MMS (see § 210.203). Contracts, agreements, contract amendments and other documents affecting gross proceeds are used for compliance purposes including, but not limited to, identifying valuation issues and establishing selling arrangement relationships. Public reporting burden is estimated to be 1 hour per reporter per month to compile and submit contracts and contract amendments. Comments submitted relating to this information collection should reference OMB Control Number 1010–0120.

(21) *Sales Summaries*—Submitted monthly by producers of specific solid minerals from specific Federal and Indian lease types or when otherwise requested by MMS (see § 210.202). This data is used for compliance purposes including, but not limited to, assuring that sales volumes and values are properly attributed or allocated to Federal or Indian leases. Public reporting burden is estimated to be 15 minutes per month for each reporter to compile in-house formatted sales information and submit that information electronically. Comments submitted relating to this information collection should reference OMB Control Number 1010–0120.

* * * * *

k. Revise paragraph (d) to read as follows:

**§ 210.10 Information collection.**

* * * * *

(d) *Comments on burden estimates.* Send comments on the accuracy of this burden estimate or suggestions on reducing this burden to the Minerals Management Service, Attention: Information Collection Clearance Officer, (OMB Control Number 1010–(insert appropriate OMB Control Number), Mail Stop 4230, 1849 C Street, NW, Washington, D.C. 20240. 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.

**§§ 210.200–210.204 [Removed]**

15. Remove §§ 210.200 through 210.204.

**§§ 210.200–210.205 [Added]**

16. Add §§ 210.200 through 210.205 to read as follows:

**Subpart E—Solid Minerals, General**

Sec.
210.200 What is the purpose of this subpart?
210.201 How do I submit Form MMS–4430, Solid Minerals Production and Royalty Report?
210.202 How do I submit sales summaries?
210.203 How do I submit sales contracts?
210.204 How do I submit facility data?
210.205 Do I need to submit additional documents or evidence to MMS?

**§ 210.200 What is the purpose of this subpart?**

This subpart explains your reporting requirements if you produce coal or other solid minerals from Federal or Indian leases. Included are your requirements for reporting production, sales, and royalties.

**§ 210.201 How do I submit Form MMS–4430, Solid Minerals Production and Royalty Report?**

(a) *What to submit.* (1) You must submit a completed Form MMS–4430 for all coal and other solid minerals produced from Federal and Indian leases accompanied by all required royalty and rental payments (except for first year rentals).

(2) You must submit a completed Form MMS–4430 for any product you sell from a remote storage site. If you sell from five or fewer remote storage sites, you must report sales from each site on separate Forms MMS–4430. If you sell from more than five remote storage sites, you must total the data from all sites and report the summarized data on one Form MMS–4430.

(3) Instructions for completing and submitting Form MMS–4430 are available on our Internet web site or you may contact us toll free at 1–888–201–6416.

(b) *When to submit.* (1) Unless your lease terms specify a different frequency for royalty payments, you must submit your Form MMS–4430 monthly. Your Form MMS–4430 is due at the end of the month following the month in which a reportable action occurs. However, if the last day of the month falls on a weekend or holiday, your Form MMS–4430 is due on the next business day.

(2) If your lease terms specify a different frequency for royalty payment, then you must report at the same time you must pay according to lease terms.

(3) If you are submitting a Form MMS–4430 to accompany a rental payment, your report is due no later than the rental payment date specified in your lease terms.

(4) If the information on a previously reported Form MMS–4430 is incorrect or has changed, you must submit a revised Form MMS–4430 by the last day of the month in which you discover the error or change, except when the last day of the month falls on a weekend or holiday. If the last day of the month falls on a weekend or holiday, your revised Form MMS–4430 is due on the first business day of the following month.

(c) *How to submit.* (1) You must submit Form MMS–4430 electronically using our Internet web site unless you meet the conditions in paragraphs (c)(2) or (c)(3) of this section. We will provide written instructions and a valid login identification and password before you begin reporting.

(2) You are not required to report electronically if you report only rent, minimum royalty, or other annual obligations on Form MMS–4430. These payments are submitted with a courtesy notice as instructed in § 218.201(c) of this chapter.

(3) You are not required to report electronically if you are a small business as defined by the U.S. Small Business Administration (13 CFR 121.201) and you have no computer, no plans to purchase a computer or contract with an electronic reporting service.

**§ 210.202 How do I submit sales summaries?**

(a) *What to submit.* You must submit sales summaries for all coal and other solid minerals produced from Federal and Indian leases and for any remote storage site from which you sell Federal or Indian solid minerals. If you sell from five or fewer remote storage sites, you must submit a sales summary for each site. If you sell from more than five remote storage sites, you may total the data from all sites and submit the summarized data as one sales summary. The details you report on the sales summary are for the same sales reported on Form MMS–4430. Use the following table to determine the time frames for submitting sales summaries and the data elements you must include:

| Date element | Coal | Sodium/potassium | Western phosphate | Metals | All other leases with ad valorem royalty terms | All other leases with no ad valorem royalty terms |
|---|---|---|---|---|---|---|
| (1) Purchaser name or unique identification. | Monthly | As requested | Monthly | Monthly | Monthly | As requested. |
| (2) Sales units | Monthly | Monthly | Monthly | Monthly | Monthly | Monthly. |
| (3) Gross proceeds. | Monthly | Monthly | Not required | Monthly | Monthly | Not required. |
| (4) Processing or washing costs. | Monthly | Monthly | Not required | Monthly | Monthly | Not required. |
| (5) Transportation costs. | Monthly | Monthly | Not required | Monthly | Monthly | Not required. |
| (6) Name of product type sold. | Not required | Monthly | Not required | Monthly | Monthly | As Required. |
| (7) Btu/lb | Monthly | Not required | Not required | Not required | Not required | Not required. |
| (8) Ash % | Monthly | Not required | Not required | Not required | Not required | Not required. |
| (9) Sulfur % | Monthly | Not required | Not required | Not required | Not required | Not required. |
| (10) lbs SO2 | Monthly | Not required | Not required | Not required | Not required | Not required. |
| (11) Moisture % | Monthly | Not required | Monthly | Not required | Not required | Not required. |
| (12) By-product units. | Not required | As requested | Monthly | As requested | As requested | Not required. |
| (13) P2O5 % | Not required | Not required | Monthly | Not required | Not required | Not required. |
| (14) Size | Monthly | Not required | Not required | Not required | As requested | Not required. |
| (15) Net smelter return data. | Not required | Not required | Not required | Monthly | Not required | Not required. |

| Date element | Coal | Sodium/potassium | Western phosphate | Metals | All other leases with ad valorem royalty terms | All other leases with no ad valorem royalty terms |
|---|---|---|---|---|---|---|
| (16) Other data e.g., royalty calculation worksheet. | As requested ..... | Monthly ..... | As requested ..... | As requested ..... | As requested ..... | As requested. |

(b) *When to submit.* (1) For leases with ad valorem royalty terms (that is, leases for which royalty due is dependent upon sales value), you must submit your sales summaries monthly at the same time you submit Form MMS–4430.

(2) For leases with no ad valorem royalty terms (that is, leases in which the royalty due is not dependent upon sales value such as cents-per-ton or dollars-per-unit), you must submit monthly sales summaries only if we specifically request you to do so.

(c) *How to submit.* (1) You should provide the sales summary data via electronic mail. We will provide instructions and the proper e-mail address for these submissions.

(2) We will accept sales summary data submissions in paper copy. If you submit sales summaries by paper, use our mailing addresses in § 210.203(c).

**§ 210.203 How do I submit sales contracts?**

(a) *What to submit.* You must submit sales contracts, agreements, contract amendments, or other documents that affect gross proceeds received for the sale of all coal and other solid minerals produced from Federal and Indian leases with ad valorem royalty terms.

(b) *When to submit.* (1) For coal and metal production, you must submit the required documents at the end of each calendar quarter.

(2) For sodium, potassium, and phosphate production, and production from any other lease with ad valorem royalty terms, you must submit the required documents only if you are specifically requested to do so.

(c) *How to submit.* You must submit complete copies to us at one of the following addresses:

(1) *For U.S. Postal Service mail service (including Express Mail):* Minerals Management Service, Minerals Revenue Management, Solid Minerals and Geothermal Compliance and Asset Management, P.O. Box 25165, MS 390G1, Denver, Colorado 80225–0165; or

(2) *For courier service (excluding Express Mail):* Minerals Management Service, Solid Minerals and Geothermal Compliance and Asset Management, Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225.

**§ 210.204 How do I submit facility data?**

(a) *What to submit.* If you operate a wash plant, refining, ore concentration, or other processing facility for any coal, sodium, potassium, metals, or other solid minerals produced from Federal or Indian leases with ad valorem royalty terms, you must submit facility data, regardless of whether the facility is located on or off the lease. You must include in your facility data all leases processed in the facility (Federal and non-Federal and Indian and non-Indian). Facility data submissions must include the following minimum information: identification of your facility, mines served, input quantity, output quantity, and output quality or product grades.

(b) *When to submit.* You must submit your facility data monthly at the same time you submit your Form MMS–4430.

(c) *How to submit.* (1) You should provide the facility data via electronic mail. We will provide instructions and the proper e-mail address for these submissions before you begin reporting.

(2) We will accept facility data submissions in paper copy. If submitting facility data by paper, use our mailing addresses in § 210.203(c).

**§ 210.205 Do I need to submit additional documents or evidence to MMS?**

(a) Federal and Indian lease terms allow us to request detailed statements, documents, or other evidence that supports our compliance and asset management responsibilities.

(b) We will only request this additional information as we need it, not as a regular submission.

## PART 216—PRODUCTION ACCOUNTING

17. The authority citation for part 216 continues to read as follows:

**Authority:** 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396, 2107; 30 U.S.C. 189, 190, 359, 1023, 1751(a); 31 U.S.C. 3716, 9701; 43 U.S.C. 1334, 1801 *et seq.*; and 44 U.S.C. 3506(a).

18. Revise § 216.11 to read as follows:

**§ 216.11 Electronic reporting.**

(a) You must submit your Oil and Gas Operations Report, Form MMS–4054, in accordance with electronic reporting requirements in §§ 210.20 through 210.22 of this chapter.

(b) You must submit your Solid Minerals Production and Royalty Report, Form MMS–4430, in accordance with electronic reporting requirements in § 210.201 of this chapter.

19. In § 216.15, revise paragraph (a) to read as follows:

**§ 216.15 Reporting instructions.**

(a) Specific guidance on how to prepare and submit required information collection reports and forms to MMS may be obtained from the following sources:

(1) For oil and gas, instructions are available in handbooks requested at Minerals Management Service, Minerals Revenue Management, P.O. Box 17110, Denver, Colorado 80217–0110.

(2) For coal and other solid minerals, instructions are available at our Internet web site or by calling 1–888–201–6416.

20. In § 216.16, revise paragraphs (a) and (b) to read as follows:

**§ 216.16 Where to report.**

(a) All reporting forms listed in this part that are mailed or sent by U.S. Postal Service (including express mail) should be mailed to the following addresses:

(1) For oil and gas, the address is Minerals Management Service, Minerals Revenue Management, P.O. Box 17110, Denver, Colorado 80217–0110; and

(2) For coal and other solid minerals, the address is Minerals Management Service, Minerals Revenue Management, Solid Minerals and Geothermal Compliance and Asset Management, P.O. Box 17110, Denver, Colorado 80225–0110.

(b) Reports delivered to MMS by special couriers or overnight mail (except U.S. Postal Service express mail) should be addressed as follows:

(1) For oil and gas, the address is Minerals Management Service, Minerals Revenue Management, Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225; and

(2) For coal and other solid minerals, the address is Minerals Management Service, Minerals Revenue Management, Solid Minerals and Geothermal Compliance and Asset Management,

Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225.

* * * * *

**§ 216.21 [Amended]**

21. Amend § 216.21 as follows:

(a) In the second sentence, remove the words ''the Production Accounting and Auditing System Reporters Handbook'' and add in their place ''our reporter handbooks or our Internet web site.''

(b) In the last sentence, remove the word ''handbook'' and add in its place ''handbooks.''

22. In § 216.40, revise paragraph (d) to read as follows:

**§ 216.40 Assessments for incorrect or late reports and failure to report.**

* * * * *

(d) For purposes of solid minerals reporting, a report is defined as each line of information required on the Solid Minerals Production and Royalty Report, Form MMS–4430.

* * * * *

## Subpart E—Solid Minerals, General [Reserved]

**§§ 216.200—216.204 [Removed]**

23. Remove §§ 216.200 through 216.204 and reserve subpart E.

## PART 218—COLLECTION OF ROYALTIES, RENTALS, BONUSES AND OTHER MONIES DUE THE FEDERAL GOVERNMENT

24. The authority citation for part 218 continues to read as follows:

**Authority:** 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C.A. 3335; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

25. In § 218.40, revise paragraph (c) to read as follows:

**§ 218.40 Assessments for incorrect or late reports and failure to report.**

* * * * *

(c) For purposes of assessments discussed in this section, a report is defined as follows:

(1) For coal and other solid mineral leases, a report is each line on the Solid Minerals Production and Royalty Report, Form MMS–4430.

(2) For geothermal leases, a report is each line on the Report of Sales and Royalty Remittance, Form MMS–2014.

(3) For oil and gas leases, this section does not apply.

* * * * *

**§ 218.51 [Amended]**

26. Amend § 218.51 as follows:

a. In paragraph (d)(2) and (d)(3), remove the name ''Royalty Management Program'' and add in its place the name ''Minerals Revenue Management.''

b. In paragraph (e), remove the name ''Royalty Management Program'' and add in its place the name ''Minerals Revenue Management'' and remove the room number ''A–212'' and add in its place ''A–614.''

27. Revise § 218.201 to read as follows:

**§ 218.201 Method of payment.**

You must tender all payments in accordance with § 218.51, except as follows:

(a) For purposes of this section, *report* means the Solid Minerals Production and Royalty Report, Form MMS–4430, rather than the Form MMS–2014.

(b) For Form MMS–4430 payments, include both your customer identification and your customer document identification numbers on your payment document, rather than the information required under § 218.51(f)(1).

(c) For a rental payment that is not reported on Form MMS–4430, include the MMS Courtesy Notice when provided or write your customer identification number and Government-assigned lease number on the payment document, rather than the information required under § 218.51(f)(4)(iii).

**§ 218.203 [Amended]**

28. Amend § 218.203 as follows:

a. In paragraph (a), first sentence, remove the word ''MMS–2014'' and add in its place ''MMS–4430.''

b. In paragraph (b), second sentence, remove the words ''in the ['']AFS Payor Handbook—Solid Minerals[''].''

c. In paragraph (b), remove the third sentence, ''See 30 CFR 210.204[.]'' and add in its place the sentence ''Call 1–888–201–6416 for instructions.''

[FR Doc. 01–14123 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–MR–P

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## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

## 36 CFR Part 1202

**RIN 3095–AA99**

## Privacy Act; Implementation

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Proposed rule.

**SUMMARY:** NARA is rewriting our Privacy Act regulations to update the procedures for making a Privacy Act request, and to reflect the President's memorandum of June 1, 1998, Plain Language in Government Writing. This proposed rule will affect individuals and entities seeking access or disclosure of information contained in NARA Privacy Act systems of records and subject individuals covered by a NARA Privacy Act system.

**DATES:** Comments must be received by August 6, 2001.

**ADDRESSES:** Comments must be sent to Regulation Comments Desk (NPOL), Room 4100, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. They may be faxed to 301–713–7270. You may also comment via the Internet to comments@NARA.GOV.

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: 3095–AA99'' and your name and return mailing address in your Internet message. If you do not receive a confirmation from NARA that we have received your Internet message, contact the Regulation Comment Desk at 301–713–7360, ext. 226.

**FOR FURTHER INFORMATION CONTACT:** Nancy Allard at telephone number 301–713–7360, ext. 226, or fax number 301–713–7270.

**SUPPLEMENTARY INFORMATION:** As noted in the **SUMMARY,** NARA is rewriting its regulations on implementing the Privacy Act of 1974, in accordance with the Presidential Memorandum of June 1, 1998. The proposed rule is written in plain language. Each section is written in the question and answer format. This format not only simplifies the regulations and its application, but it personalizes the regulation to the customer. The proposed rule specifies how NARA collects, maintains and uses personal information collected and maintained by NARA and defunct agencies under the Privacy Act. The proposed rule explains the authority under which NARA collects and disseminates this information, how a person can obtain access to such information, and how to amend or correct such information.

NARA last amended its Privacy Act regulations in 1998 (63 FR 70342). In preparing to rewrite the regulations in plain language, we reviewed our policies and procedures. We have also reviewed all of our Privacy Act systems of records. As a result of these actions, we are making several substantive changes to the regulations. First, NARA does not forward requests for other agencies' records stored in a NARA record center to the appropriate agency; therefore, in the proposed rule we tell the requester that he/she must request

those records from that agency directly. Second, to strengthen our controls to prevent improper access to information protected by the Privacy Act, we are adding a requirement for subject individuals to submit a certification statement or have their signature notarized when requesting records about themselves. Finally, we are exempting an additional NARA Privacy Act system, NARA 18, General Legal Files, from access/amendment provisions of the Act on the basis of the law enforcement exemption.

This proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this proposed rule will not have a significant impact on a substantial number of small entities because it only affects individuals and entities seeking access or disclosure of information contained in NARA Privacy Act systems of records. This proposed rule does not have any federalism implications.

**List of Subjects in 36 CFR Part 1202**

Privacy.

For the reason set forth in the preamble, NARA proposes to revise part 1202 of title 36, Code of Federal Regulations, to read as follows:

## PART 1202—REGULATIONS IMPLEMENTING THE PRIVACY ACT OF 1974

### Subpart A—General Information About the Privacy Act

Sec.
1202.1 What does this part cover?
1202.2 What this part does not cover.
1202.4 Definitions.
1202.6 Whom should I contact for Privacy Act matters at NARA?
1202.8 How does NARA handle records that are in Government-wide Privacy Act systems?
1202.10 Does NARA handle access to and disclosure of records of defunct agencies in the custody of NARA?

### Subpart B—Collecting Information

1202.18 How does NARA collect information about individuals?
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**Authority:** 5 U.S.C. 552a; 44 U.S.C. 2104(a).

## Subpart A—General Information About the Privacy Act

### § 1202.1 What does this part cover?

(a) This part covers requests under the Privacy Act (5 U.S.C. 552a) for NARA operational records and records of defunct agencies stored in NARA record centers.

(b) This part explains how NARA collects, uses and maintains records about you that are filed by your name or other personal identifiers and which are contained in a ''system of records'' as defined by 5 U.S.C. 552a(a)(5).

(c) This part describes the procedures to gain access to and contest the contents of your records, and the conditions under which NARA discloses such records to others.

### § 1202.2 What this part does not cover.

This part does not cover:

(a) Records that have been transferred into the National Archives of the United States for permanent preservation. Archival records that are contained in systems of records that become part of the National Archives of the United States are exempt from most provisions of the Privacy Act (see 5 U.S.C. 552a(l)(2) and (l)(3)). See subchapter C of this chapter for rules governing access to these type records.

(b) Records of other agencies that are stored in NARA record centers on behalf of that agency are governed by the Privacy Act rules of the transferring agency. Send your request for those records directly to those agencies.

(c) Personnel and medical records held by the National Personnel Records Center (NPRC) on behalf of the Department of Defense and the Office of Personnel Management. Privacy Act requests for these records should come to the NPRC.

### § 1202.4 Definitions.

For the purposes of this part, the term:

(a) *Access* means a transfer of a record, a copy of a record, or the information in a record to the subject individual, or the review of a record by the subject individual.

(b) *Agency* means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

(c) *Defunct agency* means an agency that has ceased to exist, and has no successor in function.

(d) *Defunct agency records* means the records in a Privacy Act system of a defunct agency that are stored in a NARA records center.

(e) *Disclosure* means a transfer by any means of a record, a copy of a record, or the information contained in a record to a recipient other than the subject individual, or the review of a record by someone other than the subject individual.

(f) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence.

(g) *Maintain* includes maintain, collect, use, or disseminate.

(h) *NARA Privacy Act Appeal Official* means the Deputy Archivist of the United States for appeals of denials of access to or amendment of records maintained in a system of records, except where the system manager is the Inspector General; then the term means the Archivist of the United States.

(i) *Record* means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his or her education, financial transactions, medical history and criminal or employment history, and that contains his or her name or an identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint, voiceprint, or photograph. For purposes of this part, ''record'' does not mean archival records that have been transferred to the National Archives of the United States.

(j) *Routine use* means, with respect to the disclosure of a record, the use of that record for a purpose which is compatible with the purpose for which it was collected.

(k) *Solicitation* means a request by a NARA employee or contractor that an individual provide information about himself or herself.

(l) *Statistical record* means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by 13 U.S.C. 8.

(m) *Subject individual* means the individual named or discussed in a record or the individual to whom a record otherwise pertains.

(n) *System manager* means the NARA employee who is responsible for the maintenance of a system of records and for the collection, use, and dissemination of information in that system of records.

(o) *System of records* means a group of records from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifier assigned to that individual.

### § 1202.6 Whom should I contact for Privacy Act matters at NARA?

Contact the NARA Privacy Act Officer, National Archives and Records Administration (NGC), Room 3110, 8601 Adelphi Road, College Park, MD 20740–6001, for guidance in making a Privacy Act request, or if you need assistance with an existing request. The Privacy Act Officer will refer you to the responsible system manager. Details about what to include in your Privacy Act request are discussed in Subpart C of this part.

### § 1202.8 How does NARA handle records that are in Government-wide Privacy Act systems?

Records in the custody of NARA in a Government-wide Privacy Act system are the primary responsibility of another agency, e.g., the Office of Personnel Management (OPM) or the Office of Government Ethics (OGE). These records are governed by the regulations established by that agency pursuant to the Privacy Act. NARA provides access using that agency's regulations.

### § 1202.10 Does NARA handle access to and disclosure of records of defunct agencies in the custody of NARA?

Yes, records of defunct agencies in the custody of NARA at a NARA record center are covered by the provisions of this part.

## Subpart B—Collecting Information

### § 1202.18 How does NARA collect information about individuals?

Any information that is used in making a determination about your rights, benefits, or privileges under NARA programs is collected directly from you—the subject individual— to the greatest extent possible.

### § 1202.20 What advisory information does NARA provide before collecting information from me?

(a) Before collecting information from you, NARA will advise you of:

(1) The authority for collecting the information and whether providing the information is mandatory or voluntary;

(2) The purpose for which the information will be used;

(3) The routine uses of the information; and

(4) The effect on you, if any, of not providing the information.

(b) NARA ensures that forms used to record the information that you provide are in compliance with the Privacy Act and this part.

### § 1202.22 Will NARA need my Social Security Number?

(a) Before a NARA employee or NARA contractor asks you to provide your social security number (SSN), he or she will ensure that the disclosure is required by Federal law or under a Federal law or regulation adopted before January 1, 1975.

(b) If you are asked to provide your SSN, the NARA employee or contractor must first inform you:

(1) Whether the disclosure is mandatory or voluntary;

(2) The statute or authority under which your SSN is solicited; and

(3) How your SSN will be used.

### § 1202.24 Will NARA ever request information about me from someone else?

NARA will make every effort to gather information from you directly. When NARA solicits information about you from someone else, NARA will explain to that person the purpose for which the information will be used.

### § 1202.26 Who will make sure that my record is accurate?

The system manager ensures that all records used by NARA to make a determination about any individual are maintained with such accuracy, relevancy, timeliness, and completeness as is reasonably possible to ensure fairness to you.

### § 1202.28 What rules do NARA employees follow in managing personal information?

All NARA employees and contractors involved in the design, development, operation or maintenance of any system of records must review the provisions of the Privacy Act and the regulations in this part. NARA employees and contractors must conduct themselves in accordance with the rules of conduct concerning the protection of nonpublic information in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR 2635.703.

### § 1202.30 How does NARA safeguard its systems of records?

(a) The system manager ensures that appropriate administrative, technical, and physical safeguards are established to ensure the security and confidentiality of records. In order to protect against any threats or hazards to their security or loss of integrity, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are protected in accordance with the Computer Security Act, OMB Circular A–11 requiring privacy analysis in reporting to OMB, and are accessed via passwords from terminals located in attended offices. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

(b) The system manager, at his/her discretion, may designate additional safeguards similar to or greater than those described in paragraph (a) of this section for unusually sensitive records.

(c) The system manager only permits access to and use of automated or manual personnel records to persons whose official duties require such access, or to you or to a representative designated by you.

## Subpart C—Individual Access to Records

### § 1202.40 How can I gain access to NARA records about myself?

(a) If you wish to request access to information about yourself contained in a NARA Privacy Act system of records, you must notify the NARA Privacy Act Officer, National Archives and Records Administration, Rm. 3110, 8601 Adelphi Rd., College Park, MD 20740–6001. If you wish to allow another person to review or obtain a copy of your record, you must provide authorization for that person to obtain access as part of your request.

(b) Your request must be in writing and the letter and the envelope must be marked ''Privacy Act Request.'' Your request letter must contain:

(1) The complete name and identifying number of the NARA system as published in the **Federal Register;**

(2) A brief description of the nature, time, place, and circumstances of your association with NARA;

(3) Any other information, which you believe, would help NARA to determine whether the information about you is included in the system of records;

(4) If you are authorizing another individual to have access to your records, the name of that person; and

(5) A Privacy Act certification of identity. When you make a request for access to records about yourself, you must verify your identity. You must sign your request and your signature must either be notarized or submitted by you under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain a Certification of Identity form for this purpose from the NARA Privacy Act Officer. The following information is required:

(i) Your full name;

(ii) An acknowledgment that you understand the criminal penalty in the Privacy Act for requesting or obtaining access to records under false pretenses (5 U.S.C. 552a(i)(3)); and

(iii) A declaration that your statement is true and correct under penalty of perjury (18 U.S.C. 1001).

(c) The procedure for accessing an accounting of disclosure is identical to the procedure for access to a record as set forth in this section.

### § 1202.42 How are requests for access to medical records handled?

When NARA receives a request for access to medical records, if NARA believes that disclosure of medical and/or psychological information directly to you could have an adverse effect on you, you may be asked to designate in writing a physician or mental health professional to whom you would like the records to be disclosed, and disclosure that otherwise would be made to you will instead be made to the designated physician or mental health professional.

### § 1202.44 How long will it take for NARA to process my request?

(a) NARA will acknowledge your request within 10 workdays of its receipt by NARA and if possible, will make the records available to you at that time. If NARA cannot make the records immediately available, the acknowledgment will indicate when the system manager will make the records available.

(b) If NARA anticipates more than a 10 workday delay in making a record you requested available, NARA also will explain in the acknowledgment specific reasons for the delay.

(c) If your request for access does not contain sufficient information to permit the system manager to locate the records, NARA will request additional information from you. NARA will have 10 workdays following receipt of the additional information in which to make the records available or to acknowledge receipt of the request and to indicate when the records will be available.

### § 1202.46 In what ways will NARA provide access?

(a) At your request, NARA will provide you, or a person authorized by you, a copy of the records by mail or by making the records available in person during normal business hours at the NARA facility where the records are located. If you are seeking access in person, the system manager will permit you to examine the original record, will provide you with a copy of the records, or both.

(b) When obtaining access to the records in person at a NARA facility, you must provide proof of identification either by producing at least one piece of identification bearing a name or signature and either a photograph or physical description (e.g., a driver's license or employee identification card) or by signing the Certification of Identity form described in § 1204.40 (b)(5). NARA reserves the right to ask you to produce additional pieces of identification to assure NARA of your identity. You will also be asked to sign an acknowledgement that you have been given access.

### § 1202.48 Will I have to pay for copies of records?

Yes. However NARA will waive fees for the first 100 pages copied or when the cost to collect the fee will exceed the amount collected. When a fee is charged, the charge per copy is $0.20 per page if NARA makes the copy or $0.15 per page if you make the copy on a NARA self-service copier. Fees for other reproduction processes are computed upon request.

### § 1202.50 Does NARA require prepayment of fees?

If the system manager determines that the estimated total fee is likely to exceed $250, NARA will notify you that the estimated fee must be prepaid before you can have copies of the records. If the final fee is less than the amount you prepaid, NARA will refund the difference.

### § 1202.52 How do I pay?

You must pay by check or money order. Make your check or money order payable to the National Archives and Records Administration and send it to the NARA Privacy Act Officer, Room 3110, 8601 Adelphi Road, College Park, MD 20740–6001.

### § 1202.54 On what grounds can NARA deny my Privacy Act request?

(a) NARA can deny your Privacy Act request for records if the records are maintained in an exempt systems of records are described in subpart F of this part.

(b) A system manager may deny your request for access to your records only if:

(1) NARA has published rules in the **Federal Register** exempting the pertinent system of records from the access requirement; and

(2) The record is exempt from disclosure under the Freedom of Information Act (FOIA).

(c) Upon receipt of a request for access to a record which is contained within an exempt system of records, NARA will:

(1) Review the record to determine whether all or part of the record must be released to the you in accordance with § 1202.40, notwithstanding the inclusion of the record within an exempt system of records; and

(2) Provide access to the record (or part of the record, if it is not fully releasable) in accordance with § 1202.46 or notify you that the request has been denied in whole or in part.

(c) If your request is denied in whole or in part, NARA's notice will include a statement specifying the applicable Privacy Act and FOIA exemptions and advising you of the right to appeal the decision as explained in § 1202.56.

### § 1202.56 How do I appeal a denial of my Privacy Act request?

(a) If you are denied access in whole or in part to records pertaining to yourself, you may file with NARA an appeal of that denial. Your appeal letter must be post marked no later than 35 calendar days after the date of the denial letter from NARA.

(1) Address appeals involving denial of access to Office of Inspector General records to NARA Privacy Act Appeal Official (N), National Archives and Records Administration, Room 4200, 8601 Adelphi Road, College Park, MD 20740–6001.

(2) Address all other appeals to the NARA Privacy Act Appeal Official (ND), National Archives and Records Administration, Room 4200, 8601 Adelphi Road, College Park, MD 20740–6001.

(b) All appeals of denial of access to the NARA Privacy Act Appeal Official must be in writing. Mark both the envelope and the appeal ''Privacy Act—Access Appeal.''

### § 1202.58 How are appeals processed?

(a) Upon receipt of your appeal, the NARA Privacy Act Appeal Official will consult with the system manager, legal counsel, and such other officials as may be appropriate. If the NARA Privacy Act Appeal Official determines that the records you requested are not exempt from release, NARA grants you access and so notifies you.

(b) If the NARA Privacy Act Appeal Official determines that your appeal must be rejected, NARA will immediately notify you in writing of that determination. This decision is final and cannot be appealed further within NARA. NARA's notification to you will include:

(1) The reason for the rejection of the appeal; and

(2) Notice of your right to seek judicial review of NARA's final determination, as described in 36 CFR 1202.84.

(c) NARA will make its final determination no later than 30 workdays from the date on which NARA receives your appeal. NARA may extend this time limit by notifying you in writing before the expiration of the 30 workdays. This notification will include an explanation of the reasons for the time extension.

## Subpart D—Disclosure of Records

### § 1202.60 When does NARA disclose a record in a Privacy Act system of records?

NARA will not disclose any records in a Privacy Act system of records to any person or to another agency without the express written consent of the subject individual unless the disclosure is:

(a) To NARA employees who have a need for the information in the official performance of their duties;

(b) Required by the provisions of the Freedom of Information Act, as amended;

(c) For a routine use that has been published in a notice in the **Federal Register;**

(d) To the Bureau of Census for purposes of planning or carrying out a census or survey or related activity pursuant to title 13 U.S.C.;

(e) To a person who has provided NARA with advance adequate written assurance as specified in § 1202.62(a) that the record will be used solely as a statistical research or reporting record. (Personal identifying information is deleted from the record released for statistical purposes. The system manager ensures that the identity of the individual cannot reasonably be deduced by combining various statistical records.)

(f) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government or for evaluation by the Archivist or the designee of the Archivist to determine whether the record has such value;

(g) To another agency or any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or his or her other designated representative has made a written request to NARA specifying the particular portion desired and the law enforcement activity for which the record is sought;

(h) To a person showing compelling circumstances affecting the health or safety of an individual, and not necessarily the individual to whom the record pertains. A disclosure of this nature is followed by a notification to the last known address of the subject individual;

(i) To either House of Congress or to a committee or subcommittee (joint or of either House), in the course of the performance of official legislative activities;

(j) To the Comptroller General or any of his authorized representatives in the course of the performance of the duties of the General Accounting Office;

(k) Pursuant to the order of a court of competent jurisdiction; or

(l) To a consumer reporting agency in accordance with 31 U.S.C. 3711(e).

### § 1202.62 What are the procedures for disclosure of records to a third party?

(a) To obtain access to records about a person other than yourself, address the request to the NARA Privacy Act Officer, National Archives and Records Administration, Room 3110, 8601 Adelphi Rd., College Park, MD 20740–6001. If you are requesting access for statistical research as described in § 1202.60(e), you must submit a written statement that includes as a minimum:

(1) A statement of the purpose for requesting the records; and

(2) Certification that the records will be used only for statistical purposes.

(b) NARA will acknowledge your request within 10 workdays and will make a decision within 30 workdays, unless NARA notifies you that the time limit must be extended for good cause.

(c) Upon receipt of your request, NARA will verify your right to obtain access to documents pursuant to § 1202.60. Upon verification, the system manager will make the requested records available to you.

(d) If NARA determines that the disclosure is not permitted under § 1202.60, the system manager will deny your request in writing. NARA will inform you of the right to submit a request for review of the denial and a final determination to the appropriate NARA Privacy Act Appeal Officer.

### § 1202.64 How do I appeal a denial of disclosure?

(a) Your request for a review of the denial of disclosure to records maintained by the Office of the Inspector General must be addressed to the NARA Privacy Act Appeal Officer (N), National Archives and Records Administration, Room 4200, 8601 Adelphi Rd., College Park, MD 20740–6001.

(b) Requests for a review of a denial of disclosure to all other NARA records must be addressed to the NARA Privacy Act Appeal Officer (ND), National Archives and Records Administration, Room 4200, 8601 Adelphi Rd., College Park, MD 20740–6001.

### § 1202.66 How does NARA keep account of disclosures?

(a) Except for disclosures made to NARA employees in the course of the performance of their duties or when required by the Freedom of Information Act (see § 1202.60(a) and (b)), NARA keeps an accurate accounting of each

disclosure and retains it for 5 years after the disclosure or for the life of the record, whichever is longer. The accounting includes the:

(1) Date of disclosure;

(2) Nature, and purpose of each disclosure; and

(3) Name and address of the person or agency to which the disclosure is made.

(b) The system manager also maintains with the accounting of disclosures:

(1) A full statement of the justification for the disclosures;

(2) All documentation surrounding disclosure of a record for statistical or law enforcement purposes; and

(3) Evidence of written consent by the subject individual to a disclosure, if applicable.

(c) Except for the accounting of disclosures made for a law enforcement activity (see § 1202.60(g)) or of disclosures made from exempt systems (see subpart F of this part), the accounting of disclosures will be made available to the subject individual upon request. Procedures for requesting access to the accounting of disclosures are in subpart C.

## Subpart E—Request To Amend Records

### § 1202.70 Whom should I contact at NARA to amend records about myself?

If you believe that a record that NARA maintains about you is not accurate, timely, relevant or complete, you may request that the record be amended. Write to the NARA Privacy Act Officer, Room 3110, 8601 Adelphi Rd, College Park, MD 20470–6001. Employees of NARA who desire to amend their personnel records should write to the Director, Human Resources Services Division. You should include as much information, documentation, or other evidence as needed to support your request to amend the pertinent record. Mark both the envelop and the letter with the phrase ''Privacy Act—Request To Amend Record.''

### § 1202.72 How does NARA handle requests to amend records?

(a) NARA will acknowledge receipt of a request to amend a record within 10 workdays. If possible, the acknowledgment will include the system manager's determination either to amend the record or to deny your request to amend as provided in § 1202.76.

(b) When reviewing a record in response to your request to amend, the system manager will assess the accuracy, relevance, timeliness, and completeness of the existing record in light of your proposed amendment to determine if your request to amend is justified. If you request the deletion of information, the system manager also will review your request and the existing record to determine whether the information is relevant and necessary to accomplish NARA's purpose, as required by law or Executive order.

### § 1202.74 How will I know if NARA approved my amendment request?

If NARA approves your amendment request, the system manager will promptly make the necessary amendment to the record and will send a copy of the amended record to you. NARA will also advise all previous recipients of the record, using the accounting of disclosures, that an amendment has been made and give the substance of the amendment. Where practicable, NARA will also send a copy of the amended record to previous recipients.

### § 1202.76 Can NARA deny my request for amendment?

If the system manager denies your request to amend or determines that the record should be amended in a manner other than that requested by you, NARA will advise you in writing of the decision. The denial letter will state:

(a) The reasons for the denial of your amendment request;

(b) Proposed alternative amendments, if appropriate;

(c) Your right to appeal the denial; and

(d) The procedures for appealing the denial.

### § 1202.78 How do I accept an alternative amendment?

If your request to amend a record is denied and NARA suggested alternative amendments, and you agree to those alternative amendments, you must notify the Privacy Act Officer who will then make the necessary amendments in accordance with § 1202.74.

### § 1202.80 How do I appeal the denial of a request to amend a record?

(a) If you disagree with a denial of your request to amend a record, you can file an appeal of that denial.

(1) Address your appeal of the denial to amend records signed by a system manager other than the Inspector General, to the NARA Privacy Act Appeal Official (ND), Room 3110, 8601 Adelphi Road, College Park, MD, 20740–6001.

(2) Address the appeal of the denial to amend records signed by the Inspector General to the NARA Privacy Act Appeal Official (N), Room 3110, 8601 Adelphi Road, College Park, MD, 20740–6001.

(3) For current NARA employees if the denial to amend concerns a record maintained in the employee's Official Personnel Folder or in another Government-wide system maintained by NARA on behalf of another agency, NARA will provide the employee with name and address of the appropriate appeal official in that agency.

(b) Appeals to NARA must be in writing and must be postmarked no later than 35 calendar days from the date of the NARA denial of a request to amend. Your appeal letter and envelope must be marked ''Privacy Act—Appeal''.

(c) Upon receipt of an appeal, the NARA Privacy Act Appeal Official will consult with the system manager, legal counsel, and such other officials as may be appropriate. If the appeal official determines that the record should be amended, he or she will instruct the system manager to amend the record in accordance with § 1202.74 and will notify you of that action.

(d) If, after consulting with officials specified in paragraph (c) of this section, the NARA Privacy Act Appeal Official determines that your appeal should be rejected, the NARA Privacy Act Appeal Official will notify you in writing of that determination. This notice serves as NARA's final determination on your request to amend a record. The letter to you will include:

(1) The reason for the rejection of your appeal;

(2) Proposed alternative amendments, if appropriate, which you may accept (see 36 CFR 1202.78 for the procedure);

(3) Notice of your right to file a Statement of Disagreement for distribution in accordance with 36 CFR 1202.82; and

(4) Notice of your right to seek judicial review of the NARA final determination, as provided in 36 CFR 1202.84.

(e) The NARA final determination will be made no later than 30 workdays from the date on which the appeal is received by the NARA Privacy Act Appeal Official. In extraordinary circumstances, the NARA Privacy Act Appeal Official may extend this time limit by notifying you in writing before the expiration of the 30 workdays. The notification will include a justification for the extension of time.

### § 1202.82 How do I file a Statement of Disagreement?

If you receive a NARA final determination denying your request to amend a record, you may file a Statement of Disagreement with the appropriate system manager. The

Statement of Disagreement must include an explanation of why you believe the record to be inaccurate, irrelevant, untimely, or incomplete. The system manager will maintain your Statement of Disagreement in conjunction with the pertinent record. The System Manager will send a copy of the Statement of Disagreement to any person or agency to whom the record has been disclosed, only if the disclosure was subject to the accounting requirements of § 1202.60.

### § 1202.84 Can I seek judicial review?

Yes, within 2 years of receipt of a NARA final determination as provided in § 1202.54 or § 1202.80, you may seek judicial review of that determination. You may file a civil action in the Federal District Court:

(a) In which you reside or have a principal place of business;

(b) In which the NARA records are located; or

(c) In the District of Columbia.

## Subpart F—Exemptions

### § 1202.90 What NARA systems of records are exempt from release under the National Security Exemption of the Privacy Act?

(a) The Investigative Case Files of the Inspector General (NARA–23) and the Personnel Security Case Files (NARA–24) systems of records are eligible for exemption under 5 U.S.C. 552a(k)(1) because the records in these systems:

(1) Contain information specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and

(2) Are in fact properly classified pursuant to such Executive Order.

(b) The systems described in paragraph (a) are exempt from subsections (c)(3), (d), (e)(1), and (e)(4)(G) and (H) of 5 U.S.C. 552a. Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because accounting for each disclosure could result in the release of properly classified information which would compromise the national defense or disrupt foreign policy.

(2) From the access and amendment provisions of subsection (d) because access to the records in these systems of records could result in the release of properly classified information which would compromise the national defense or disrupt foreign policy. Amendment of either of these series of records would interfere with ongoing investigations and law enforcement or national security activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(3) From subsection (e)(1) because verification of the accuracy of all information to the records could result in the release of properly classified information which would compromise the national defense or disrupt foreign policy.

(4) From subsection (e)(4)(G) and (H) because these systems are exempt from the access and amendment provisions of subsection (d), pursuant to subsection (k)(1) of the Privacy Act.

### § 1202.92 What NARA systems of records are exempt from release under the Law Enforcement Exemption of the Privacy Act?

(a) The General Law Files in the Office of the General Counsell (NARA–18) and the Investigative Files of the Inspector General (NARA–23) systems of records are eligible for exemption under 5 U.S.C. 552a(k)(2) because these record systems contains investigatory material of actual, potential or alleged criminal, civil or administrative violations, compiled for law enforcement purposes other than within the scope of subsection (j)(2) of 5 U.S.C. 552a. If you are denied any right, privilege or benefit that you would otherwise be entitled by Federal law, or for which you would otherwise be eligible, as a result of the record, NARA will make the record available to you, except for any information in the record that would disclose the identity of a confidential source as described in 5 U.S.C. 552a(k)(2).

(b) The systems described in paragraph (a) of this section are exempt from subsections (c)(3), (d), (e)(1) and (e)(4) (G) and (H), and (f) of 5 U.S.C. 552a. Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because release of disclosure accounting could alert the subject of an investigation about the alleged violations, to the existence of the investigation and to the fact that they are being investigated by the Office of Inspector General (OIG) or another agency. Release of such information could provide significant information concerning the nature of the investigation, resulting in the tampering or destruction of evidence, influencing of witnesses, danger to individuals involved, and other activities that could impede or compromise the investigation.

(2) From the access and amendment provisions of subsection (d) because access to the records contained in these systems of records could inform the subject of an investigation of an actual or potential criminal, civil, or administrative violation, of the existence of that investigation; of the nature and scope of the information and evidence obtained as to his/her activities; of the identity of confidential sources, witnesses, and law enforcement personnel; and of information that may enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement where they prevent the successful completion of the investigation, endanger the physical safety of confidential sources, witnesses, and law enforcement personnel, and/or lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony. In addition, granting access to such information could disclose security-sensitive or confidential business information or information that would constitute an unwarranted invasion of the personal privacy of third parties. The amendment of these records could allow the subject to avoid detection or apprehension and interfere with ongoing investigations and law enforcement activities.

(3) From subsection (e)(1) because the application of this provision could impair investigations and interfere with the law enforcement responsibilities of the OIG or another agency for the following reasons:

(i) It is not possible to detect relevance or need for specific information in the early stages of an investigation, case or matter. After the information is evaluated, relevance and necessity may be established.

(ii) During an investigation, the OIG may obtain information about other actual or potential criminal, civil or administrative violations, including those outside the scope of its jurisdiction. The OIG should retain this information, as it may aid in establishing patterns of inappropriate activity, and can provide valuable leads for Federal and other law enforcement agencies.

(iii) In interviewing individuals or obtaining other forms of evidence during an investigation, information may be supplied to an investigator, which relates to matters incidental to the primary purpose of the investigation but which may relate also to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

(iv) From subsection (e)(4)(G) and (H) because these systems are exempt from the access and amendment provisions of subsection (d), pursuant to subsection (k)(2) of the Privacy Act.

(v) From subsection (f) because these systems are exempt from the access and

amendment provisions of subsection (d), pursuant to subsection (k)(2) of the Privacy Act.

**§ 1202.94 What NARA systems of records are exempt from release under the Investigatory Information Material exemption of the Privacy Act?**

(a) The General Law Files (NARA–18) and the Personnel Security Case Files (NARA–24) systems of records are eligible for exemption under 5 U.S.C. 552a(k)(5) because these contain investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal employment or access to classified information. The only information exempt under this provision is that which would disclose the identity of a confidential source described in 5 U.S.C. 552a(k)(2).

(b) The systems of records described in paragraph (a) of this section are exempt from 5 U.S.C. 552a(d)(1). Exemption from the particular subsection is justified as access to records in the system would reveal the identity(ies) of the source(s) of information collected in the course of a background investigation.

Dated: May 29, 2001.

**John W. Carlin,**

*Archivist of the United States.*

[FR Doc. 01–14077 Filed 6–4–01; 8:45 am]

BILLING CODE 7515–01–P

## DEPARTMENT OF VETERANS AFFAIRS

## 38 CFR Part 46

**RIN 2900–AJ76**

## Policy Regarding Participation in National Practitioner Data Bank

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** We propose to amend our regulations regarding reporting of health care practitioners to the National Practitioner Data Bank (NPDB). We propose to amend the reporting provisions concerning malpractice payment reporting by delegating the underlying decision-making to malpractice payment review panels; by delegating the actual reporting authority to facility directors and the Chief Patient Care Services Officer; by establishing new procedures for obtaining information from affected health care practitioners and others; and by establishing medical reporting criteria for licensed trainees and supervisory health care professionals. We also propose to amend the regulations concerning malpractice payment reporting and clinical privileges actions reporting by stating that reporting may not be the subject of negotiated settlements and that independent contractors acting on behalf of the Department of Veterans Affairs (VA) are subject to the NPDB reporting provisions. These amendments appear to be necessary to make the reporting process more efficient and fair and to ensure that reporting is accomplished in accordance with the statutory framework.

**DATES:** Comments must be received on or before August 6, 2001.

**ADDRESSES:** Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN: 2900–AJ76.'' All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Kathryn W. Enchelmayer, Director, Credentialing and Privileging, Office of Quality and Performance (10Q), VHA, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; (301) 443–9901 (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** This document proposes to amend our regulations set forth in 38 CFR Part 46 concerning the reporting of physicians, dentists, and other health care practitioners to the NPDB. These regulations concern malpractice payment reporting and clinical privileges actions reporting.

With respect to malpractice payment reporting, the regulations currently provide that VA will file a report with the NPDB regarding any payment for the benefit of a physician, dentist, or other health care practitioner which was made as the result of a settlement or judgment of a claim of medical malpractice. The regulations also state that the report will identify the practitioner for whose benefit the payment is made. Currently, the regulations provide for facility directors to file a report when they affirm a recommendation from a peer review body regarding whether payment was made for the benefit of a practitioner. Also, currently the regulations provide that the peer review bodies are to be appointed by facility directors. We propose to change the delegation of authority for making the determinations of whether payment was made for the benefit of a practitioner by delegating this function to malpractice payment review panels appointed by the Director of Medical-Legal Affairs. We believe that this will be a more efficient process and help ensure independent decisionmaking. We propose that this new process be used in all cases for which a panel is appointed on or after the effective date of the final rule.

The current regulations further provide for reporting to the NPDB if it is determined that payment was made for the benefit of a practitioner. We propose to delegate this reporting authority to the Director of the facility in which the acts or omissions occurred and the Chief Patient Care Services Officer. These are the appropriate reporting officials within VA. Further, to help ensure that the reported practitioner is aware of the reporting, the reporting official would be required to send a copy of the report to the reported practitioner.

For malpractice payment determinations, the current regulations provide for review of documents pertinent to the claim, including, to the extent practicable, information collected directly from the individual for whose benefit payment was made. The regulations also provide that individuals under consideration for malpractice payment reporting are to be given an opportunity for discussion with the facility director and any other individual designated by the facility director before a reporting determination is made. We propose to eliminate the discussion provisions and otherwise change these procedures as follows:

- Written notice shall be provided to the practitioner whose actions are under review stating that VA is considering whether to report the practitioner to the NPDB because of a specified malpractice payment made, and providing the practitioner with the opportunity to submit a written statement concerning the care that led to the claim within 30 days of receipt of the notice. The written notice shall be hand-delivered to the practitioner whose actions are under review or sent return-receipt requested to the last known address of such practitioner.
- Prior to making a determination, the malpractice payment review panel will review documents pertinent to the care that led to the claim. This may include

information prepared in response to a request from the panel.

We believe these procedures provide for more efficient and timely reporting while preserving the practitioner's right to fair and impartial consideration of his or her actions.

With respect to malpractice payment reporting, we also propose to establish special reporting criteria for licensed trainees and for health care professionals who supervise trainees. We propose that actions of a licensed trainee acting within the scope of his or her training program that otherwise would warrant reporting for substandard care, professional incompetence, or professional misconduct will be reported only if the panel, by at least a majority, concludes that such actions constitute gross negligence or willful professional misconduct. Also, we propose to report a physician, dentist, or other health care practitioner in their supervisory capacity, if the panel concludes, by at least a majority, that the health care practitioner was acting in a supervisory capacity when the event occurred; that the payment was related to substandard care, professional incompetence, or professional misconduct of the trainee and not the supervisor; and that the trainee did not commit gross negligence or willful misconduct. Such report would note that the physician, dentist, or other health care practitioner is being reported in a supervisory capacity. These provisions are intended to ensure that reporting reflects responsibility for actions.

With respect to malpractice payment reporting, the regulations currently state that it is intended that malpractice reports be filed within 30 days of the date payment is made. However, the regulations acknowledge that VA may not be able to report within 30 days if VA is not notified of such payments within sufficient time to report within the 30-day period. We propose to add an additional example specifically acknowledging that the 30-day period would not be met if the malpractice payment review process were delayed. The examples are designed to ensure that VA officials understand that reporting must still occur even if there is a valid reason for not reporting within the 30-day period.

In addition, we propose to add provisions regarding both malpractice payment reporting and clinical privileges actions reporting. We propose to add provisions stating that NPDB reporting, including copies to State Licensing Boards, may not be the subject of any negotiation in any settlement agreement, employee action, legal proceedings, or any other negotiated settlement. Also, we propose to note that independent contractors are subject to NPDB reporting under the regulations. We believe these provisions are consistent with the statutory framework for establishing NPDB reporting (42 U.S.C. 11101–11157). Further, this policy will help ensure that NPDB reporting occurs when warranted.

The provisions of § 46.4 set forth a mechanism for reporting based on actions regarding clinical privileges. The current provisions inadvertently indicated that the original report and a copy would be filed with the State Licensing Board in the State in which the facility is located, and a copy filed with the State Licensing Board in the State(s) in which the practitioner is licensed. However, this would be corrected to state that the report will be filed with the National Practitioner Data Bank, with a copy to the State Licensing Board in the State(s) in which the practitioner is licensed and in which the facility is located.

The current regulations at § 46.4(a)(2) provide that one basis for reporting to the NPDB is the acceptance of the surrender of clinical privileges or any restriction of such privileges by a physician or dentist either while under investigation by the health care entity relating to possible incompetence or improper professional conduct, or in return for not conducting such an investigation or proceeding. We propose to specify that the acceptance of the surrender of clinical privileges would include the surrender of clinical privileges inherent in resignation or retirement. We believe that the need for reporting would be the same regardless of how an individual surrendered these clinical privileges. Also, to advise affected individuals of the reporting under § 46.4(a)(2) and to advise them that copies will be sent to State Licensing Boards, we propose to require that, as soon as practicable following the determination to report, VA shall provide written notice to the practitioner that a report shall be filed with the National Practitioner Data Bank with a copy to the State Licensing Board in each State in which the practitioner is licensed and in the State in which the facility is located.

We also propose to make nonsubstantive changes for purposes of clarity, including adding legal definitions of ''gross negligence'' and ''willful professional misconduct.''

**Paperwork Reduction Act of 1995**

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), a collection of information is set forth in proposed 38 CFR 46.3(c). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to the Office of Management and Budget (OMB) for its review of the proposed collection of information.

OMB assigns a control number for each collection of information it approves. VA 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.

Comments on the proposed collection of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies mailed or hand-delivered to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, N.W., Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AJ76.''

*Title:* Submission of Evidence.

*Summary of collection of information:* Under proposed § 46.3(c), written notice shall be provided to the practitioner whose actions are under review stating that VA is considering whether to report the practitioner to the NPDB because of a specified malpractice payment made, and provide the practitioner with the opportunity within 30 days of receipt to submit a written statement concerning the care which led to the malpractice payment. The peer review panel would also request written information as needed.

*Description of need for information and proposed use of information:* This information would be needed for the malpractice payment review panels to determine whether an affected health care professional should be reported to the NPDB.

*Description of likely respondents:* Health care professionals who are under consideration for reporting to the NPDB and any other individual involved in the care, which led to a claim resulting in a malpractice payment.

*Estimated number of respondents:* 350 per year.

*Estimated frequency of responses:* 1 per year.

*Estimated average burden per collection:* 5 hours.

*Estimated total annual reporting and recordkeeping burden:* 1750 hours.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary

for the proper performance of the functions of the Department, including whether the information will have practical utility;

• Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;

• Enhancing the quality, usefulness, and clarity of the information to be collected; and

• Minimizing the burden of the collections 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.

OMB is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulations.

**Executive Order 12866**

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

**Regulatory Flexibility Act**

The Secretary hereby certifies that the adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rulemaking proceeding affects only individuals. Accordingly, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

The Catalog of Federal Domestic Assistance numbers for the programs affected by this document are 64.005, 64.007, 64.008, 64,009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, 640–024, and 64.025.

**List of Subjects in 38 CFR Part 46**

Health professions.

Approved: February 28, 2001.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, 38 CFR part 46 is proposed to be revised as follows:

## PART 46—POLICY REGARDING PARTICIPATION IN NATIONAL PRACTITIONER DATA BANK

**Subpart A—General Provisions**

Sec.
46.1 Definitions.
46.2 Purpose.

**Subpart B—National Practitioner Data Bank Reporting**

46.3 Malpractice payment reporting.
46.4 Clinical privileges actions reporting.

**Subpart C—National Practitioner Data Bank Inquiries**

46.5 National Practitioner Data Bank inquiries.

**Subpart D—Miscellaneous**

46.6 Medical quality assurance records confidentiality.
46.7 Prohibitions concerning negotiations.
46.8 Independent contractors.

**Authority:** 38 U.S.C. 501; 42 U.S.C. 11101–11152

### Subpart A—General Provisions

**§ 46.1 Definitions.**

(a) *Act* means The Health Care Quality Improvement Act of 1986, as amended (42 U.S.C. 11101–11152).

(b) *Claim of medical malpractice* means a written claim or demand for payment based on an act or omission of a physician, dentist, or other health care practitioner in furnishing (or failing to furnish) health care services, and includes the filing of a complaint or administrative tort claim under the Federal Tort Claims Act, 28 U.S.C. 1346(b), 2671–2680.

(c) *Clinical privileges* means privileges granted by a health care entity to individuals to furnish health care.

(d) *Dentist* means a doctor of dental surgery or dental medicine legally authorized to practice dental surgery or dentistry by a State (or any individual who holds himself or herself out to be so authorized).

(e) *Director* means the duly appointed director of a Department of Veterans Affairs health care facility or any individual with authorization to act for that person in the director's absence.

(f) *Gross negligence* is materially worse than substandard care, and consists of an entire absence of care, or an absence of even slight care or diligence; it implies a thoughtless disregard of consequences or indifference to the rights of others.

(g) *Health care facility* means a hospital, domiciliary, outpatient clinic, or any other entity that provides health care services.

(h) *Other health care practitioner* means an individual other than a physician or dentist who is licensed or otherwise authorized by a State to provide health care services.

(i) *Physician* means a doctor of medicine or osteopathy authorized to practice medicine or surgery by a State (or any individual who holds himself or herself out to be so authorized).

(j) *Professional review action* means a recommendation by a professional review panel (with at least a majority vote) to affect adversely the clinical privileges of a physician or dentist taken as a result of a professional review activity based on the competence or professional conduct of an individual physician or dentist in cases in which such conduct affects or could affect adversely the health or welfare of a patient, or patients. An action is not considered to be based on the competence or professional conduct of a physician or dentist, if the action is primarily based on:

(1) A physician's or dentist's association with, administrative supervision of, delegation of authority to, support for, or training of, a member or members of a particular class of health care practitioner or professional, or

(2) Any other matter that does not relate to the competence or professional conduct of a physician or dentist in his/her practice at a Department of Veterans Affairs health care facility.

(k) *Professional review activity* means an activity with respect to an individual physician or dentist to establish a recommendation regarding:

(1) Whether the physician or dentist may have clinical privileges with respect to the medical staff of the facility;

(2) The scope or conditions of such privileges or appointment; or

(3) Change or modification of such privileges.

(l) *State* means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territories or possessions of the United States.

(m) *State Licensing Board* means, with respect to a physician, dentist, or other health care practitioner in a State, the agency of the State, which is primarily responsible for the licensing of the physician, dentist, or practitioner to furnish health care services.

(n) *Willful professional misconduct* means worse than mere substandard care, and contemplates the intentional doing of something with knowledge that it is likely to result in serious injuries or in reckless disregard of its probable consequences.

**§ 46.2 Purpose.**

The National Practitioner Data Bank, authorized by the Act and administered by the Department of Health and Human Services, was established for the purpose of collecting and releasing certain information concerning physicians, dentists, and other health care practitioners. The Act mandates that the Department of Health and Human Services seek to enter into a Memorandum of Understanding with the Department of Veterans Affairs (VA) for the purpose of having VA participate in the National Practitioner Data Bank. Such a Memorandum of Understanding has been established. Pursuant to the Memorandum of Understanding, VA will obtain information from the Data Bank concerning physicians, dentists, and other health care practitioners who provide or seek to provide health care services at VA facilities and also report information regarding malpractice payments and adverse clinical privileges actions to the Data Bank. This part essentially restates or interprets provisions of that Memorandum of Understanding and constitutes the policy of VA for participation in the National Practitioner Data Bank.

## Subpart B—National Practitioner Data Bank Reporting

**§ 46.3 Malpractice payment reporting.**

(a) VA will file a report with the National Practitioner Data Bank, in accordance with regulations at 45 CFR part 60, subpart B, as applicable, regarding any payment for the benefit of a physician, dentist, or other licensed health care practitioner which was made as the result of a settlement or judgment of a claim of medical malpractice. The report will identify the physician, dentist, or other licensed health care practitioner for whose benefit the payment is made. It is intended that the report be filed within 30 days of the date payment is made. This may not be possible in all cases; e.g., sometimes notification of payment is delayed, and sometimes the malpractice payment review process cannot be completed within the timeframe. The report will provide the following information:

(1) With respect to the physician, dentist, or other licensed health care practitioner for whose benefit the payment is made—

(i) Name;

(ii) Work address;

(iii) Home address, if known;

(iv) Social Security number, if known, and if obtained in accordance with section 7 of the Privacy Act of 1974;

(v) Date of birth;

(vi) Name of each professional school attended and year of graduation;

(vii) For each professional license: the license number, the field of licensure, and the State in which the license is held;

(viii) Drug Enforcement Administration registration number, if applicable and known;

(ix) Name of each health care entity with which affiliated, if known.

(2) With respect to the reporting VA entity—

(i) Name and address of the reporting entity;

(ii) Name, title and telephone number of the responsible official submitting the report on behalf of the Federal government; and

(iii) Relationship of the entity to the physician, dentist, or other health care practitioner being reported.

(3) With respect to the judgment or settlement resulting in the payment—

(i) Where an action or claim has been filed with an adjudicative body, identification of the adjudicative body and the case number;

(ii) Date or dates on which the act(s) or omission(s), which gave rise to the action or claim occurred;

(iii) Date of judgment or settlement;

(iv) Amount paid, date of payment, and whether payment is for a judgment or a settlement;

(v) Description and amount of judgment or settlement and any conditions attached thereto, including terms of payment;

(vi) A description of the acts or omissions and injuries or illnesses upon which the action or claim was based; and

(vii) Classification of the acts or omissions in accordance with a reporting code adopted by the Secretary of Health and Human Services.

(b) Payment will be considered to have been made for the benefit of a physician, dentist, or other licensed health care practitioner only if (at least a majority of) a malpractice payment review panel concludes that payment was related to substandard care, professional incompetence, or professional misconduct on the part of the physician, dentist, or other licensed health care practitioner. For purposes of this part, a panel shall have a minimum of three individuals appointed by the Director, Medical-Legal Affairs (including at least one member of the profession/occupation of the practitioner(s) whose actions are under review). The conclusions of the panel shall, at a minimum, be based on review of documents pertinent to the care that led to the claim. These documents include the medical records of the patient whose care led to the claim, any report of an administrative investigation board appointed to investigate the care, and the opinion of any consultant which the panel may request in its discretion. These documents do not include those generated primarily for consideration or litigation of the claim of malpractice. In addition, to the extent practicable, the documents shall include written statements of the individual(s) involved in the care which led to the claim. The practitioner(s) whose actions are under review will receive a written notice, hand-delivered or sent to the practitioner's last known address (return receipt requested). That notice will indicate that VA is considering whether to report the practitioner to the National Practitioner Data Bank because of a specified malpractice payment made, and provide the practitioner the opportunity, within 30 days of receipt, to submit a written statement concerning the care that led to the claim. Inability to notify or non-response from the identified practitioner(s) will not preclude completion of the review and reporting process. The panel, at its discretion, may request additional information from the practitioner or the VA facility where the incident occurred.

(c) Attending staff (including contract employees, such as scarce medical specialists providing care pursuant to a contract under 38 U.S.C. 7409) are responsible for actions of licensed trainees assigned under their supervision. Notwithstanding the provisions of paragraph (b) of this section, actions of a licensed trainee (intern or resident) acting within the scope of his or her training program that otherwise would warrant reporting for substandard care, professional incompetence, or professional misconduct under the provisions of paragraph (b) of this section, will be reported only if the panel, by at least a majority, concludes that such actions constitute gross negligence or willful professional misconduct. For purposes of paragraph (b) of this section, payment will be considered to be made for the benefit of a physician, dentist, or other health care practitioner, in their supervisory capacity, if the panel concludes, by at least a majority, that the physician, dentist or other health care practitioner was acting in a supervisory capacity; that the payment was related to substandard care, professional incompetence, or professional misconduct of the trainee and not the supervisor; and that the trainee did not commit gross negligence or willful professional misconduct.

Such report will note that the physician, dentist, or other health care practitioner is being reported in a supervisory capacity.

**Note to paragraph (c):** Licensed trainees acting outside the scope of their training program (e.g. acting as admitting officer of the day) will be reported under the provisions of paragraph (b) of this section.

(d) The Director of the facility at which the claim arose has the primary responsibility for submitting the report to the National Practitioner Data Bank and for providing a copy to the practitioner, to the State Licensing Board in each State where the practitioner holds a license, and to the State Licensing Board in which the facility is located. However, the Chief Patient Care Services Officer is also authorized to submit the report to the National Practitioner Data Bank and provide copies to the practitioner and State Licensing Boards in cases where the Chief Patient Care Services Officer deems it appropriate to do so.

### § 46.4 Clinical privileges actions reporting.

(a) VA will file an adverse action report with the National Practitioner Data Bank in accordance with regulations at 45 CFR part 60, subpart B, as applicable, regarding any of the following actions:

(1) An action of a Director after consideration of a professional review action that, for a period longer than 30 days, adversely affects (by reducing, restricting, suspending, revoking, or failing to renew) the clinical privileges of a physician or dentist relating to possible incompetence or improper professional conduct.

(2) Acceptance of the surrender of clinical privileges, including the surrender of clinical privileges inherent in resignation or retirement, or any restriction of such privileges by a physician or dentist either while under investigation by the health care entity relating to possible incompetence or improper professional conduct, or in return for not conducting such an investigation or proceeding whether or not the individual remains in VA service.

(b) The report specified in paragraph (a) of this section will provide the following information—

(1) With respect to the physician or dentist:

(i) Name;

(ii) Work address;

(iii) Home address, if known;

(iv) Social Security number, if known (and if obtained in accordance with section 7 of the Privacy Act of 1974);

(v) Date of birth;

(vi) Name of each professional school attended and year of graduation;

(vii) For each professional license: the license number, the field of licensure, and the name of the State in which the license is held;

(viii) Drug Enforcement Administration registration number, if applicable and known;

(ix) A description of the acts or omissions or other reasons for privilege loss, or, if known, for surrender; and

(x) Action taken, date action was made final, length of action and effective date of the action.

(2) With respect to the VA facility—

(i) Name and address of the reporting facility; and

(ii) Name, title, and telephone number of the responsible official submitting the report.

(c) A copy of the report referred to in paragraph (a) of this section will also be filed with the State Licensing Board in the State(s) in which the practitioner is licensed and in which the facility is located. It is intended that the report be filed within 15 days of the date the action is made final, that is, subsequent to any internal (to the facility) appeal.

(d) As soon as practicable after it is determined that a report shall be filed with the National Practitioner Data Bank and State Licensing Boards under paragraphs (a)(2) and (c) of this section, VA shall provide written notice to the practitioner that a report will be filed with the National Practitioner Data Bank with a copy to the State Licensing Board in each State in which the practitioner is licensed and in the State in which the facility is located.

## Subpart C—National Practitioner Data Bank Inquiries

### § 46.5 National Practitioner Data Bank inquiries.

VA will request information from the National Practitioner Data Bank, in accordance with the regulations published at 45 CFR part 60, subpart C, as applicable, concerning a physician, dentist, or other licensed health care practitioner as follows:

(a) At the time a physician, dentist, or other health care practitioner applies for a position at VA Central Office, any of its regional offices, or on the medical staff, or for clinical privileges at a VA hospital or other health care entity operated under the auspice of VA;

(b) No less often than every 2 years concerning any physician, dentist, or other health care practitioner who is on the medical staff or who has clinical privileges at a VA hospital or other health care entity operated under the auspice of VA; and

(c) At other times pursuant to VA policy and needs and consistent with the Act and Department of Health and Human Services Regulations (45 CFR part 60).

## Subpart D—Miscellaneous

### § 46.6 Medical quality assurance records confidentiality.

Note that medical quality assurance records that are confidential and privileged under the provisions of 38 U.S.C. 5705 may not be used as evidence for reporting individuals to the National Practitioner Data Bank.

### § 46.7 Prohibitions concerning negotiations.

Reporting under this part (including the submission of copies) may not be the subject of negotiation in any settlement agreement, employee action, legal proceedings, or any other negotiated settlement.

### § 46.8 Independent contractors.

Independent contractors acting on behalf of the Department of Veterans Affairs are subject to the National Practitioner Data Bank reporting provisions of this part. In the following circumstances, VA will provide the contractor with notice that a report of a clinical privileges action will be filed with the National Practitioner Data Bank with a copy with the State Licensing Board in the State(s) in which the contractor is licensed and in which the facility is located: where VA terminates a contract for possible incompetence or improper professional conduct, thereby automatically revoking the contractor's clinical privileges, or where the contractor terminates the contract, thereby surrendering clinical privileges, either while under investigation relating to possible incompetence or improper professional conduct or in return for not conducting such an investigation or proceeding.

(Authority: 38 U.S.C. 5705)

[FR Doc. 01–13989 Filed 6–4–01; 8:45 am]

BILLING CODE 8320–01–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[CA 242–0281; FRL–6990–8]**

## Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a limited approval and limited disapproval of a revision to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). This revision concerns the control of emissions from sulfur compounds. We are proposing action on a local rule that regulates these emissions under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by July 5, 2001.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revision at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243–2801.

**FOR FURTHER INFORMATION CONTACT:** Christine Vineyard, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1197.

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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## I. The State's Submittal

### *A. What Rule Did the State Submit?*

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

| Local agency | Rule No. | Rule title | Adopted | Submitted |
|---|---|---|---|---|
| CAPCD | 405 | Sulfur Compounds Emission Standards, Limitations. | 09/14/99 | 05/26/00 |

On October 6, 2000, this rule submittal was found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

### *B. Are There Other Versions of This Rule?*

EPA approved a version of Rule 405 into the SIP on August 11, 1978.

### *C. What Is the Purpose of the Submitted Rule Revision?*

ICAPCD Rule 405 includes the following significant changes from the current SIP:

- The effluent process gas from sulfur recovery units, sulfuric acid units, and fuel burning equipment shall not exceed 500 ppm by volume of sulfur compounds calculated as sulfur dioxide; or 200 lbs. per hour of sulfur compounds calculated as sulfur dioxide. Additionally, sulfur recovery units shall not discharge more than 10 ppm by volume of hydrogen sulfide.
- A person shall not burn any gaseous fuel containing sulfur compounds in excess of 50 grains per 100 cubic feet of gaseous fuel, calculated as hydrogen sulfide at standard conditions; or a sulfur content in excess of 0.5 percent by weight.
- The use of non-complying fuel may be allowed with approval where process conditions or control equipment will reduce emissions at a level equal to or less than emissions associated with the use of complying fuel.
- Several test methods are included to determine compliance. The TSD has more information about this rule.

## II. EPA's Evaluation and Action

### *A. How Is EPA Evaluating the Rule?*

Generally, SIP rules for $SO_2$ must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). ICAPCD is listed as being attainment for the national ambient air quality standards (see 40 CFR 81) for sulfur dioxide ($SO_2$). Therefore, for purposes of controlling $SO_2$, Rule 405 needs only to comply with the general provisions of Section 110 of the Act.

Guidance and policy documents that we used to define specific enforceability requirements include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
2. ''$SO_2$ Guideline Document,'' EPA–452/R–94–008.

### *B. Does the Rule Meet the Evaluation Criteria?*

This rule improves the SIP by establishing requirements for sulfur emissions and listing the appropriate test methods. This rule is largely consistent with the relevant policy and guidance regarding enforceability. One deficiency that does not meet the evaluation criteria summarized below and discussed further in the TSD.

### *C. What Is the Rule Deficiency?*

This rule lacks recordkeeping requirements for sources subject to the rule and prevents full approval of the SIP revision.

### *D. Proposed Action and Public Comment*

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of the submitted rule to improve the SIP. If finalized, this action would incorporate the submitted rule into the SIP, including the identified deficiency. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rule under section 110(k)(3). If this disapproval is finalized, sanctions will be not be imposed under section 179 because this an attainment area and not a required submittal. Note that the submitted rule has been adopted by the ICAPCD, and EPA's final limited disapproval would not prevent the local agency from enforcing it.

We will accept comments from the public on the proposed limited approval and limited disapproval for the next 30 days.

## III. Background Information

*A. Why Was This Rule Submitted?*

Sulfur dioxide is formed by the combustion of fuels containing sulfur compounds and causes harm to human health and the environment. This rule is designed to reduce $SO_2$ emissions.

## IV. Administrative Requirements

*A. Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

*B. Executive Order 13045*

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Equal Opportunity 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Equal Opportunity 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

*C. Executive Order 13132*

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Equal Opportunity 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.'' Under Equal Opportunity 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed 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, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

*D. Executive Order 13175*

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

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

*E. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

EPA's proposed disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

*D. Unfunded Mandates*

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that

may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This proposed Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

*E. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Sulfur oxides, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: May 8, 2001.

**Jane Diamond,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 01–14082 Filed 6–4–01; 8:45 am]

BILLING CODE 6560–50–U

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

## Endangered and Threatened Wildlife and Plants; Notice of Availability of a Genetics Study for the Status Review of the Yellow-billed Cuckoo in the Western United States and Reopening of Comment Period

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability and reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), in conjunction with the United States Geological Service (USGS), announce the availability of a genetics study entitled the ''Taxonomic and Evolutionary Significant Unit (ESU) Status of Western Yellow-billed Cuckoos (*Coccyzus americanus*).'' This study, contracted by both agencies, was prepared by Dr. Robert Fleischer of the National Zoological Park, Smithsonian Institute, Washington DC.

We are also providing notice of the reopening of the comment period for the 12-month finding on a petition to list this species as endangered to allow all interested parties to comment simultaneously on the 90-day petition and study. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this reopened comment period, and will be fully considered in the 12-month petition finding.

**DATES:** We will accept public comments until June 20, 2001.

**ADDRESSES:** Persons wishing to review the study may receive a copy by contacting the Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, California 95825. Written comments and information should be submitted to the Field Supervisor at the address above. For electronic mail address and further instructions on commenting, refer to the Public Comments Solicited section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Dwight Harvey or Stephanie Brady at the Sacramento Fish and Wildlife Office, at the above address (telephone 916/414–6600).

**SUPPLEMENTARY INFORMATION:**

### Background

On February 17, 2000, we published in the **Federal Register** a 90-day finding on a petition to list the yellow-billed cuckoo (*Coccyzus americanus*) as endangered, pursuant to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*) (65 FR 8104). We determined that the petition presented substantial information that the listing of the yellow-billed cuckoo may be warranted, and initiated a status review which will result in a 12-month finding at the conclusion of the review. The information presented suggested that the yellow-billed cuckoo may be endangered in a significant portion of its range (i.e., the western United States), and that the western United States represents the range of a valid subspecies, termed the western yellow-billed cuckoo. In our 90-day petition finding, while we determined that the listing of the yellow-billed cuckoo may be warranted, the taxonomy of the species is unclear.

To clarify the validity and range of a western subspecies, the Service and USGS solicited proposals for a genetic analysis throughout the species breeding range in the United States and Mexico. We selected and funded a proposal submitted by Dr. Robert Fleischer of the Smithsonian Institution from a total of five proposals. We received the final genetics study prepared by Dr. Fleischer on April 24, 2001.

### Public Comments Solicited

We will accept written comments and information during this reopened comment period. If you wish to comment, you may submit your comments and materials by any of several methods:

(1) You may submit written comments and information to the Field Supervisor, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, California 95825.

(2) You may send comments by electronic mail (e-mail) to: FW1YBC@fws.gov. If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include your name and return address in your e-mail message. If you do not receive a conformation from the system that we have received your e-mail message, contact us directly by calling our Sacramento Fish and Wildlife Office at telephone number 916/414–6600.

(3) You may hand-deliver comments to our Sacramento Fish and Wildlife Office at the address given above.

Comments and materials received, as well as supporting documentation used in preparation of the 12-month petition finding to list the yellow-billed cuckoo, will be available for inspection, by appointment, during normal business hours at the address listed under (1) above. Copies of the study and the 90-day petition finding are available by writing to the Field Supervisor at the address under (1) above.

### Author(s)

The primary authors of this notice are Stephanie Brady (see **ADDRESSES** section), and Barbara Behan, U.S. Fish and Wildlife Service, Regional Office, 911 N.E. 11th Avenue, Portland, Oregon 97232.

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

Dated: May 30, 2001.

**Alexandra Pitts,**

*Acting Manager, California and Nevada Operations Office.*

[FR Doc. 01–14052 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

**[Docket No. 010515128–1128-01; I.D. 041801C]**

## Fisheries of the Northeastern United States; Black Sea Bass Fishery

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

**ACTION:** Advance notice of proposed rulemaking; notice of a control date for the purposes of controlling capacity or latent effort in the black sea bass commercial fishery.

**SUMMARY:** NMFS announces that it is considering, and is seeking public comment on, a proposed rulemaking to place additional controls on access to the black sea bass (*Centropristis striata*) fishery under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This announcement is intended , in part, to discourage speculative increases in effort or capacity while the Mid-Atlantic Fishery Management Council (Council) and NMFS are considering whether and how to additionally control access in this fishery. The date of publication of this announcement, June 5, 2001, shall be known as the control date and may be used for establishing revised eligibility criteria for participation in the fishery; i.e., the level of fishing activity after this date will not necessarily be used for future eligibility criteria.

**DATES:** Written comments must be received on or before 5 p.m., local time, July 5, 2001.

**ADDRESSES:** Written comments should be sent to Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South Street, Dover, DE 19904. Mark the outside of the envelope, ''Comments on Black Sea Bass Control Date.'' Comments also may be sent via facsimile (fax) to (302) 674–5399. Comments will not be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Jennifer L. Anderson, Fishery Management Specialist, (978) 281–9226, e-mail: Jennifer.Anderson@noaa.gov or Christopher M. Moore, Ph.D., Deputy Director, Mid-Atlantic Fishery Management Council, (302) 674–2331.

**SUPPLEMENTARY INFORMATION:** The black sea bass fishery is a major fishery on the Atlantic coast that extends from Cape Hatteras north to Maine. Regulations implementing Amendment 9 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) (61 FR 58461, November 16, 1996) control fishing mortality on black sea bass through a variety of management measures including a commercial quota, a limit on the number of commercial permits, gear regulations, and minimum fish size restrictions.

The most recent assessment on black sea bass, completed in June 1998, indicates that black sea bass are over-exploited and at a low biomass level (27th Stock Assessment Workshop). However, more recent results from the Northeast Fisheries Science Center's spring survey indicate that the black sea bass biomass has increased in recent years. In fact, the preliminary biomass index for 2000 is the highest in the time series since 1976.

Commercial landings of black sea bass, which are harvested in Federal and state waters using a variety of gears, have varied without trend since 1981, ranging from a low of 2.0 million lb (907.2 mt) in 1994, to a high of 4.3 million lb (1950.4 mt) in 1984. Since 1998, commercial landings have been constrained by quotas at an annual level of 3.025 million lb (1372.1 mt).

A moratorium on the entry of additional commercial vessels into the black sea bass fishery was put in place on November 16, 1996, with the implementation of Amendment 9 to the FMP. However, the qualifying criteria for obtaining initial permits under the moratorium were liberal and only required that vessels provide a black sea bass landing receipt demonstrating at least 1 lb (0.45 kg) of black sea bass landed between January 26, 1989, and January 26, 1993. Based on this criterion, a number of vessels attained a permit even though those vessels only rarely or occasionally landed black sea bass during this period. There were 992 and 974 Federal black sea bass permit holders in 1999 and 2000, respectively. Based on dealer reports, 795 and 727 of these vessels in 1999 and 2000, respectively, landed black sea bass. However, 83 percent of the permit holders participating in the black sea bass fishery in 1999 accounted for less than 9 percent of the black sea bass landings. The 1999 fishing year is the last full fishing year of complete landings information.

The management measures for black sea bass implemented under Amendment 9 to the FMP have begun to rebuild the black sea bass stock. Although the Council and NMFS are concerned that increasing stock abundance may stimulate the use of unused capacity or effort by permit holders, there is equal concern that management measures have reduced fishing opportunities and income for commercial fishermen who have historically depended on black sea bass for a major portion of their income. An activation of latent effort could quickly erode the benefits to traditional operators who have sacrificed income as part of the rebuilding program.

A control date of June 5, 2001 is intended to discourage speculative activation of previously unused effort or capacity in the black sea bass fishery while alternative allocation schemes and potential management regimes to control capacity or latent effort are discussed and possibly developed and implemented. The control date may be used by the Council and NMFS in determining historical or traditional participation in the black sea bass fishery. The control date communicates to black sea bass permit holders that performance or fishing effort after that date may not be treated the same as performance or effort that was expanded prior to the control date. The Council and NMFS could choose different and variably weighted methods to qualify fishermen based on the type and length of participation in the fishery or on the quantity of landings. A control date does not commit the Council or NMFS to develop any particular management regime or criteria for participation in this fishery. The Council or NMFS may choose a different control date, or may choose a management program that does not make use of such a date.

The Council and NMFS may also choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded. Any action by the Council or NMFS will be taken pursuant to the requirements for FMP development established under the Magnuson-Stevens Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the black sea bass fishery in Federal waters.

This control date has been determined to be not significant under Executive Order 12866.

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

Dated: May 24, 2001.

**John Oliver,**

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

[FR Doc. 01–13833 Filed 6–4–01; 8:45 am]

BILLING CODE 3510–22–S

# Notices

Federal Register

Vol. 66, No. 108

Tuesday, June 5, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### Notice Inviting Applications for Designation of Rural Empowerment Zones

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Notice inviting applications.

**SUMMARY:** This Notice invites applications from state and local governments, Indian tribal governments, regional planning agencies, non-profit organizations, community-based organizations, or other locally-based organizations on behalf of rural areas nominated for designation as Empowerment Zones (EZ) as this term is defined in this Notice and title 7 Code of Federal Regulations part 25 (7 CFR part 25). An application may be prepared and submitted by any one of a broad range of entities; however, the rural area in question must be nominated for designation by the State, local or Indian tribal government having jurisdiction over the nominated area. Title 7 part 25 provides guidance which is supplemental to that provided in this Notice and which is necessary for completion and submission of applications.

**ADDRESSES:** Application materials may be obtained from U.S. Department of Agriculture (USDA) Rural Development offices listed in appendix A to this Notice or by sending an Internet Mail message to ''round3.rural@ocdx.usda.gov''.

**FOR FURTHER INFORMATION CONTACT:** Deputy Administrator, USDA Office of Community Development, Reporters Building, 300 7th Street, SW, Room 266, Washington, DC 20024–3203, telephone 1–800–645–4712, or send an Internet e-mail message to ''round3.rural@ocdx.usda.gov.'' Information may also be obtained at ''http://www.ezec.gov/round3''.

**SUPPLEMENTARY INFORMATION:**

### Paperwork Reduction Act

The information collection requirements contained in this Notice have been approved by the Office of Management and Budget under OMB Control Number 0570–0027.

### I. Background

The Empowerment Zone program represents a holistic approach to the problems of distressed rural and urban communities. It emphasizes a bottom-up community based strategy rather than the traditional top-down bureaucratic approach. It is a strategy to address economic, human, community, physical development problems and opportunities in a comprehensive fashion.

The Community Renewal Tax Relief Act of 2000 (Public Law 106–554) authorized the Secretary of the U.S. Department of Agriculture (Secretary) to designate up to two Empowerment Zones (''Round III'') in addition to those rural empowerment zones and enterprise communities designated earlier.

This Notice invites applications from State and local governments, Indian tribal governments, regional planning agencies, non-profit organizations, community-based organizations, or other locally-based organizations on behalf of rural areas nominated for designation as Empowerment Zones in this third round.

Applications submitted for designation as a Round III Rural Empowerment Zone may also be considered, and used as the sole basis for designation, for any additional Enterprise Communities or other special community designations authorized by Congress prior to the date by which designations of Round III Empowerment Zones are required to be made.

The program is intended to combine the resources of the Federal Government with those of State and local governments, educational institutions and the private and non-profit sectors to implement community-developed strategic plans for community and economic development. The Federal Government has taken steps to coordinate Federal assistance in support of the Empowerment Zones, including expedited processing and priority funding.

### II. Eligibility

The authorizing legislation specifies certain criteria that must be satisfied in order for an area to be eligible for Empowerment Zone designation, including population, general distress, geographic size and boundary configuration, and poverty rate by census tract (or by block numbering areas when the community is not delineated by census tracts; nominated areas in Alaska and Hawaii have the option of qualifying by block groups). The details of these requirements are described in 7 CFR part 25 of the **Federal Register**. Unless specified otherwise, the terms used in this Notice, inclusive of the appendices, shall be defined as contained in 7 CFR part 25.

USDA will accept certifications of the data by the State and local governments, subject to further verification of the data prior to designation as an Empowerment Zone.

### III. Designation Factors

The statute specifies three factors to be considered by the Secretary in designating Empowerment Zones: (1) The effectiveness of the strategic plan; (2) the effectiveness of the assurances provided in support of the strategic plan; and (3) other criteria to be specified by the Secretary. Each of these factors is discussed in greater detail in 7 CFR part 25. The required form and content of the application and the strategic plan are elaborated upon in this Notice.

### IV. Timing and Location of Application Submissions

Application materials may be obtained from USDA Rural Development offices listed in Appendix A of this Notice or by sending an Internet e-mail message to: ''round3.rural@ocdx.usda.gov''. They are also available at the following website: ''http://www.ezec.gov/round3''. The deadline for receipt of the complete application is 5 p.m. Eastern Time, Monday, October 1, 2001. Applications received after that time will not be accepted, and will be returned to the sender. Since applications require certifications from the State and local governments, we cannot accept applications sent by FAX or through the Internet system. Applications must be submitted on standard 8½″ × 11″ paper and contained

in standard 3″ 3-ring binders. The original application and two paper copies should be sent to: U.S. Department of Agriculture, Office of Community Development, Reporters Building, 300 7th Street, SW, Room 266, Washington, DC 20024. No video or audio tapes, posters, display boards, or other accompanying material will be accepted as part of the Application.

Applicants will be notified in the event of an incomplete application. Provided that the application is received at the above address with sufficient time before the deadline, applicants will be given an opportunity to provide the missing information to USDA.

**V. Notice of Intent To Participate**

Prospective applicants are encouraged to complete and submit a Notice of Intent to Participate substantially in the form provided in appendix B to this Notice. A Notice form is included in the application materials; it may also be obtained by sending an Internet e-mail message to ''round3.rural@ocdx.usda.gov''. Applicants may also submit the notice via the Internet by filling out the form on-line at the following website: ''http://www.ezec.gov/round3''. Applicants and other participants may wish to submit the form in order to be placed on the Empowerment Zone and Enterprise Community mailing list. While the notice is not mandatory for participation in the program, USDA encourages the submission of the notice, as it will permit the Department to provide prospective applicants with updated information on program requirements as well as information on technical assistance.

**VI. Application materials**

A. Application materials available from USDA consist of the following:

(1) Round III application form and

(2) Round III application guide.

B. The Application to be submitted on behalf of nominated rural areas shall include the following (''Application''):

(1) A nomination package including:

(a) Round III application form parts I through IV; and

(b) The required certifications and written assurances contained in 7 CFR § 25.200(b) which are not otherwise included in part III of the Round III application form;

(2) A strategic plan which meets the requirements of 7 CFR part 25 and the form and content requirements specified in section VII of this Notice; and

(3) Maps. Attach a copy of a map that shows the 1990 census boundaries of:

(a) The local governments discussed in part I of the Application Form (Nomination);

(b) The nominated area; and

(c) Developable sites, if any.

**VII. Strategic plan**

A. The strategic plan to be submitted on behalf of the nominated area shall conform with the requirements contained in 7 CFR § 25.202 and § 25.204. Each major section of the strategic plan should address how the plan will achieve the four key principal objectives contained in 7 CFR § 25.202.

B. The strategic plan must be organized into two separate volumes. Each volume should prominently identify the nominated area and be organized and labeled in the following sections and specified sequence.

C. *Volume I of the Strategic Plan (''Documentation'').* Volume I must include the following sections and content:

(1) *Section 1—Participants.*

(a) Applicant and Lead entities: the name, address, description and primary contact person for the entity that will be the lead managing entity for the proposed Empowerment Zone. Clarify whether the applicant entity is different from the proposed lead managing entity; if so, provide the same information for the applicant entity;

(b) Participating entities: a list of and descriptions of the specific groups, organizations, and individuals participating in the production of the strategic plan, and descriptions of the history of these groups in the community; and

(c) An explanation of how participants in the planning process were selected and evidence that the participants, taken as a whole, are broadly representative of the entire community.

(2) *Section 2—The Planning Process.*

(a) Descriptions of how the participants created and developed the strategic plan;

(b) Identification of two or three topics addressed in the strategic plan that caused the most serious disagreements among participants and a description of how those disagreements were resolved; and (c) An explanation of how the community residents and key organizations participated in choosing the area to be nominated and why the area was nominated.

(3) *Section 3—Eligibility.*

(a) Include information not otherwise provided in the application form, or use this section if additional space is needed to provide eligibility information; and

(b) Maps and a general description of the nominated area.

(4) *Section 4—Economic and Social Conditions.* Detailed statistical information, including tabular and graphical information, not included in volume II, should be included in this section.

(5) *Section 5—Implementation.* This section should include:

(a) Descriptions of the roles which each participating entity, identified in volume I, section 1, will have in implementing the strategic plan; and

(b) Evidence that key participating entities have the capacity to implement the strategic plan.

(6) *Section 6—Public Information.* This section should include newspaper clippings, photographs, news releases and other materials relating to the community and its strategic planning process.

(7) *Section 7—Letters of Support.* Letters of support are limited to those that pledge either monetary or in-kind resources toward the implementation of the strategic plan. Letters of support may be submitted as part of the Application and should be grouped in this section of the strategic plan.

D. *Volume II of the Strategic Plan (''Plan''), Part I.* Volume II must contain four major subparts of which part I must include the following sections and content:

(1) *Section 1—Vision and Values.* The community's strategic vision for change—a statement of what the community would like to be like in the future together with a statement of the community's values which guided its planning process and which will guide its implementation of the strategic plan.

(2) *Section 2—Community Assessment.* A comprehensive assessment of existing conditions and trends in the nominated area in two subsections:

(a) Assessment of Problems and Opportunities. A description and assessment of problems and opportunities. This subsection must identify those baseline conditions which the community wishes to improve as a result of the strategic plan. It may include priority rankings by the community of problems and opportunities to be addressed by the strategic plan.

(b) Resource Analysis. An assessment of the resources available to the community, including financial, technical, leadership, volunteerism, skills and other community assets which may be tapped in implementing the strategic plan.

(3) *Section 3—Goals.* A statement of a comprehensive and holistic set of goals to be achieved through implementation of the strategic plan throughout the 10-

year implementation period. This section should also include an index of topics and related benchmark activities which are incorporated in the strategic plan (education, criminal justice, economic development, housing, health care, water and sewer, etc.) so as to facilitate the sharing of information across Federal agencies such that they may more readily recognize how they may be able to support the Empowerment Zone during the implementation phase.

(4) *Section 4—Strategies.* A statement of the strategies the community proposes to use to achieve its strategic plan, in particular, the principal objectives of economic opportunity and sustainable community development contained in 7 CFR 25.202(a)(3) and (a)(4).

E. *Volume II of the Strategic Plan (''Plan''), Part II.* The second major subpart of volume II must include the following sections and content:

(1) *Section 1—Phase I work plan.* The information required pursuant to 7 CFR 25.403(c)(1) for the initial two years of the designation period.

(2) *Section 2—Phase I operational budget.* The information required pursuant to 7 CFR 25.402(c)(2) for the initial two years of the designation period.

F. *Volume II of the Strategic Plan (''Plan''), Part III.* The third major subpart of volume II should be titled ''Continuous Quality Improvement Plan.'' Part III should present the community's plan for evaluating and learning from its experiences. It should also detail the methods by which the community will assess its own performance in implementing its benchmarks and the process it will use for revising its strategic plan and benchmark goals. Part III should include the following sections and content:

(1) *Section 1—Participation.* The proposed procedures for assuring continuous, broad based community participation in the implementation of the strategic plan;

(2) *Section 2—Incorporation of experiences.* The methods proposed for incorporating learning from experience gained during implementation of the strategic plan and from information obtained from other sources into revisions of the strategic plan, benchmark goals and implementation methods and procedures;

(3) *Section 3—Benchmark review.* The proposed procedure for reviewing benchmark progress within the community; and

(4) *Section 4—Benchmark amendment.* The proposed procedure for amending and revising benchmark goals and benchmark activities.

G. *Volume II of the Strategic Plan (''Plan''), Part IV.* The fourth major subpart of volume II should be titled ''Administration Plan''. Part IV should present the community's plan for administering the implementation of the strategic plan. It should include the following sections:

(1) *Section 1—Lead entity.* The name of the proposed lead entity organization, its existing and planned future legal status and authority to receive and administer funds pursuant to Federal and State and other nonprofit programs;

(2) *Section 2—Capacity.* Evidence, including an audited financial statement as of the most recent fiscal year, that the lead entity and other key organizations implementing the strategic plan have the capacity to implement the strategic plan. If the lead entity is not yet established, provide evidence of its proposed capitalization;

(3) *Section 3—Board membership.* The membership of the proposed Empowerment Zone board and the selection procedures;

(4) *Section 4—Partnerships.* The relationship between the Empowerment Zone board and local governments and other major regional and community organizations operating in the same geographic area;

(5) *Section 5—Public information.* The proposed methods by which citizens of the Empowerment Zone and partnership organizations will be kept informed about the Empowerment Zone's activities and progress in implementing the strategic plan;

(6) *Section 6—Public participation.* The methods and procedures by which the Empowerment Zone proposes to implement the principal objective of community based partnerships pursuant to 7 CFR 25.202(a)(2).

## VIII. Counties Which Meet the Outmigration Test for Purposes of 7 CFR 25.104(b)(2)(iii)

For purposes of volume I, section 3—Eligibility, counties which meet the outmigration test for purposes of 7 CFR 25.104(b)(2)(iii) are listed in appendix C to this Notice.

## IX. Round III Champion Communities

Champion Communities will be selected from those rural communities which applied for designation as an Empowerment Zone and, despite having met all requirements for selection, were not so designated. State Rural Development Directors and staff will work with Champion Communities to provide support, guidance and technical assistance in strategic planning and implementation efforts, if the Champion Community elects to execute a Memorandum of Agreement (MOA) with Rural Development. To the extent possible, preferential consideration will be given to Champion Communities when processing applications for loans and grants for Rural Development Programs.

## X. Memorandum of Agreement

It is expected that a MOA will be entered into relating to each designated Round III Empowerment Zone. The MOA shall conform in all material respects to the form of MOA provided in appendix D to this Notice.

## XI. Miscellaneous

Empowerment Zone designation does not constitute a Federal action for provisions of the Uniform Relocation Act. However, any activity constituting a Federal action that may result from such a designation may be subject to the provisions of this Act, as well as any other statutory or regulatory provisions governing the particular Federal action.

All designation reviews will be conducted in compliance with Federal civil rights laws.

Dated: May 25, 2001.

**Ann M. Veneman,**

*Secretary.*

*List of Appendices*

A—Rural Development State EZ–EC State Contacts

B—Notice of Intent To Participate

C—Counties Which Meet the Outmigration Test

D—Form of Memorandum of Agreement

## Appendix A: EZ/EC State Contacts

**Alabama**

State Director, Rural Development, Sterling Center, 4121 Carmichael Road/Suite 601, Montgomery, AL 36106–3683, phone: 334–279–3400, fax: 334–279–3403.

**Alaska**

State Director, Rural Development, 800 W. Evergreen, Suite 201, Palmer, AK 99645–6539, phone: 907–761–7700, fax: 907–761–7783.

**Arizona**

State Director, Rural Development, Phoenix Corporate Center, 3003 North Central Avenue, Suite 900, Phoenix, AZ 85012–2906, phone: 602–280–8707, fax: 602–808–8770.

**Arkansas**

State Director, Rural Development, 700 W Capitol Avenue, Room 3416, Little Rock, AR 72201–3225, phone: 501–301–3200, fax: 501–301–3278.

**California**

State Director, Rural Development, 430 G. Street, #4169, Davis, CA 95616–4169, phone: 530–792–5800, fax: 530–792–5837.

**Colorado**

State Director, Rural Development, 655 Parfet Street, Room E–100, Lakewood, CO 80215, phone: 303–236–2801 Ext. 134, fax: 303–236–2854.

**Delaware/Maryland**

State Director, Rural Development, 5201 South Dupont Highway, P.O. Box 400, Camden, DE 19934, phone: 302–697–4304, fax: 302–697–4390.

**Florida/Virgin Islands**

State Director, Rural Development, 4440 N.W. 25th Pl., P.O. Box 147010, Gainesville, FL 32614–7010, phone: 352–338–3402, fax: 352–338–3405.

**Georgia**

State Director, Rural Development, 355 E. Hancock Ave., Athens, GA 30601–2768, phone: 706–546–2162, fax: 706–546–2152.

**Hawaii**

State Director, Rural Development, Federal Building, Room 311, 154 Waianuenue Ave, Hilo, HI 96720, phone: 808–933–8302, fax: 808–933–8325.

**Idaho**

State Director, Rural Development, 9173 West Barms, Suite A1, Boise, ID 83709, phone: 208–378–5615, fax: 208–378–5643.

**Illinois**

State Director, Rural Development, Illini Plaza, Suite 103, 1817 South Neil Street, Champaign, IL 61820, phone: 217–398–5235, fax: 217–398–5337.

**Indiana**

State Director, Rural Development, 5975 Lakeside Blvd., Indianapolis, IN 46278, phone: 317–290–3100 ext. 400, fax: 317–290–3095.

**Iowa**

State Director, Rural Development, 210 Walnut Street, Federal Bldg./Room 873, Des Moines IA 50309, phone: 515–284–4663, fax: 515–284–4859.

**Kansas**

State Director, P.O. Box 4653, 1201 SW Executive Drive, Topeka, KS 66604, phone: 785–271–2701, fax: 785–271–2708.

**Kentucky.**

State Director, Rural Development, 771 Corporate Dr., Suite 200, Lexington, KY 40503, phone: 859–224–7300, fax: 859–224–7425.

**Louisiana**

State Director, Rural Development, 3727 Government Street, Alexandria, LA 71302, phone: 318–473–7811, fax: 318–473–7829.

**Maine**

State Director, Rural Development, 444 Stillwater Ave., Suite 2, P.O. Box 405, Bangor, ME 04402–0405, phone: 207–990–9160, fax: 207–990–9165.

**Massachusetts**

State Director, Rural Development, 451 West St., Amherst, MA 01002, phone: 413–253–4310, fax: 413–253–4347.

**Michigan**

State Director, Rural Development, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, phone: 616–745–8364, fax: 616–745–8493.

**Minnesota**

State Director, Rural Development, 410 Agriculture Bank Building, 375 Jackson Street, St. Paul, MN 55101–1853, phone: 651–602–7801, fax: 651–602–7824.

**Mississippi**

State Director, Rural Development, 100 W Capital St., Federal Building, Suite 831, Jackson, MS 39269, phone: 601–965–4318, fax: 601–965–5384.

**Missouri**

State Director, Rural Development, 601 Business Loop, Parkade Center, Suite 235 , Columbia, MO 65203, phone: 573–876–0976, fax: 573–876–0977.

**Montana**

State Director, Rural Development, 900 Technology Blvd. Suite B, P.O. Box 850, Bozeman, MT 59771, phone: 406–585–2580, fax: 406–585–2565.

**Nebraska**

State Director, Rural Development, Federal Building, Mail Room 152, 100 Centennial Mall N., Room 308, Lincoln, NE 68508, phone: 402–437–5550, fax: 402–437–5408.

**Nevada**

State Director, Rural Development, 1390 South Curry St., Carson City, NV 89703–9910, phone: 775–887–1222, fax: 775–885–0841.

**New Hampshire/Vermont**

State Director, Rural Development, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, phone: 802–828–6002, fax: 802–828–6018.

**New Jersey**

State Director, Rural Development, Tarnsfield Plaza, Suite 22, 790 Woodland Rd., Mt. Holly, NJ 08060, phone: 609–265–3600, fax: 609–265–3651.

**New Mexico**

State Director, Rural Development, 6200 Jefferson Street NE, Room 255, Albuquerque, NM 87109, phone: 505–761–4950, fax: 505–761–4976.

**New York**

State Director, Rural Development, The Galleries of Syracuse, 441 S. Salina Street, Suite 357, Syracuse, NY 13202–2541, phone: 315–477–6435, fax: 315–477–6438.

**North Carolina**

State Director, Rural Development, 4405 Bland Rd, Suite 260, Raleigh NC 27609, phone: 919–873–2037, fax: 919–873–2075.

**North Dakota**

State Director, Rural Development, P.O. Box 1737, Bismarck, ND 58502, phone: 701–530–2054, fax: 701–530–2108.

**Ohio**

State Director, Rural Development, Federal Building, Room 507, 200 North High Street, Columbus OH 43215–2418, phone: 614–255–2390, fax: 614–255–2559.

**Oklahoma**

State Director, Rural Development, 100 USDA, Suite 108, Stillwater, OK 74074–2654, phone: 405–742–1000, fax: 405–742–1005.

**Oregon**

State Director, Rural Development, 101 SW Main Street, Suite 1410, Portland, OR 97204–3222, phone: 503–414–3300, fax: 503–414–3386.

**Pennsylvania**

State Director, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, phone: 717–334–8827, fax: 717–237–2191.

**Puerto Rico**

State Director, Rural Development, P.O. Box 366106, San Juan, PR 00936–6106, phone: 787–766–5095, fax: 787–766–5844.

**South Carolina**

State Director, Rural Development, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, phone: 803–765–5163, fax: 803–765–5633.

**South Dakota**

State Director, Rural Development, Federal Building, Room 210, 200 Fourth Street SW, Huron, SD 57350–2477, phone: 605–352–1100, fax: 605–352–1146.

**Tennessee**

State Director, Rural Development, 3322 West End Ave., Suite 300, Nashville, TN 37203–1084, phone: 615–783–1300, fax: 615–783–1301.

**Texas**

State Director, Rural Development, 101 S. Main Street, Suite 102, Temple, TX 76501, phone: 254–742–9710, fax: 254–742–9709.

**Utah**

State Director, Rural Development, Wallace F. Bennett Federal Bldg., Room 4311, Salt Lake City, UT 84147–0350, phone: 801–524–4320, fax: 801–524–4406.

**Vermont/New Hampshire**

State Director, Rural Development, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, phone: 802–828–6002, fax: 802–828–6018.

**Virginia**

State Director, Rural Development, Culpepper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, phone: 804–287–1552, fax: 804–287–1721.

**Washington**

State Director, Rural Development, 1835 Black Lake Blvd. SW, Suite B, Olympia, WA 98512, phone: 360–704–7715, fax: 360–704–7742.

**Wisconsin**

State Director, Rural Development, 4949 Kirschling Court, Stevens Point, WI 54481, phone: 715–345–7676, fax: 715–345–7669.

**West Virginia**

State Director, Rural Development, 75 High Street, Room 320, Morgantown, WV 26505, phone: 304–284–4860, fax: 304–284–4893.

**Wyoming**

State Director, Rural Development, 100 East B, Federal Bldg. Room 1005, Casper, WY 82602, phone: 307–261–6300, fax: 307–261–6327.

## Appendix B

**Notice of Intent to Participate**

U.S. Department of Agriculture, Office of Community Development, Reporters Building, 300 Seventh Street, SW., Room 266, Washington, DC 20024.

**Note:** Rural entities may:

(1) fax this notice to (202) 260–6225;

(2) submit this notice via e-mail to ''round3.rural@ocdx.usda.gov''; or

(3) submit it electronically via the following website: ''http://www.ezec.gov/round3''.

This Notice of Intent to Participate in the Rural Empowerment Zone application process is submitted by the following participating entity:

Location of Nominated Area (list state and counties proposed to be included):

_____

_____

Name & Address of Participating Entity:

_____

_____

Contact & Phone Number, Fax Number and E-mail address:

_____

Nominating Entity (check here if applicable).

Nominating Entity (if other than named above) (City, State):

_____

_____

## Appendix C

Counties (including other geographic areas, as applicable) which have demonstrated outmigration of not less than 15 percent over the period 1980–1994 as reported by the U.S. Bureau of the Census.

**Alabama**

Conecuh County
Dallas County
Greene County
Lowndes County
Macon County
Perry County
Wilcox County

**Alaska**

Aleutians West Census Area
Bristol Bay Borough
Southeast Fairbanks Census Area
Wade Hampton Census Area
Yukon-Koyukuk Census Area

**Arizona**

Greenlee County

**Arkansas**

Arkansas County
Chicot County
Desha County
Lee County
Mississippi County
Monroe County
Phillips County
St. Francis County
Woodruff County

**Colorado**

Baca County
Conejos County
Jackson County
Kiowa County
Lake County
Logan County
Mineral County
Moffat County
Otero County
San Juan County
Sedgwick County
Washington County

**Florida**

Hardee County

**Georgia**

Calhoun County
Early County
Miller County
Randolph County
Terrell County
Turner County

**Idaho**

Bear Lake County
Butte County
Caribou County
Clark County
Clearwater County
Elmore County
Shoshone County

**Illinois**

Alexander County
Mason County
Pulaski County
Stark County
Warren County

**Indiana**

Miami County

**Iowa**

Adams County
Audubon County
Buchanan County
Cherokee County
Chickasaw County
Clay County
Clinton County
Crawford County
Emmet County
Fayette County
Floyd County
Franklin County
Greene County
Grundy County
Hancock County
Humboldt County
Jackson County
Kossuth County
Lyon County
Osceola County
Palo Alto County
Pocahontas County
Shelby County
Webster County

**Kansas**

Barber County
Barton County
Decatur County
Doniphan County
Geary County
Gove County
Graham County
Haskell County
Jewell County
Morton County
Ness County
Osborne County
Rawlins County
Rice County
Rooks County
Rush County
Scott County
Sheridan County
Sherman County
Stanton County
Trego County
Wallace County
Wichita County

**Kentucky**

Bell County
Breathitt County
Floyd County
Fulton County
Hardin County
Harlan County
Leslie County
Letcher County
Martin County
Perry County
Pike County

**Louisiana**

Cameron Parish
Catahoula Parish
Concordia Parish
East Carroll Parish
Iberville Parish
Madison Parish
Morehouse Parish
Red River Parish
Richland Parish
St. Mary Parish
Tensas Parish
Vernon Parish

**Maine**

Aroostook County

**Michigan**

Iosco County
Luce County
Marquette County

**Minnesota**

Big Stone County
Cottonwood County
Faribault County
Freeborn County
Jackson County
Kittson County
Lac qui Parle County
Lake County
Lincoln County

Pennington County
Red Lake County
Redwood County
Renville County
Swift County
Traverse County
Wilkin County
Yellow Medicine County

**Mississippi**

Adams County
Bolivar County
Claiborne County
Coahoma County
Holmes County
Humphreys County
Issaquena County
Jefferson County
Leflore County
Noxubee County
Quitman County
Sharkey County
Sunflower County
Tallahatchie County
Tunica County
Warren County
Washington County
Yazoo County

**Missouri**

Knox County
Mississippi County
Pemiscot County
Pulaski County

**Montana**

Big Horn County
Carter County
Daniels County
Dawson County
Deer Lodge County
Fallon County
Garfield County
Hill County
Judith Basin County
Liberty County
McCone County
Meagher County
Petroleum County
Pondera County
Powder River County
Prairie County
Richland County
Roosevelt County
Rosebud County
Sheridan County
Toole County
Treasure County
Valley County
Wibaux County

**Nebraska**

Antelope County
Arthur County
Banner County
Blaine County
Boone County
Box Butte County
Boyd County
Brown County
Cedar County
Cuming County
Frontier County
Garden County
Grant County
Hayes County
Hitchcock County
Holt County
Hooker County
Keya Paha County
Kimball County
Knox County
Lincoln County
Logan County
Loup County
Morrill County
Nuckolls County
Red Willow County
Rock County
Sioux County
Stanton County
Thomas County
Thurston County
Wheeler County

**New Mexico**

Cibola County
Guadalupe County
Harding County
Lea County
McKinley County
Union County

**North Dakota**

Adams County
Benson County
Billings County
Bottineau County
Bowman County
Burke County
Cavalier County
Dickey County
Divide County
Dunn County
Eddy County
Emmons County
Foster County
Golden Valley County
Grant County
Griggs County
Hettinger County
Kidder County
LaMoure County
Logan County
McHenry County
McIntosh County
McKenzie County
McLean County
Mercer County
Mountrail County
Oliver County
Pembina County
Pierce County
Renville County
Sargent County
Sheridan County
Sioux County
Slope County
Stark County
Steele County
Stutsman County
Towner County
Walsh County
Ward County
Wells County
Williams County

**Oklahoma**

Beaver County
Blaine County
Cimarron County
Ellis County
Harmon County
Harper County
Jackson County
Kingfisher County
Major County
Roger Mills County
Texas County
Tillman County
Washita County
Woods County
Woodward County

**Oregon**

Harney County
Sherman County

**Pennsylvania**

Cameron County

**South Carolina**

Bamberg County
Dillon County
Marlboro County

**South Dakota**

Buffalo County
Campbell County
Corson County
Day County
Deuel County
Dewey County
Douglas County
Edmunds County
Faulk County
Gregory County
Haakon County
Hand County
Hanson County
Harding County
Hyde County
Jackson County
Jerauld County
Jones County
Lyman County
McPherson County
Mellette County
Perkins County
Potter County
Roberts County
Sanborn County
Shannon County
Spink County
Sully County
Walworth County
Ziebach County

**Texas**

Andrews County
Bailey County
Briscoe County
Brooks County
Castro County
Cochran County
Collingsworth County
Cottle County
Crane County
Crockett County
Crosby County
Culberson County
Dawson County
Deaf Smith County
Dickens County
Dimmit County
Fisher County
Floyd County
Foard County
Garza County
Glasscock County
Gray County

Hale County
Hall County
Hansford County
Hardeman County
Hemphill County
Hutchinson County
Jim Hogg County
Karnes County
Kenedy County
Kent County
King County
Kleberg County
Lamb County
Lipscomb County
Lynn County
Matagorda County
Motley County
Ochiltree County
Parmer County
Pecos County
Reagan County
Reeves County
Refugio County
Roberts County
Shackelford County
Sherman County
Stonewall County
Sutton County
Swisher County
Terrell County
Terry County
Upton County
Ward County
Wheeler County
Winkler County
Yoakum County
Zavala County

**Utah**

Carbon County
Daggett County
Duchesne County
Emery County
Grand County
Rich County
San Juan County

**Virginia**

Alleghany County
Bath County
Buchanan County
Wise County
Covington City
Norton City

**West Virginia**

Boone County
Clay County
Fayette County
Logan County
McDowell County
Mingo County
Webster County
Wetzel County
Wyoming County

**Wyoming**

Big Horn County
Carbon County
Converse County
Fremont County
Hot Springs County
Platte County
Sweetwater County
Washakie County
Weston County

## Appendix D

**Form of Memorandum of Agreement**

**Rural Empowerment Zones**

This Agreement among the United States Department of Agriculture (USDA), the State of _____ and the Empowerment Zone Lead Entity relating to the Rural Empowerment Zone known as _____, is made pursuant to the Internal Revenue Code (title 26 of the United States Code) as amended by The Community Renewal Tax Relief Act of 2000 (Pub. L. 106–554).

In reliance upon and in consideration of the mutual representations and obligations herein contained, the applicable statute and part 25 to 7 C.F.R., the State and the Empowerment Zone agree as follows:

The Rural Empowerment Zone boundaries are as follows: Census Tracts _____, _____, _____ [as such boundaries may be modified] in accordance with maps provided in the application for designation. The term of the designation as a rural Empowerment Zone is effective from [designation date] to December 31, _____, unless sooner revoked.

1. The State and the Empowerment Zone will comply with the requirements of The Community Renewal Tax Relief Act of 2000, and the regulations appearing in 7 C.F.R. part 25 and any future regulations.

2. The State and the Empowerment Zone will comply with such further statutory, regulatory and contractual requirements as may be applicable to the receipt and expenditure of Federal funds.

3. The State and the Empowerment Zone will comply with all elements of the USDA approved application for designation, including the strategic plan, submitted to USDA pursuant to 7 C.F.R. part 25 (''strategic plan'') and all assurances, certifications, schedules or other submissions made in support of the strategic plan or of this Agreement.

4. The State and the Empowerment Zone will submit with each 2-year workplan required under 7 C.F.R. 25.403 documentation, in form and substance satisfactory to the Secretary, sufficient to identify baselines, benchmark goals, benchmark activities and timetables for the implementation of the strategic plan during the applicable 2 years of the workplan.

5. Pursuant to the strategic plan, the lead entity for the Empowerment Zone known as _____ [name of lead entity] _____, located at _____ [address] _____, is responsible for the implementation of the strategic plan. The current director of the lead entity, who is duly authorized to execute this agreement, is _____ [name] _____.

6. The use of Federal funds will be directed by the lead entity, in accordance with the strategic plan. The distribution of these funds will be in accordance with the directives of the lead entity, provided that such actions are consistent with the USDA approved strategic plan.

7. The lead entity agrees to timely comply with the reporting requirements contained in 7 C.F.R. part 25, including reporting on progress made in carrying out actions necessary to implement the requirements of the strategic plan and any assurances, certifications, schedules or other submissions made in connection with the designation.

8. The lead entity agrees to submit to periodic performance reviews by USDA in accordance with the provisions of 7 C.F.R. 25.402 and 25.404. Upon request by USDA, the lead entity will permit representatives of USDA to inspect and make copies of any records pertaining to matters covered by this Agreement.

9. Each year after the execution of this Agreement, the lead entity will submit updated documentation sufficient to identify baselines, benchmark goals and activities and timetables for the implementation of the strategic plan during the following 2 years. Upon written acceptance from USDA, such documentation shall become part of this Agreement and shall replace the documentation submitted previously, for purposes of operations during the following 2 years.

10. All benchmark goals, benchmark activities, baselines, and schedules approved by the Empowerment Zone after a full community participation process (which must be documented and which may be further amended or supplemented from time to time), will be incorporated as part of this Agreement. All references to the strategic plan in this memorandum of agreement shall be deemed to refer to the strategic plan as modified in accordance with this paragraph.

11. This Agreement shall be a part of the strategic plan.

12. Amendments to the strategic plan may be made only with the approval of the Empowerment Zone and USDA. The lead entity must demonstrate to USDA that the local governments within the Empowerment Zone were involved in the amendment process.

13. All attachments and submissions in accordance herewith are incorporated as part of this agreement.

This Agreement is dated__. _____

State Government: State of __ _____

By:__ _____

[Official authorized to commit the state]

Title: _____

Address: _____

Empowerment Zone [Name of Empowerment Zone].

By:__ _____

Title: _____

Address: _____

Lead entity: [Name of Lead entity].

By: _____

Title: _____

Address: _____

Federal Government: United States Department of Agriculture.

By: _____

Title: _____

Address: _____

[FR Doc. 01–14119 Filed 6–4–01; 8:45 am]

BILLING CODE 3410–07–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### North Fork Burnt River Watershed-Mining Projects; Wallowa-Whitman National Forest, Baker County, Oregon

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The USDA, Forest Service will prepare an environmental impact statement (EIS) on a proposed action to approve Proposed Plans of Operations on mining claims located on the North Fork of the Burnt River and its tributaries, located in the North Fork Burnt River Watershed. The project area is located on the Unity Ranger District, approximately 20 air miles northwest of Unity, Oregon.

The proposed action is a compilation of plans submitted by claimants operating within the analysis area. These plans describe the type of mining operations proposed and how they would be conducted, the type and standard of access routes, the means of transportation to be used, the period during which the proposed mining activity will take place and measures to be taken to meet the requirements for environmental protection. Operations include the exploration and extraction of valuable minerals from placer and lode deposits. Methods range from the hand panning to more complex operations utilizing mechanical equipment. The 1990 Land and Resource Management Plan final EIS for the Wallowa-Whitman National Forest, as amended, provides overall guidance for management of this area. Some of the operations planned in the proposed action may not be in compliance with this plan.

**DATES:** Written comments concerning the scope of the analysis should be received by July 15, 2001.

**ADDRESSES:** Send written comments and suggestions to Jean Lavell, Unity District Ranger, P.O. Box 38, Unity, Oregon 97884.

**FOR FURTHER INFORMATION CONTACT:** Katie Countryman, Project Team Leader, Wallowa-Whitman National Forest Supervisor's Office. Phone: (541) 523–1264.

**SUPPLEMENTARY INFORMATION:** The planning area is within the boundary of the North Fork Burnt River Watershed. The legal description of the decision area is as follows: T9–11S, R35E, 35–1/2E, 36E, W.M. surveyed.

Since 1996, sections of the North Fork of the Burnt River and its tributaries have been listed as water quality impaired under section 303(d) of the Clean Water Act. The Forest Service has determined that mining operations have the potential to affect water quality. Accordingly, the effects of new, existing, or modified Plans of Operations prepared under regulations at 36 CFR 228.4 and 228.5, will be analyzed in the EIS.

Mining operations are associated with the extraction of precious metals from placer and lode deposits. A number of different practices are being proposed on the various claims within the analysis area. These may include one or more of the following practices:

*Suction Dredging:* Portable suction dredges would be used in streams during the period specified by the State of Oregon, generally July 1 to October 31.

*Test Pits:* Holes are dug either by hand or mechanical equipment to sample sub-surface deposits.

*Drilling:* Portable drills are used as part of the exploration process to sample sub-surface mineral deposits.

*Placer Mining:* This includes a wide variety of practices to extract minerals from placer deposits. The techniques include handwork with shovels and pans, small sluice boxes and more complex operations that use mechanical equipment. On the more heavily worked claims backhoes and front end loaders are used for digging, and power trommels for separation and extraction. Water, to varying degrees, is used in all these techniques. Some minor road maintenance and maintenance of existing structures is also planned.

*Lode Mining:* This includes tunneling or other mechanical methods used to extract lode deposits.

Activities, which would occur in association with mining operation, include mitigation practices such as construction or maintenance of settling ponds, and reclamation activities such as recontouring, seeding, and treatment of noxious weeds.

Preliminary issues include effects of proposed activities on—water quality and fish habitat.

The Forest Service will consider a full range of alternatives, including a ''no-action''alternative. The no-action alternative is evaluated in order to establish a baseline condition of existing and future environmental conditions in the project area. Based on the issues gathered through scoping, the action alternatives may vary in the type of operations permitted, the timing of permitted operations and the types of mitigation required. Action alternatives include—the proposed mining activities and alternatives that modify the proposed plans with additional mitigation to address effects of mining on water quality and fisheries habitat.

Public participation will be especially important at several points during the analysis, beginning with the scoping process (40 CFR 1501.7). This environmental analysis and decision making process will enable additional interested and affected people to participate and contribute to the final decision. The public is encouraged to take part in the process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, local agencies, tribes, and other individuals or organizations that may be interested in, or affected by the proposal. This input will be used in preparation of the draft EIS. The scoping process includes:

Identifying potential issues;
Identifying major issues to be analyzed in depth;
Identifying issues which have covered by a relevant previous environmental analysis;
Considering additional alternatives based on themes which will be derived from issues recognized during scoping activities; and
Identifying potential environmental effects to this project and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available to the public for a 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**. It is important that those interested in the management of the Wallowa-Whitman National Forest participate at that time.

Comments received in response to this notice, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR Parts 215. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that,

under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

The Forest Service believes it is important to give reviewers notice, at this early stage, of several court rulings related to public participation in the environmental review process. First, reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the 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 be raised at the draft EIS stage but that are not raised until completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 f. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin 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 that substantive comments and objections are made available to the Forest Service at the 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 action, comments on the draft environmental impact statement 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 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 at 40 CFR 1503.3 in addressing these points).

The final EIS is scheduled for completion July 2002. In the final EIS, the Forest Service is required to respond to 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 Forest Service is the lead agency. Jean Lavell, District Ranger, is the Responsible Official. As the Responsible Official, she will decide which, if any, of the proposed plans will be implemented. She will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR Part 215).

Dated: May 30, 2001.

**Karyn L. Wood,**

*Forest Supervisor.*

[FR Doc. 01–14049 Filed 6–4–01; 8:45 am]

BILLING CODE 3410–11–M

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## DEPARTMENT OF AGRICULTURE

### Forest Service

### Reconstruction of Meadows Road #205 and Issuance of a Road Easement for Access to Private Land

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement in conjunction with issuance of a road easement and reconstruction of the Meadows Road #205 through an inventoried roadless area Dolores County, Colorado.

**SUMMARY:** The Forest Service will prepare an environmental impact statement in conjunction with a proposal to issue a road easement to a private landowner and the reconstruct an existing classified roadway, the Meadows Road #205, across a portion of an inventoried roadless area to access the landowners property.

This notice describes known issues with the proposed road reconstruction project, estimated dates for filing the environmental impact statement, information concerning public and tribal participation, and the names and addresses of the agency officials who can provide additional information.

**DATES:** Comments concerning the scope of the analysis should be received in writing by July 6, 2001. The agency expects to file a draft environmental impact statement with the Environmental Protection Agency (EPA) and make it available for public, agency, and tribal government comment in late summer of 2001. A final environmental impact statement is expected to be filed in November of 2001.

**ADDRESSES:** Send written comments to: James Powers, Forest Planner, San Juan National Forest, 15 Burnett Court, Durango, CO 81301.

**FOR FURTHER INFORMATION CONTACT:** John Reidinger, Forester, Mancos-Dolores Ranger District, P.O. Box 210 Dolores, Co. 81323 (970–882–7296).

*Responsible Official:* Rick Cables, Rocky Mountain Regional Forester at P.O. Box 25127, Lakewood, CO 80225–0127.

**SUPPLEMENTARY INFORMATION:** Pursuant to part 36 Code of Federal Regulations (CFR) 219.10(g), the Regional Forester for the Rocky Mountain Region gives notice of the agency's intent to prepare an environmental impact statement for road reconstruction and issuance of an easement across such road in an inventoried roadless area for the purpose of providing the applicant access to non-federally owned lands within the boundaries of the National Forest System.

The Regional Forester gives notice that the Forest is initiating an environmental-analysis and decision-making process for this proposed action so that interested or affected people can participate in the analysis and contribute to the final decision.

Opportunities will be provided to discuss the road reconstruction and easement issuance proposal openly with the public. The public is invited to help identify issues and define the range of alternatives to be considered in the environmental impact statement. Written comments identifying issues for analysis and the range of alternatives will be encouraged.

The public has already identified a number of issues. Additional issue identification (scoping) will continue in the summer of 2001. Requests to be on the mailing list should be sent to: John Reidinger, Forest, P.O. Box 210, Dolores, Co. 81323 (970) 882–7296.

This project is being undertaken to provide access to a private, non-federally owned land as required by the Alaska Native Interest Lands Conservation Act (Pub. L. 96–487). Private land inholders are to be provided access across National Forest System land to private land that is adequate to secure the owners thereof of reasonable use and enjoyment of their land. The private landowner has proposed use of the existing road across the inventoried roadless area to meet their access needs.

**Major Issues**

*Lizard Head Roadless Area*

This RARE II area is an area of approximately 4,940 acres that is immediately south of the Lizard Head Wilderness and north of Colorado Highway 145. It has a low wilderness attribute rating because of its proximity to the highway and the West Dolores road and was excluded from the Lizard

Head wilderness when it was created in 1983. The existing Meadows road #205 crosses a portion of this inventoried roadless area.

*Wetlands*

The existing roadway crosses a several small areas of wetlands.

*Geological Hazards*

The only alternative to the Meadows Road that provides access to the private lands is another existing two-track road that is unsafe and is closed by landslides.

**Involving the Public**

The Forest Service is seeking information, comments, and assistance from individuals, organizations, tribal governments, and federal, state, and local agencies that are interested in or may be affected by the proposed action. The range of alternatives to be considered in the DEIS will be based on public issues, management concerns, resource management opportunities, and specific decisions to be made.

Public participation will be solicited by notifying in person and/or by mail known interested and affected local government agencies. News releases will be used to give the public general notice.

**Release and Review of the EIS**

We expect the DEIS to be filed with the Environmental Protection Agency (EPA) and to be available for public, agency, and tribal government comment in summer of 2001. At that time, the EPA will publish a notice of availability for the DEIS in the Federal Register. The comment period on the DEIS will be 45 days from the date the EPA publishes the notice of availability in the Federal Register.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the DEIS must participate in the environmental review of the proposal in such a way that their participation 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 be raised at the DEIS stage but are not raised until after completion of the Final Environmental Impact Statement (FEIS) may be waived or dismissed by the courts: *City of Angoon* v. *Hodel*, 803 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Hertages, 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 comment period, so that substantive comments and objectives are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns relating to the proposed actions, comments on the DEIS 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 DEIS or the merits of the alternatives formulated and discussed in the statements. In addressing these points, reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3.

After the comment period on the DEIS ends, comments will be analyzed, considered, and responded to by the Forest Service in preparing the Final EIS. The FEIS is scheduled to be completed in the fall of 2001. The responsible official will consider the comments, responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies in making decisions regarding these revisions. The responsible official will document the decisions and reasons for the decisions in a Record of Decision. The decision will be subject to appeal in accordance with 36 CFR part 251.

Dated: May 29, 2001.

**Calvin N. Joyner,**

*Forest Supervisor, San Juan National Forest.*

[FR Doc. 01–13991 Filed 6–4–01; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Eastern Washington Cascades Provincial Advisory Committee and Yakima Provincial Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee will meet on Friday, June 8, 2001, at the Wenatchee National Forest headquarters main conference room, 215 Melody Lane, Wenatchee, Washington. The meeting will begin at 9 a.m. and continue until 3 p.m. During this meeting we will finalize advice on Dry Forest Strategy management implementation on the Okanogan and Wenatchee National Forests, develop advice on noxious weed management, and share information on the implementation of the Northwest Forest Plan. All Eastern Washington Cascades and Yakima Province Advisory Committee meetings are open to the public. Interested citizens are welcome to attend.

**FOR FURTHER INFORMATION CONTACT:** Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, 509–662–4335.

Dated: May 21, 2001.

**Sonny J. O'Neal,**

*Forest Supervisor, Okanogan and Wenatchee National Forests.*

[FR Doc. 01–13992 Filed 6–4–01; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### John Day/Snake Resource Advisory Council, Hells Canyon Subgroup

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Hells Canyon Subgroup of the John Day/Snake Resource Advisory Council will meet on June 15–16, 2001 at the Wallowa Mountains Visitors Center, 88401 Hwy 82, Enterprise, OR 97828. The meeting will begin at 10 a.m. and continue until 5 p.m. the first day and day 2 will begin at 8 a.m and will be a field trip to the Buckhorn Lookout Area. Agenda items to be covered include: (1) Update on CMP (2) Review of the fires on the NRA in 2000. Public comments will be received June 15, 2001 at 1:30 p.m. at the Wallowa Mountains Visitors Center.

**FOR FURTHER INFORMATION CONTACT:** Direct questions regarding this meeting to Kendall Clark, Area Ranger, USDA, Hells Canyon National Recreation Area, 88401 Highway 82, Enterprise, OR 97828, 541–426–5501.

Dated: May 30, 2001.

**Karyn L. Wood,**

*Forest Supervisor.*

[FR Doc. 01–14048 Filed 6–5–01; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Willamette Provincial Advisory Committee (PAC)

**AGENCY:** Forest Service, USDA.

**ACTION:** Action of meeting.

**SUMMARY:** The Willamette Province Advisory Committee (PAC) will meet on Thursday, June 21, 2001. The meeting is scheduled to begin at 9 a.m., and will conclude at approximately 2 p.m. The meeting will be held at the Salem Office of the Bureau of Land Management; 1717 Fabry Road SE; Salem, Oregon; (503) 375–5646. The tentative agenda includes:

(1) BPA Lower Columbia Assessment process, (2) Growth and development of old-growth forests, (3) Public Forum, (4) Subcommittee organization, (5) REO update and information sharing.

The Public Forum is tentatively scheduled to begin at 10:30 a.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the June 21 meeting by sending them to Designated Federal Official Neal Forrester at the address given below.

**FOR FURTHER INFORMATION CONTACT:** For more information regarding this meeting, contact Designated Federal Official Neal Forrester; Willamette National Forest; 211 East Seventh Avenue; Eugene, Oregon 97401; (541) 465–6924.

Dated: May 30, 2001.

**Daniel L. Call,**

*Acting Forest Supervisor.*

[FR Doc. 01–14047 Filed 6–4–01; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

*Bureau:* International Trade Administration.

*Title:* Imports of Certain Worsted Wool Fabric: Implementation of Tariff Rate Quota Established Under Title V of the Trade and Development Act of 2000.

*Agency Form Number:* ITA–4139P, and ITA–4140P.

*OMB Number:* 0625–0240.

*Type of Request:* Regular Submission.

*Estimated Burden:* 352 hours.

*Estimated Number of Respondents:* 24.

*Est. Avg. Hours Per Response:* 1—24 hours.

*Needs and Uses:* Title V of the Trade and Development Act of 2000 (''the Act'') contains several provisions to assist the wool products industries. These include the establishment of tariff rate quotas (TRQ) for a limited quantity of worsted wool fabrics. The Act requires the President to fairly allocate the TRQ to persons who cut and sew men's and boys' worsted wool suits and suit like jackets and trousers in the United States, and who apply for an allocation based on the amount of suits they produce in the prior year. The Act further requires the President, on an annual basis, to consider requests from the manufacturers of the apparel products listed above, to modify the limitation on the quantity of imports subject to the TRQ. The Act specifies factors to be considered in making determinations on such requests. The TRQ is effective for goods entered or withdrawn from warehouse for consumption, on or after January 1, 2001, and will remain in force through 2003. A TRQ allocation will be valid only in the year for which it is issued.

On December 1, 2000, the President issued Proclamation 7383 that, among other things, delegates authority to the Secretary of Commerce to allocate the TRQ; to consider, on an annual basis, requests to modify the limitation on the quantity of the TRQ and to recommend appropriate modifications to the President; and to issue regulations to implement these provisions. On January 22, 2001, the Department of Commerce published regulations establishing procedures for allocation of the tariff rate quotas (66 FR 6459, 15 CFR part 335) and for considering requests for modification of the limitations (66 FR 6459, 15 CFR part 340).

The Department must collect certain information in order to fairly allocate the TRQ to eligible persons and to make informed recommendations to the President on whether or not to modify the limitation on the quantity of the TRQ. This request for comment is for the proposed information collections after July 31, 2001.

*Affected Public:* Business or other for-profits.

*Frequency:* Annually.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* David Rostker, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution, NW., Washington, DC 20230

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503 within 30 days of the publication of this notice in the **Federal Register**.

Dated: May 31, 2001.

**Madeleine Clayton,**

*Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 01–14112 Filed 6–4–01; 8:45 am]

BILLING CODE 3510–DR–P

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Institute of Standards and Technology.

*Title:* BEES Please.

*Form Number(s):* None.

*OMB Approval Number:* None.

*Type of Request:* Regular submission.

*Burden Hours:* 1875 hours.

*Number of Respondents:* 30.

*Average Hours Per Response:* 45 hours for questionnaire covering 6 environmental impacts; 80 hours for questionnaire covering 10 environmental impacts.

*Needs and Uses:* Over the last six years, the Building and Fire Research Laboratory of the National Institute of Standards and Technology (NIST) has developed and automated an approach for measuring the life-cycle environmental and economic performance of building products. Known as BEES (Building for Environmental and Economic Sustainability), the tool reduces complex, science-based technical content (*e.g.,* up to 400 material and energy flows from raw material extraction through product disposal) to decision-enabling results and delivers them in a visually intuitive graphical format. While the latest version, BEES 2.0, includes estimated environmental and economic performance data for 65

generic, industry-average building products, NIST has been asked by both EPA and BEES users to deliver more precision and practicality by adding data for manufacturer-specific products. The rationale is that purchasers buy actual products, not industry-averages (there is no such thing), and that actual products likely perform quite differently than their industry averages. The program encouraging collaboration with building product manufacturers so that their products may be scientifically evaluated by BEES is known as BEES Please.

BEES directly supports Executive Order 13101 (9/98), ''Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition,'' which encourages Federal agencies to purchase environmentally-preferable products. EO 13101 is administered by the U.S. EPA Environmentally Preferable Purchasing Program. In their Congressionally-mandated Final Guidance, which was published in the **Federal Register** (available at *http://www.epa.gov/opptintr/epp/finalguidancetoc.htm),* BEES is listed as one of only two life-cycle based resources that Federal agency personnel may find useful in implementing environmentally preferable purchasing. NIST needs information from building product manufacturers so that Federal personnel may consider their products in their environmentally-preferable purchase decisions.

*Affected Public:* Business and other for-profit organizations.

*Frequency:* Once.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *Mclayton@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 31, 2001.

**Madeleine Clayton,**

*Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 01–14117 Filed 6–4–01; 8:45 am]

**BILLING CODE 3510–13–P**

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

**[Docket No. 00–BXA–10]**

### Miguel Angel Fajardo Individually and Doing Business as Seguridad y Electronic MAFO, S.A., Respondent; Decision and Order

The Administrative Law Judge has entered a Recommended Decision and Order in the above-captioned matter. As provided by section 766.22(c) of the Export Administration Regulations (15 CFR parts 730–774 (2000) (the ''Regulations'')), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. 2401–2420 (1991 & Supp. 2000)) (the ''Act'',[1] the Recommended Decision and Order has been referred to me for final action. On December 18, 2000, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter ''BXA''), issued a charging letter initiating this administrative proceeding against Miguel Angel Fajardo, individually and doing business as Seguridad y Electronic MAFO, S.A. (hereinafter referred to collectively as ''Fajardo''). The charging letter alleged that Fajardo committed three violations of the Regulations.

Specifically, the charging letter alleged that on or about June 19, 1997, Fajardo exported shotguns from the Untied States to Honduras without obtaining from BXA the validated export license that Fajardo knew or had reason to know was required by section 742.7 of the Regulations. BXA alleged that, by transferring, transporting, or forwarding U.S.-origin commodities to be exported from the United States with Knowledge or reason to know that a violation of the Act or any regulation, order, or license issued thereunder has occurred, is about to occur, or is intended to occur, Fajardo violated section 764.2(e) of the Regulations. BXA also alleged that, by exporting a commodity to any person or destination or for any use in violation of or contrary to the terms, provisions, or conditions of the Act, or any regulation, order, or license issued thereunder, Fajardo violated section 764.2(a) of the Regulations.

The charging letter further alleged that, in connection with the export made on or about June 19, 1997, Fajardo prepared an air waybill, defined as an export control document in Part 772 of the Regulations, falsely representing that the goods being shipped had no value. BXA alleged that, by making false or misleading representations, statements, or certifications directly or indirectly to a U.S. Government agency in connection with the preparation, submission, issuance, use, or maintenance of an export control document, Fajardo violated Section 764.2(g) of the Regulations.

The charging letter was served on Fajardo on January 31, 2001.[2] Fajardo's answer therefore was due on or before March 2, 2001. On February 28, 2001, pursuant to section 766.16 of the Regulations, the parties filed a Stipulated Extension of Time to Answer Charging Letter. On March 5, 2001, the Administrative Law Judge (''ALJ'') issued an order granting an extension of time to answer the charging letter to March 23, 2001.

Fajardo failed to answer the charging letter before March 23, 2001, as required by section 766.6 of the Regulations. Pursuant to the default procedures set forth in section 766.7 of the Regulations, BXA moved that the ALJ find the facts to be as alleged in the charging letter and render a Recommended Decision and Order.

Following BXA's motion, the ALJ issued a Recommended Decision and Order in which he found the facts to be as alleged in the charging letter served on Fajardo. The ALJ also found, based on those facts, that Fajardo violated sections 764.2(a), 764.2(e), and 764.2(g) of the Regulations by exporting shotguns to Honduras without the authorization Fajardo knew or had reason to know was required by the Regulations, and by making false or misleading statements of material fact to a U.S. Government agency in connection with the preparation, submission, issuance, use, or maintenance of an export control document.

The ALJ also recommended that the appropriate penalty to be imposed against Fajardo for these violations is a civil penalty of $30,000 and a denial, for a period of 20 years, of all of Fajardo's privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving commodities, software, or technology exported or to

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 FR 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991 & Supp. 2000)) until November 13, 2000, when the Act was reauthorized. *See* Pub. L. 106–508.

[2] The parties have stipulated that this was the date of service.

be exported from the United States and subject to the Regulations.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the Recommended Decision and Order of the Administrative Law Judge.

Accordingly, *It Is Therefore Ordered,*

First, that a civil penalty of $30,000 is assessed against Fajardo, which shall be paid to the Department of Commerce within 30 days of the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

Second, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. 3701–3720E (1983 and Supp. 1999)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice and, if payment is not made by the due date specified herein, respondent will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

Third, that, for a period of 20 years from the date of entry of this Order, Miguel Angel Fajardo, individually and doing business as Seguridad y Electronica MAFO, S.A. with an address at 4 Calle, 15 y 16 Ave., S.O. Barrio Suyapa #105, 58–0081 San Pedro Sula, Honduras, Central America, and all successors or assigns, officers, representatives, agents, and employees, may not participate, directly or indirectly, in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Fourth, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession, or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed, or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed, or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

Fifth, that, after notice and opportunity for comment as provided in Section 766.223 of the Regulations, any person, firm, corporation, or business organization related to Fajardo by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

Sixth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Seventh, that a copy of this Order shall be served on Fajardo and on BXA, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Dated: May 29, 2001.

**Kenneth I. Juster,**

*Under Secretary for Export Administration.*

[FR Doc. 01–13990 Filed 6–4–01; 8:45 am]

BILLING CODE 3510–DT–M

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Closed Meeting of the U.S. Automotive Parts Advisory Committee (APAC)

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Announcement of meeting.

**SUMMARY:** The APAC will have a closed meeting on June 19, 2001 at the U.S. Department of Commerce to discuss U.S.-made automotive parts sales in Japanese and other Asian markets.

**DATES:** June 19, 2000.

**FOR FURTHER INFORMATION CONTACT:** Dr. Robert Reck, U.S. Department of Commerce, Room 4036, Washington, DC 20230, telephone: 202–482–1418.

**SUPPLEMENTARY INFORMATION:** The U.S. Automotive Parts Advisory Committee (the ''Committee'') advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Automotive Parts Act of 1998 (Pub. L. 105–261). The Committee: (1) Reports to the Secretary of Commerce on barriers to sales of U.S.-made automotive parts and accessories in Japanese and other Asian markets; (2) reviews and considers data collected on sales of U.S.-made auto parts and accessories in Japanese and other Asian markets; (3) advises the Secretary of Commerce during consultations with other Governments on issues concerning sales of U.S.-made automotive parts in Japanese and other Asian markets; and (4) assists in establishing priorities for the initiative to increase sales of U.S.-made auto parts and accessories to Japanese markets, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and (5) assists the Secretary of Commerce in reporting to Congress by submitting an annual written report to the Secretary on the sale of U.S.-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to its authorizing legislation. At the meeting, committee members will discuss specific trade and sales expansion programs related to automotive parts trade policy between the United States and Japan and other Asian markets.

The Acting Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on May 31, 2001, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the June 19 meeting of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b (c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: May 31, 2001.

**Thomas Sobotta,**

*Acting Director, Office of Automotive Affairs.*

[FR Doc. 01–14175 Filed 6–4–01; 8:45 am]

BILLING CODE 3510–DR–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**[I.D. 053101A]**

## National Marine Sanctuary Permits

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Proposed information collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c) (2) (A)).

**DATES:** Written comments must be submitted on or before August 6, 2001.

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

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to John Armor, Permit Coordinator, 1305 East-West Highway (N/ORM6), Silver Spring, Maryland, 20910 (telephone 301–713–3125, ext. 117).

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

Persons wishing to conduct otherwise prohibited activities in a National Marine Sanctuary must apply for and receive a permit. Persons issued permits must file reports on the activity conducted. The information is required to ensure that the proposed activity is consistent with the objectives of the sanctuary, and the reports are needed to ensure compliance with permit conditions and to increase knowledge regarding the sanctuary's resources.

### II. Method of Collection

Specific requirements are detailed in various subparts of 15 CFR part 922. Persons wanting a permit are sent guidelines for the application process or an application form.

### III. Data

*OMB Number*: 0648–0141.

*Form Number*: None.

*Type of Review*: Regular submission.

*Affected Public*: Not-for-profit institutions, individuals or households, business or other for-profit organizations, and state, local, or tribal government.

*Estimated Number of Respondents*: 336.

*Estimated Time Per Response*: One hour each for a general permit application, cruise or flight log, and report; 2 hours each for a historical resource permit application, cruise log, and report; 24 hours each for a special use permit application, final report, and financial report; 15 minutes for a permit amendment; 15 minutes each for a baitfish permit application and a logbook; 15 minutes for researcher entries to a research registry; 30 minutes to request certification of a pre-existing lease, license, or permit; 1 hour for a notification of a request for a permit from another agency, cruise or flight log, and report; and 1.5 hours for a permit appeal.

*Estimated Total Annual Burden Hours*: 886.

*Estimated Total Annual Cost to Public*: $800.

### IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: May 29, 2001.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 01–14127 Filed 6–4–01; 8:45 am]

BILLING CODE 3510–08–S

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**[I.D. 053101B]**

## Cooperative Charting Program

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Proposed information collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

**DATES:** Written comments must be submitted on or before August 6, 2001.

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

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ken Forster, N/CS26, Station 7308, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2737, ext. 130).

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

NOAA's National Ocean Service (NOS) produces the official nautical charts of the United States. As part of its

efforts to keep the charts up-to-date, NOS has a Memorandum of Agreement with both the United States Power Squadrons and the United States Coast Guard Auxiliary that provides for members to submit chart correction data to NOS.

**II. Method of Collection**

Paper forms are used, but a Web version is being created.

**III. Data**

*OMB Number*: 0648–0022.

*Form Number*: NOAA Forms 77–4, 77–5.

*Type of Review*: Regular submission.

*Affected Public*: Not-for-profit institutions, individuals or households.

*Estimated Number of Respondents*: 3,000.

*Estimated Time Per Response*: 3 hours.

*Estimated Total Annual Burden Hours*: 45,000.

*Estimated Total Annual Cost to Public*: $0.

**IV. Request for Comments**

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: May 29, 2001.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 01–14128 Filed 6–4–01; 8:45 am]

BILLING CODE 3510–JT–S

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**[I.D. 053101D]**

## Southeast Region Gear Identification Requirements

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Proposed information collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

**DATES:** Written comments must be submitted on or before August 6, 2001.

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

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Robert Sadler, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702 (phone 727–570–5326).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

Regulations at 50 CFR 622.6 (b) and 640.6 require that each fish or spiny lobster trap or pot be marked with a tag or the vessel permit number, depending on the fishery, and have a buoy attached that meets specified identification requirements. The marking of gear aids law enforcement, helps to ensure that vessels only harvest fish from their own gear, and makes it easier for fishermen to report the use of gear in unauthorized locations.

The regulations at 622.41 require that aquaculture site materials be distinguishable from the natural occurring substrate, depending on the area either through marking or other method. The marking of aquacultured site materials aids determination of the origin of those materials and thereby helps ensure compliance with the regulations.

**II. Method of Collection**

No information is collected.

**III. Data**

*OMB Number*: 0648–0359.

*Form Number*: None.

*Type of Review*: Regular submission.

*Affected Public*: Business or other for-profit organizations, individuals or households.

*Estimated Number of Respondents*: 1,000.

*Estimated Time Per Response*: 20 minutes for marking of a Spanish mackerel gillnet float, 7 minutes to tag a trap, and 10 seconds to mark or tag an aquacultured live coral rock.

*Estimated Total Annual Burden Hours*: 2,192.

*Estimated Total Annual Cost to Public*: $15,200

**IV. Request for Comments**

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: May 29, 2001.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 01–14129 Filed 6–4–01; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**[I.D. 053101E]**

## Southeast Region Vessel Identification Requirements

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Proposed information collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and

respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

**DATES:** Written comments must be submitted on or before August 6, 2001.

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

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Robert Sadler, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702; phone 727–570–5326.

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

Regulations at 50 CFR 622.6 and 640.6 require that all vessels with Federal permits to fish in the Southeast, and all vessels that fish for or possess shrimp in the Gulf Exclusive Economic Zone, display the vessel's official number. The numbers must be in a specific size at specified locations. The display of the identifying number aids in fishery law enforcement.

## II. Method of Collection

No information is collected. The official number must be displayed on the port and starboard sides of the deckhouse or hull and on a weather deck.

## III. Data

*OMB Number*: 0648–0358.
*Form Number*: None.
*Type of Review*: Regular submission.
*Affected Public*: Business or other for-profit organizations, individuals or households.
*Estimated Number of Respondents*: 7,000.
*Estimated Time Per Response*: 45 minutes (15 minutes for each of three markings).
*Estimated Total Annual Burden Hours*: 5,250.
*Estimated Total Annual Cost to Public*: $210,000.

## IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: May 29, 2001.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 01–14130 Filed 6–4–01; 8:45 am]

BILLING CODE 3510–22–S

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**[I.D. 052901D]**

## Caribbean Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Caribbean Fishery Management Council (Council) will hold meetings.

**DATES:** The meetings will be held on June 28–29, 2001. The Council will convene on Thursday June 28, 2001, from 1 p.m. to 5 p.m., through June 29, 2001, from 9 a.m. to 12 noon, approximately.

**ADDRESSES:** The meetings will be held at the Ponce Holiday Inn, 3315 Ponce By Pass, Ponce, Puerto Rico 00731.

**FOR FURTHER INFORMATION CONTACT:** Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577, telephone: (787) 766–5926.

**SUPPLEMENTARY INFORMATION:** The Council will hold its 104th regular public meeting to discuss the items contained in the following agenda:

Call to Order

Adoption of Agenda

Consideration of 103rd Council Meeting Summary Minutes

Audit Report

Sustainable Fisheries Act

Reeffish Amendment 3

- Public Hearings Report

Queen Conch Fishery Management Plan

- Interviews with Queen Conch Fishers

Recommendations by Administrative Committee at its March 26, 2001 Meeting

Meetings Attended by Council Members and Staff

Other Business

Next Council Meeting

The meeting is open to the public, and will be conducted in English. However, simultaneous interpretation (Spanish-English) will be available during the Council meeting (June 28–29, 2001). Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

## Special Accommodations

This meeting is physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico, 00918–2577, telephone (787) 766–5926, at least 5 days prior to the meeting date.

Dated: May 30, 2001.

**Richard W. Surdi,**

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

[FR Doc. 01–14126 Filed 6–4–01; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 052901B]**

### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Fishery Management Council's (Council) Highly Migratory Species Plan Development Team (HMSPDT) will hold a work session, which is open to the public.

**DATES:** The HMSPDT will meet on Wednesday, June 20, 2001, 8 a.m. to 5 p.m.; Thursday, June 21, 2001, 8 a.m. to 5 p.m.; and Friday, June 22, 2001, 8 a.m. until business for the day is completed.

**ADDRESSES:** The work session will be held in the large conference room at the NMFS Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, Room D–203, La Jolla, CA 92038–0271; telephone: (619) 546–7100.

*Council address*: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

**FOR FURTHER INFORMATION CONTACT:** Dan Waldeck, Pacific Fishery Management Council; (503) 326–6352.

**SUPPLEMENTARY INFORMATION:** The primary purpose of the work session is to revise the draft fishery management plan (FMP) for highly migratory species (HMS) per Council guidance stemming from the June 2001 Council meeting.

### Proposed Agenda

*Wednesday June 20, 2001, 8 a.m.*

A. Call to order
B. Introduction of Team and Advisory Subpanel Members
C. Review and Approval of the Agenda
D. Distribute and Review New HMSPDT Documents
E. Review Executive Summary and Chapters 1, 2, 3, and 4

*Thursday, June 21, 2001, 8 a.m.*

F. Review of Chapters 5, 6, 7, and 8

*Friday, June 22, 2001, 8 a.m.*

G. Review of Chapter 9
H. Further Discussion as Needed
I. Report to Council
J. Report to Advisory Subpanel
Adjournment

Although non-emergency issues not contained in the HMSPDT meeting agenda may come before the HMSPDT for discussion, those issues may not be the subject of formal HMSPDT action during this meeting. HMSPDT action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the HMSPDT's intent to take final action to address the emergency.

### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: May 30, 2001.

**Richard W. Surdi,**

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

[FR Doc. 01–14124 Filed 6–4–01; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 052901C]**

### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Fishery Management Council's (Council) Groundfish Stock Assessment Review (STAR) Panel will hold a work session to review assessment information for species in the ''remaining rockfish'' complex. This meeting is open to the public.

**DATES:** The STAR Panel for the ''remaining rockfish'' complex will meet beginning at 1 p.m. June 25, 2001 and continue through June 29, 2001. Except for Monday, June 25, 2001, the STAR Panel will meet each day from 8 a.m. to 5 p.m.

**ADDRESSES:** The STAR Panel will be held in the Large Conference Room (Room 188) at NMFS Southwest Fisheries Science Center, Santa Cruz Laboratory, 110 Shaffer Road, Santa Cruz, CA 95060; telephone: (831) 420–3900.

*Council address*: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

**FOR FURTHER INFORMATION CONTACT:** Dan Waldeck, Staff Officer; telephone: (503) 326–6352.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to review assessments of black rockfish (in the southern area), yelloweye rockfish, and the first phase of a new method being developed for data poor rockfish species. The STAR Panel will work with stock assessment teams to make necessary revisions to the assessment documents and produce STAR Panel reports for use by the Council family and other interested persons.

Although non-emergency issues not contained in the STAR Panel agenda may come before the STAR Panel for discussion, those issues may not be the subject of formal panel action during this meeting. STAR Panel action will be restricted to those issues specifically listed in this notice, and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the panel's intent to take final action to address the emergency.

### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: May 30, 2001.

**Richard W. Surdi,**

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

[FR Doc. 01–14125 Filed 6–4–01; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

**[Docket No. 010321076–1076–01]**

**RIN 0651–AB26**

### Notification of Required and Optional Search Criteria for Computer Implemented Business Method Patent Applications in Class 705, and Request for Comments

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice of request for public comments.

**SUMMARY:** The United States Patent and Trademark Office (USPTO) is providing notification to the public of required and optional search criteria used during

examination of patent applications related to computer-implemented Business Methods in Class 705. The Office is seeking comments concerning databases, documenting practices, procedures, and developments, in addition to those listed in this notice, in specific industries within the computer-implemented business method field, to identify additional information and materials that could be considered during the examination process.

**DATES:** The recommended database will be reviewed quarterly. Database recommendations received before June 30, 2001, will be included in the first evaluation process which will commence on July 31, 2001. Results of the evaluation of the first group of database recommendations should be completed by September 30, 2001. The schedule through June of 2002 is set forth in the Supplementary Information section.

**FOR FURTHER INFORMATION CONTACT:** Gail Hayes by telephone at (703) 305–9711 or by fax at (703) 305–0040, or James Trammell by telephone at (703) 305–9768 or by fax at (703) 308–1396.

**ADDRESSES:** Comments should be sent by electronic mail message over the internet addressed to Robert.Clarke@USPTO.gov. Comments may also be submitted by mail addressed to: Box Comments—Patents, Commissioner for Patents, Washington, D.C. 20231, or by facsimile to (703) 872–9399 or (703) 308–6916, marked to the attention of Robert A. Clarke. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments via the Internet. If comments are submitted by mail, the Office would prefer that comments be submitted on a DOS formatted 3½ inch disk accompanied by a paper copy.

The comments will be available for public inspection at the Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, located at Room 3–C23 of Crystal Plaza 4, 2201 South Clark Place, Arlington, Virginia, and will be available through anonymous file transfer protocol (ftp) via the Internet (address: http://www.uspto.gov). Since comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

**SUPPLEMENTARY INFORMATION:**

## 1. Background

On March 29, 2000, the Director of the USPTO announced the USPTO Business Methods Patent Initiative: An Action Plan. One step in that action plan called for:

Industry Outreach

Industry Feedback: A greater effort will be made to obtain industry feedback on prior art resources used by the USPTO, solicit input on other databases and information collections and sources, and expand prior art collections.

## 2. Purpose

This announcement is a request for input on the USPTO search resources that are employed in the examination of business method patent applications in Class 705. By this process the USPTO hopes to achieve two significant results. First to inform the public of the prior art resources that are currently available to the Office. Second to identify additional information and materials that could be considered during the examination process.

The announcement is presented in two major sections; the listing of the current USPTO prior art resources and the process for providing comments on that listing. The listing of the current USPTO prior art resources includes a detailed description of the mandatory search that is now required for all patent applications examined in Class 705. In the important area of non-patent literature (NPL), the listing also sets forth a further identification of other prior art resources that are available to the patent examiners and may, in accordance with their professional judgment, be searched during the examination process. The section relating to the process for submitting comments to the USPTO details the primary type of information the Office is seeking, how the input may be submitted, and a general description of the process the Office will employ in considering the comments received. The USPTO will fully consider all comments and suggestions submitted in accordance with the guidelines set forth below.

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## I. Current USPTO Prior Art Resources for Examination of Business Method Patent Applications in Class 705

Examiners are required to search three main types of prior art when examining every class 705 application: U.S. patents, foreign patents, and NPL.

*A. U.S. Patents*

1. Classified (Mandatory Search)

The USPTO uses a classification schedule to sort and store all patents issued. The classification schedule is structured into class and subclass sections. For example, a patent on a computerized method of determining insurance claims is classified in class 705 ''Data Processing: Financial, Business Practice, Management, or Cost/Price Determination'', and located in subclass 4, ''Insurance.'' Thus, the exact classification of this patent is 705/4.

A search of an application with claims directed to the business art includes a classified search in at least the subclass which the claimed subject matter of the application would be properly classified. This is referred to as an original classification (OR). A search of an application with multiple independent claims, some of which if presented separately would have been classified as an original classification in other areas, will be searched in each of the relevant classes and subclasses.

Examiners are not required to search areas in which it is reasonably determined that there is a low probability of finding the best reference(s). In outlining a field of search, the examiner notes every class and subclass under the U.S. Patent Classification that may have material pertinent to the subject matter as claimed. Every subclass, digest, and cross-reference art collection pertinent to each type of invention claimed is included, from the largest combination through the various subcombinations. The field of search extends to all probable areas relevant to the claimed subject matter and covers the disclosed features which might reasonably be expected to be claimed. The examiner consults with other examiners and/or supervisory patent examiners, especially with regard to applications covering subject matter unfamiliar to the examiner. The areas to be searched are prioritized so that the areas where relevant prior art is most likely to be found are searched first. (For more information, see the MPEP, *http://*

*www.uspto.gov/web/offices/pac/mpep/index.html*)

*Class 705 Schedule.* The schedule for Class 705 is posted on the home page for the USPTO at *http://www.uspto.gov/web/offices/ac/ido/oeip/taf/moc/705.htm.*

2. Text (Mandatory Search)

Examiners are also required to perform a text search of U.S. patents. Examiners use Boolean and proximity operators to search keywords and multiple concept terms to retrieve U.S. patents relevant to the application. Concept terms are derived from many aspects of the invention including, but not limited to: Background of the invention; Objects of the invention; Technological and field of use environment; Prior effort/work; Problem to be solved; Major advantages/outcomes; How the problem is solved; How components relate; Functionality; and Environment—Field of Use.

*B. Foreign Patents (Mandatory Search)*

Examiners are also required to perform a text search in the Foreign Patent Databases indicated below. Concept and keywords terms are searched using Boolean and proximity operators with search strategies tailored to these databases. The name of each database listed below is followed by the name of the database producer.

*Derwent World Patents Index* [Derwent Information]
*European Patents Fulltext* [European Patent Office]
*JAPIO—Patent Abstracts of Japan* [Japan Patent Information Organization]
*WIPO/PCT Patents Fulltext* [MicroPatent LLC]

*C. Non-Patent Literature (NPL)*

The examination procedure for patent applications includes text searching of commercially available databases to identify relevant NPL. Examples of NPL include journal articles, newspaper articles, books, software manuals, conference proceedings, and standards.

Commercial database providers with extensive content coverage, powerful search interfaces, and the capability to simultaneously search multiple files provide the primary resources to effectively search large quantities of NPL. Examples of the search services used in the USPTO include DataStar, Dialog, Lexis/Nexis, Questel/Orbit, STN, and Westlaw. These services provide access to hundreds of databases from commercial producers. Through a single set of search operations, applied simultaneously to multiple database files of NPL selected according to the core and subclass specific criteria specified below, through a single commercial database provider, an examiner can retrieve search results simultaneously from across multiple NPL sources using a single search strategy commonly applicable to all accessed files. The USPTO also subscribes to other resources and databases to provide examiners with additional sources for supplemental searches. These resources are noted in the section of this notice regarding Supplemental Resources.

1. Mandatory

USPTO staff have in-depth expertise on commercial database services and their products. Based on this knowledge, databases with business-related literature were reviewed. Representative databases were chosen as mandatory resources to be searched for business cases. Several factors were considered during the review of these databases including coverage of business-related topics, date coverage (including older materials), and inclusion in commercial database services which allow for simultaneous searching of numerous databases. The databases selected are considered the ''core'' or ''mandatory'' NPL databases that must be searched for business method patent applications. This list is not intended to be exhaustive or comprehensive. However, by searching these databases, the examiner has searched a wide range of resources that can provide significant and relevant prior art for business method cases. Examiners are not restricted to searching the databases in this list. If, in the examiner's professional judgment, other prior art resources should be searched, they have hundreds of additional databases available (e.g. commercial database vendors mentioned above) to search.

The first section of the core database list, designated as ''Non-Patent Literature Core Databases,'' includes databases that are searched for every case classified in Class 705. Databases that may provide significant resources of NPL relevant to specific subclasses are designated as ''Subject Specific Databases.''

For example, an application on a computerized method of determining insurance claims is classified in class 705 and subclass 4. All the core NPL databases in addition to the subject specific databases listed under subclass 4 are searched for NPL.

Business examiners are required to perform a text search in the NPL databases listed below. Concept and keywords terms are searched using Boolean and proximity operators with search strategies tailored to these databases.

The name of each database (except for newspapers) is followed by the name of the database producer.

CLASS 705 CORE DATABASES

*NPL Core Databases.* All Class 705 applications will be searched in the following databases:

*ABI/INFORM*® [Bell & Howell Information and Learning]
*Business & Industry*™ [Responsive Database Services, Inc.]
*Business Week* [The McGraw-Hill Companies Publications Online]
*Business Wire* [Business Wire]
*Computer Database*™ [The Gale Group]
*Conference Papers Index* [Cambridge Scientific Abstracts]
*Dissertation Abstracts Online* [Bell & Howell Information and Learning]
*Globalbase*™ [The Gale Group]
*Inside Conferences* [The British Library]
*INSPEC* [INSPEC, Inc.]
*Internet & Personal Computing Abstracts*® [Information Today, Inc.]
*The McGraw-Hill Companies Publications Online* [The McGraw-Hill Companies, Inc.]
*Microcomputer Software Guide Online*® [R. R. Bowker Company]
*New Product Announcements/Plus*® (NPA/Plus) [The Gale Group]
*Newsletter Database*™ [The Gale Group]
*Newspapers*
*Financial Times Abstracts*
*New York Times Abstracts*
*San Jose Mercury News*
*Wall Street Journal Abstracts*
*PR Newswire* [PR Newswire Association, Inc.]
*PROMT*® [The Gale Group]
*Softbase: Reviews, Companies, and Products* [Information Sources, Inc.]
*Trade & Industry Database*™ [The Gale Group]
*Wilson Applied Science and Technology Abstracts* [The H.W. Wilson Company]
*World Reporter* [The Dialog Corporation, Dow Jones & Company and Financial Times Information]

Subject Specific Databases. There are other databases which contain significant NPL resources relevant to specific Class 705 subclasses. Therefore, additional core databases are listed for the subclasses indicated in this section. Examiners are required to search these databases during the examination of cases classified under these subclasses. In this list, the subclass numbers are listed to the left of the subclass description.

2. Health Care Management

In addition to Core databases, examiners will search the following databases:

*American Medical Association Journals* [The American Medical Association]
*BIOSIS Previews*® [BIOSIS®]
*EMBASE*® [Elsevier Science, B.V.]
*Health & Wellness Database*SM [The Gale Group]
*Health News Daily* [F–D–C Reports, Inc.]
*HealthSTAR*® [U.S. National Library of Medicine (NLM)]
*MEDLINE*® [U.S. National Library of Medicine (NLM)]
*New England Journal of Medicine* [Massachusetts Medical Society]
*SciSearch*® [Institute for Scientific Information'' (ISI®)]
*If drugs/pharmaceuticals are involved.* * * *
*Drug News & Perspectives* [Prous Science Publishers]
*International Pharmaceutical Abstracts* [American Society of Health-System Pharmacists]
*Pharmaceutical and Healthcare Industry News Database* [PJB Publications Ltd.]
*Pharmaceutical News Index (PNI®)* [Bell & Howell Information and Learning]

4 Insurance

In addition to Core databases, examiners will search the following databases:

*American Banker Financial Publications* [American Banker-Bond Buyer]
*Insurance Periodicals Index* [NILS Publishing Company]
*The Journal of Commerce* [The Journal of Commerce, Inc.]

7 Operations Research

In addition to Core databases, examiners will search the following databases:

Inventory Monitoring Databases

13 Transportation Facility Access

In addition to Core databases, examiners will search the following databases:

*Aerospace/Defense Markets & Technology*® [The Gale Group]
*Aerospace Database* [AEROPLUS ACCESS]
*The Journal of Commerce* [The Journal of Commerce, Inc.]
*NTIS—National Technical Information Service* [National Technical Information Service, U.S. Department of Commerce]
*Transportation Research Information Services* [Transportation Research Board]

14 Advertising/Coupon Redemption/ Incentives

In addition to Core databases, examiners will search the following databases:

*Business Dateline*® [Bell & Howell Information and Learning]
*Marketing & Advertising Reference Service*® [The Gale Group]
*Newspapers:*
*The Atlanta Journal/The Atlanta Constitution*
*The Arizona Republic/The Phoenix Gazette (Phoenix)*
*The Sun* (Baltimore)
*The Boston Globe*
*Chicago Tribune*
*The Christian Science Monitor*
*Detroit Free Press*
*The Denver Post*
*Houston Chronicle*
*Independent* (London)
*The Irish Times*
*Los Angeles Times*
*The Miami Herald*
*Newsday and New York Newsday*
*The Oregonian* (Portland)
*The Plain Dealer* (Cleveland)
*The Philadelphia Inquirer*
*Rocky Mountain News* (Denver)
*San Francisco Chronicle*
*St. Louis Post-Dispatch*
*St. Petersburg Times*
*Times/Sunday Times* (London)
*USA Today*
*Washington Post Online*

26 Electronic Shopping

In addition to Core databases, examiners will search the following databases:

*Advertising/Coupon Redemption/ Incentives Databases*
*Magazine Database*™ [The Gale Group]

28 Inventory Monitoring

In addition to Core databases, examiners will search the following databases:

*EI Compendex*® [Engineering Information, Inc.]
*ISMEC: Mechanical Engineering Abstracts* [Cambridge Scientific Abstracts]
*JICST-EPlus—Japanese Science & Technology* [Japan Information Center for Science and Technology (JICST)]
*NTIS: National Technical Information Service* [National Technical Information Service, U.S. Department of Commerce]
*SciSearch*® [Institute for Scientific Information (ISI®)]
*Social SciSearch*® [Institute for Scientific Information (ISI®)]

35 Banking/Finance/Investments

In addition to Core databases, examiners will search the following databases:

*American Banker Financial Publications* [American Banker-Bond Buyer]
*Banking Information Source* [Bell & Howell Information and Learning]
*Bond Buyer Full Text* [American Banker-Bond Buyer]
*DIALOG Finance and Banking Newsletters* [The Dialog Corporation]
*EconLit* [American Economic Association]

36 Portfolio Selection

In addition to Core databases, examiners will search the following databases:

Banking/Finance/Investment Databases

37 Trading, Matching or Bidding

In addition to Core databases, examiners will search the following databases:

Banking/Finance/Investment Databases

38 Credit Processing or Loan Processing

In addition to Core databases, examiners will search the following databases:

*Banking/Finance/Investment Databases*

39 Including Funds Transfer or Credit Transaction

In addition to Core databases, examiners will search the following databases:

Banking/Finance/Investment Databases
*Knight-Ridder/Tribune Business News*™ [Knight-Ridder/Tribune Business News]

Brief descriptions are provided for the above-listed NPL and Foreign Patent databases in Appendix I attached to this document.

3. Supplemental Resources

The USPTO has access to a multitude of resources and databases containing NPL. Many of these resources include significant amounts of business-related information. The following resources are available to patent examiners and may, in accordance with their professional judgment, be searched during the examination process.

*a. Commercial Database Services.* The USPTO provides access to commercial database vendors who provide over 1,000 searchable databases. In addition to the databases included in the core list mentioned earlier, examiners can choose to search other databases

provided by these vendors when, in their professional judgment, searching additional databases is warranted.

*DataStar*—complete list of databases located at *http://ds.datastarweb.com/ds/products/datastar/ds.htm*

*Dialog*—complete list of databases located at *http://library.dialog.com/bluesheets/html/blf.html*

*Lexis-Nexis*—complete list of databases located at *http://www.lexis-nexis.com/lncc/literature/Directory/default.htm*

(At the bottom of this web page, click on the link to view the alphabetical list of their entire directory.)

*Questel-Orbit*—complete list of databases located at *http://www.questel.orbit.com/en/userdoc/docindex.htm*

(Click on ''fact sheets'')

*STN International*—complete list of databases located at *http://www.cas.org/ONLINE/DBSS/dbsslist.html*

*Westlaw*—the database directory is located at *http://directory.westlaw.com/*

*WIPO Journal of Patent Associated Literature (JOPAL)*—the database directory is located at *http://jopal.wipo.int/*

*b. Books, Technical Reports, and Conference Proceedings.* The USPTO maintains print collections of over 160,000 books, technical reports, journals, and conference proceedings that are not available electronically. Additionally, many materials are available in microformat.

*c. Journals.* The USPTO has access to over 5,000 full text journals. Many of these journals are available in electronic format. Please see the following section on ''Web-based Resources,'' which includes sources providing access to full text electronic journals. The USPTO also maintains full text CD-ROM products. Examples include *Computer Select* (1989 to date), *Advances in Cryptography* (1981–1997), and *Dr. Dobb's Journals* (1988–June 1997; newer *Dr. Dobb's Journal* issues are available via web-based resources). The remainder of the journal collection is in hard copy or microform formats.

*d. Web-based Resources.* Examiners have direct access to the web-based resources including technical books and reports, legal publications, indexes, encyclopedias, dictionaries, and databases of NPL, such as journal articles and conference proceedings. The primary strength of many of these electronic resources is that they provide quick access to full text publications, some of them with graphics. Some of these resources also allow for Boolean and proximity searching and can be searched by examiners to determine if additional relevant prior art is available.

The following web-based resources are available. Brief descriptions are provided for those most relevant to examiners in business methods areas.

*Academic Press Dictionary of Science & Technology*

*Agricola*

*American Chemical Society*

*Association for Computing Machinery* (ACM)—provides access to 95% of all ACM articles and proceedings from 1991 to the present.

*ChemConnect*

*Corporate Resource Net B* provides access to over 4,000 journals in electronic format.

*Department of Energy Information Bridge*

*DTIC STINET*

*Encyclopedia Britannica*

*Faulkner*—provides comprehensive coverage of the full spectrum of computer systems, software, networking, and telecom technologies, including trends, vendor strategies, and product solutions. Includes B2B E-Commerce Trends reports.

*Institute for Electrical and Electronics Engineers* (IEEE Xplore)—provides access to more than 500,000 IEEE/IEE articles written since 1988. All IEEE/IEE conferences, journals and standards from 1988 on are included.

*ITKnowledge*—provides full text access to more than 1,000 technical computing books.

*Matthew Bender Legal and Intellectual Property Publications*

*Medline*

*Patent, Trademark & Copyright Journal*

*Physicians Desk Reference, PDR Herbal & Stedmans Medical Dictionary*

*Proceedings of the National Academy of Sciences*

*Proquest Direct*—Proquest is organized into separate, subject-based libraries. USPTO subscribes to most of these including the Banking Library (containing 248 journal titles); the Computing library (containing 256 journal titles); the Telecommunications library (containing 92 journal titles). In all, USPTO has access to the full text and/or bibliographic records for over 5,000 journal titles through Proquest.

*Readers' Guide to Periodical Literature*

*ScienceServer*—provides access to nearly 200 scientific, technical and medical journals published by Elsevier and Academic Press.

*Wiley Encyclopedia of Electrical and Electronics Engineering*—covers core knowledge of all specialties encompassed by electrical and electronics engineering, including computer and software engineering.

*Internet Usage Policy With Above Resources*—When the Internet is used to search, browse, or retrieve information relating to a patent application, other than a reissue application or reexamination proceeding, USPTO examiners and searchers restrict search queries to the general state of the art unless the Office has established a secure link on the Internet with a specific vendor to maintain the confidentiality of the patent application. Non-secure Internet search, browse, or retrieval activities that could disclose proprietary information directed to a specific application, other than a reissue application or reexamination proceeding, are *not* permitted.

*e. Interlibrary Loan.* The USPTO maintains an interlibrary loan operation to gain access to full text documents that are not available electronically or on-site in hard copy or microform format. The interlibrary loan staff have access to local, national and international organizations and provide rapid retrieval of full text documents to examiners.

## II. Process for Providing Comments

### *A. Resource Recommendations*

The USPTO requests comments regarding the search resources employed in the examination of business method patent applications in Class 705. In order to identify additional information and materials that could be considered during the examination process, members of the public are invited to recommend databases and electronic resources that the USPTO does not currently access for searching business methods prior art.

Recommended databases must be publicly available. These databases will be evaluated based on the set of criteria published in this document. The information you provide will help us verify that the correct resource has been identified for evaluation. Please provide detailed information in support of suggested resource(s). Such information should address the following topics:

Reason for Recommendation

Please specify why you are recommending the database, focusing on the specific value of the content and search features of the particular database. For example, the database provides full text documents, or it

contains business methods information not found in other databases.

Database Identification

(a) Provide the full name of the database and other names by which the database may be identified, *e.g.* acronyms or shortened names.
(b) Provide the name, address, and phone number for the database producer.
(c) Provide the name, address, and phone number for the entity that provides access to the database.

Database Content

(a) What are the years of coverage?
(b) What is the subject matter?
(c) Does the bibliographic information include documented publication dates?
(d) Does the database include abstracts and/or full text?

Accessibility

(a) Is the database publicly available?
(b) If so, what are the operational hours?

Technical Support

What is the availability of technical support?

Continuity

What is the database policy on maintaining backfile data?

Mode of Access

How is the database available?
(a) Online.
(b) Web-based.
(c) In-house CD-ROM or other electronic media.
(1) networked.
(2) stand-alone system.

*B. Criteria for Evaluation—Searchable Databases*

Recommended databases should provide substantial added value over resources already available. Databases will be evaluated in terms of whether or not they are of sufficient value to be included as mandatory search tools or whether they should be included as supplemental resources for examiners to search, at their discretion, during the patent application examination process.

Content

The intellectual content of the database will be evaluated on:
(a) Extent of the retrospective coverage of business-related prior art.
(b) Extent of unique, difficult-to-find sources and content not available in currently used tools.
(c) Extent of bibliographic documentation in addition to the availability of searchable abstracts and/or full text.
(d) The documentation of publication dates for the information included in the database.
(e) Thoroughness of indexing.
(f) Frequency of updates.

Search Interface

Databases should have a search interface that is powerful, user-friendly, and has multiple access points. For example: Does the database provide for single-search access to the entire resource content? Does it support Boolean and proximity searching? Does it allow for truncation and nesting of terms or synonyms?

Cost

The cost of the resource will be evaluated in relation to the value of the product and the cost of other comparable products.

Accessibility and Reliability

Database providers or producers should deliver reliable access 24 hours a day, seven days a week. The database must be publicly available.

Technical Support

Technical support must be knowledgeable and reliable, and must be available, at a minimum, Monday through Friday.

Continuity

Database content must be stable and consistent. In particular, continuing availability of backfile data is critical.

Mode of Access

The database should be accessible via TCP/IP (online), the Internet, or an in-house platform (networked or stand-alone). The mode of access must meet the requirements of the USPTO's Office of the Chief Information Officer's Technical Reference Model (TRM). The TRM is available at the following url:

*http://www.uspto.gov/web/offices/ac/comp/proc/acquisitions/oamref.htm*

*C. Schedule to Evaluate Recommended Resources*

| Recommendations received by: | Will be evaluated by: |
|---|---|
| June 30, 2001 ..... | September 30, 2001. |
| September 30, 2001 | December 31, 2001. |
| December 31, 2001 .. | March 31, 2002. |
| March 31, 2002 ..... | June 30, 2002. |

**Classification Section**

It has been determined that this notice is not significant for purposes of Executive Order 12866 (September 30, 1993).

**Paperwork Reduction Act**

This notice involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Office has submitted an information collection package to OMB for its review and approval. The title, description, and respondent description for this information collection is shown below with an estimate of the annual reporting burdens. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information.

*OMB Number:* 0651–0047.
*Title:* United States Patent and Trademark Office Business Method Database Information.
*Form Number:* Not applicable.
*Type of Review:* Approved through March of 2004.
*Affected Public:* Individuals or households, business or other for-profit, not-for-profit institutions, farms, state, local or tribal governments, and the Federal Government.
*Estimated Number of Respondents:* 100.
*Estimated Time Per Response:* 1.5 hours.
*Estimated Total Annual Burden Hours:* 150 hours.
*Needs and Uses:* Input from industry and the public on the current search areas and suggestions from industry and the public on new sources of prior art is considered important to improve the examination process in the computer-implemented business method field. The public feedback will be used to evaluate suggested databases for inclusion in either mandatory or optional search areas in this field.

Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (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 to respondents.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to Robert J. Spar, Director, Office of Patent Legal Administration, United States Patent and Trademark Office, Washington, D.C. 20231, or to the Office

of Information and Regulatory Affairs of OMB, New Executive Office Building, 725 17th Street, N.W., Room 10235, Washington, D.C. 20503, Attention: Desk Officer for the Patent and Trademark Office.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

**Authority:** Sec. 4712, Pub. L. 106–113, 113 Stat. 1501A–572 (35 U.S.C. 2(b)(2)).

Dated: May 30, 2001.

**Nicholas P. Godici,**

*Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.*

## Appendix I

Brief descriptions are provided for the above listed NPL and Foreign Patent databases. The following descriptions are excerpts obtained from the Dialog Corporation's Bluesheets.

*ABI/INFORM®*—includes details on virtually every aspect of business, including company histories, competitive intelligence, and new product development. ABI/INFORM contains bibliographic citations and 25–150 word summaries of articles appearing in professional publications, academic journals, and trade magazines published worldwide.

*Aerospace/Defense Markets & Technology®* (Gale Group Aerospace/Defense Markets & Technology®)—provides full-text articles and abstracts covering all aspects of the worldwide aerospace industry. Corporations in the aerospace/defense industry rely on A/DM&T: for coverage of key industry sources for details on competitors, products and technologies to monitor government funding, budgets, and contracts to identify market opportunities in the defense and aerospace industries.

*Aerospace Database*—provides references, abstracts, and controlled-vocabulary indexing of key scientific and technical documents, as well as books, reports, and conferences, covering aerospace research and development in over 40 countries including Japan and eastern European nations. This database supports basic and applied research in aeronautics, astronautics, and space sciences, as well as technology development and applications in complementary and supporting fields such as chemistry, geosciences, physics, communications, and electronics.

*American Banker Financial Publications*—corresponds to the full text of the authoritative daily financial services newspaper, American Banker, as well as the full text of many financial newsletters published by American Banker in the areas of capital markets, bank regulation, insurance letters, and public finance letters. This collection of publications follows trends, developments, and news in banking and related financial areas.

*American Medical Association Journals*—contains the full-text articles from 11 medical journals, including the well-known JAMA, The Journal of the American Medical Association. The articles include all subject areas relating to the practice of medicine. The American Medical Association is the world's largest single publisher of scientific and medical information. This database also contains peer-reviewed clinical and investigative articles in major medical disciplines. All original articles included are full-text; the database also includes letters to the editor, editorials, book reviews, corrections, medical news and perspectives, columns, special features, and occasional sections.

*Banking Information Source*—provides essential information about the financial services industry, banking trends, topics, issues, and operations. Its uniquely comprehensive coverage of important industry sources meets the banking-related information needs of researchers in banking, finance, government, tax, insurance, economics, financial services, and business schools. It contains the full text of cited articles from many high demand sources

*BIOSIS Previews®*—contains citations from Biological Abstracts® (BA), and Biological Abstracts/Reports, Reviews, and Meetings® (BA/RRM) (formerly BioResearch Index®), the major publications of BIOSIS®. Together, these publications constitute the major English-language service providing comprehensive worldwide coverage of research in the biological and biomedical sciences.

*Bond Buyer Full Text*—corresponds to the printed publication, The Bond Buyer. The newspapers specialize in the fixed-income investment market and are considered the authoritative sources of information for the municipal bond community in the U.S. Essential daily coverage of government and Treasury securities, financial futures, corporate bonds, and mortgage securities is provided. Extensive coverage of U.S. Congressional actions, worldwide monetary and fiscal policies, and regulatory changes relating to the bond industry is included. Bond Buyer Full Text also lists planned bond issues, bond calls and redemptions, and results of bond sales.

*Business & Industry*™—this database contains information with facts, figures, and key events dealing with public and private companies, industries, markets products for all manufacturing and service industries at an international level. B&I coverage concentrates on leading trade magazines and newsletters, the general business press, regional newspapers and international business journals.

*Business Dateline*™—provides the full text of major news and feature stories from 550 regional business publications from throughout the United States and Canada. The regional perspectives reported in the business press make Business Dateline an excellent source of in-depth business information with a local point of view. Virtually every aspect of regional business activities and trends is covered in the file, with particular emphasis on economic conditions in selected cities, states, or regions, as well as mergers, acquisitions, company executives, new products, and competitive intelligence.

*Business Week*—contains the complete text of articles from the domestic and international English-language editions of the highly acclaimed McGraw-Hill weekly business news magazine, Business Week. Articles focus on companies, the economy, government regulation, industries, labor and management issues, technology, and international markets.

*Business Wire*—contains the full text of news releases issued by approximately 10,000 corporations, universities, research institutes, hospitals, and other organizations. The file primarily covers U.S. industries and organizations, although some information on international events is included.

*Computer Database*™ (Gale Group Computer Database™)—provides comprehensive information about the computer, electronics, and telecommunications industries. Coverage includes detailed information about the evaluation, purchase, use, and support of computer and other electronic products. Gale Group Computer Database is designed to answer the questions of business and computer professionals about hardware, software, networks, peripherals, and services.

*Conference Papers Index*—provides access to records of the more than 100,000 scientific and technical papers presented at over 1,000 major regional, national, and international meetings each year. Conference Papers Index provides a centralized source of information on reports of current research and development from papers presented at conferences and meetings; it provides titles of the papers as well as the names and addresses (when available) of the authors of these papers. Also included in this database are announcements of any publications issued from the meetings, in addition to available preprints, reprints, abstract booklets, and proceedings volumes, including dates of availability, costs and ordering information. Primary subject areas covered include the life sciences, chemistry, physical sciences, geosciences, and engineering.

*Derwent World Patent Index* (DWPI)—provides access to information from more than 18 million patent documents, giving details of over 9 million inventions. Each week, approximately 20,000 documents from 40 patent-issuing authorities are added to DWPI. Patent-related items from Research Disclosure and International Technology Disclosures (ceased publication June 1994) are also included.

*DIALOG Finance and Banking Newsletters*—database is a collection of full-text newsletters from primary publishers in the field of investment, finance and banking. The database contains specialized industry newsletters that provide concise information on companies, products, markets, and technologies. It also contains rulings, regulations, and other legislative activities that affect the financial community.

*Dissertation Abstracts Online*—is a definitive subject, title, and author guide to

virtually every American dissertation accepted at an accredited institution since 1861. Selected Masters theses have been included since 1962. In addition, since 1988, the database has included citations for dissertations from 50 British universities that have been collected by and filmed at The British Document Supply Centre. Beginning with DAIC Volume 49, Number 2 (Spring 1988), citations and abstracts from Section C, Worldwide Dissertations (formerly European Dissertations), have been included in the file. Abstracts are included for doctoral records from July 1980 (Dissertation Abstracts International, Volume 41, Number 1) to the present. Abstracts are included for masters theses from Spring 1988 (Masters Abstracts, Volume 26, Number 1) to the present.

*Drug News & Perspectives* (Prous Science Drug News & Perspectives)—this database allows users to quickly and easily consul the latest pharmaceutical news. The Prous Science Drug News & Perspectives database contains all articles and texts published from selected sections of the printed journal, Prous Science Drug News & Perspectives, plus unpublished records from the journal's sections: ''Line Extensions,'' ''R&D Briefs,'' and ''People on the Move.'' Unpublished records, omitted from the printed journal due to space limitations, are labeled ''unpublished'' and do not have volume, issue, or page numbers. Unpublished records may also include those in preparation for print. These records will have volume, issue and page numbers added in a later update to the database.

*EconLit*—provides indexing and abstracts of the worldwide literature on economics, currently covers more than 600 major economics journals annually. In addition, this file indexes about 600 collective volumes (essays, proceedings, etc.), 2,000 books, 900 dissertations, 2,000 working papers, and book reviews each year.

*EI Compendex*®—database is the machine-readable version of the Engineering Index (monthly/annual). It provides abstracted information from significant engineering and technological literature. The Compendex database provides worldwide coverage of approximately 4,500 journals and selected government reports and books. Subjects covered include: civil, energy, environmental, geological, and biological engineering; electrical, electronics, and control engineering; chemical, mining, metals, and fuel engineering; mechanical, automotive, nuclear, and aerospace engineering; and computers, robotics, and industrial robots.

*EMBASE*®—comprehensive index of the world's literature on human medicine and related disciplines.

*European Patents Fulltext*—covers all European patent applications and granted European patents published since the opening of the European Patent Office (EPO) in 1978. This database also contains bibliographic records for PCT (Patent Cooperation Treaty) applications transferred to the EPO.

*Financial Times Abstracts*—produced by the Business Information Services of the New York Times Electronic Media Company, contains concise, informative abstracts of articles from the U.S. Edition of the Financial Times newspaper. The Financial Times provides in-depth coverage on worldwide industries, companies, and markets.

*Globalbase*™ (Gale Group Globalbase™)—provides worldwide coverage of companies, products, and industries with a primary focus on Europe.

*Health & Wellness Database*℠ (Gale Group Health & Wellness Database℠)—is a comprehensive periodical and reference database produced by The Gale Group, providing broad coverage in the areas of health, medicine, fitness, and nutrition. Gale Group Health & Wellness Database is designed to address the needs of health and medical professionals, specialized business and industry researchers, consumers, and a wide range of people seeking a general understanding about important health issues and practices.

*Health News Daily*—contains all the daily news and text articles from the Health News Daily publication from F–D–C Reports. It provides specialized, in-depth business, scientific, regulatory and legal news. Each issue has features including news in the following columns: Product News, People, Litigation, Legislative News, Industry News, Research, Regulatory News, Financings, Reimbursement, and Public Health. A feature entitled ''Washington This Week'' lists scheduled congressional hearings, agency meetings, and industry conferences in the D.C. area. The ''Calendar'' presents notices of upcoming meetings, seminars, and conferences. The ''Legislative Roundup'' tracks recently introduced bills, committee activities, and congressional votes on health care issues.

*HealthSTAR*™—(Health Services Technology, Administration, and Research) is provided cooperatively by the U.S. National Library of Medicine and the American Hospital Association. This file incorporates all records from the former Health Abstracts, which are taken directly from the published articles, and are included for approximately 60% of the records.

*Inside Conferences*—contains details of all papers given at every congress, symposium, conference, exposition, workshop, and meeting received at the British Library Document Supply Centre (BLDSC) since October 1993.

*INSPEC*—(The Database for Physics, Electronics and Computing) corresponds to the three Science Abstracts print publications: Physics Abstracts, Electrical and Electronics Abstracts, and Computer and Control Abstracts. The Science Abstracts family of abstract journals began publication in 1898.

*Insurance Periodicals Index*—indexes and abstracts 35 of the most respected and widely read insurance industry journals and magazines, dating from January 1984 to the present.

*International Pharmaceutical Abstracts*—provides information on all phases of the development and use of drugs and on professional pharmaceutical practice. In early 1985 coverage was expanded to include pharmacy journals that deal with state regulations, salaries, guidelines, manpower studies and laws. The scope of the database includes the clinical, practical, and theoretical aspects of the literature as well as economic and scientific. A unique feature of these abstracts is the inclusion of the study design, number of patients, dosage, dosage forms, and dosage schedule.

*Internet & Personal Computing Abstracts*™ (replaced Microcomputer Abstracts®)—contains abstracts and citations to the literature on the use of computers in business, industry, education, libraries and the home. Over 90 traditional and cutting-edge publications are covered, including widely read mass-market computer publications, as well as those focusing on specific topics, such as hardware platforms, operating systems (Windows, DOS, UNIX, Macintosh, etc.), online systems, management, networks, and electronic publishing. Informative abstracts summarize software and hardware. Book reviews, feature articles, news, columns, program listings, product announcements, and buyer/vendor guides are included.

*ISMEC: Mechanical Engineering Abstracts*—(Information Service in Mechanical Engineering) indexes significant articles in all aspects of mechanical engineering, production engineering and engineering management from approximately 250 journals published throughout the world. In addition, books, reports, and conference proceedings are indexed. The primary emphasis is on comprehensive coverage of leading international journals and conferences on mechanical engineering subjects. The principal areas covered are mechanical, nuclear, electrical, electronic, civil, optical, medical, and industrial process engineering; mechanics; production processes; energy and power; transport and handling; and applications of mechanical engineering.

*JAPIO—Patent Abstracts of Japan*—provided by the Japan Patent Information Organization, represents the most comprehensive English-language access to Japanese unexamined patent applications (Kokai Tokkyo Koho) published since October 1976. All technologies are covered. Application records include both Japanese and non-Japanese priorities. Abstracts are provided only for applications originating in Japan, but are available for most records. Images of front page drawings, when available for a given patent, are also included.

*JICST-EPlus—Japanese Science & Technology*—this is a comprehensive bibliographic database covering literature published in Japan from all fields of science, technology, and medicine. The file contains both the JICST-E and the PreJICST-E files from Japan Science and Technology Corporation, Information Center for Science and Technology (JICST).

*The Journal of Commerce*—provides the complete text of all news, columns, editorials, briefs, calendar listings, and selected tables that appear in the Five-Star edition of the world's premier daily business newspaper covering international trade and transportation issues. It also includes the Six-Star news summary and West Coast/Trade page. Journal of Commerce features special individual sections which focus on ocean,

barge, air, rail, and truck transportation, international banking and finance, foreign trade, energy, insurance, chemicals and plastics, electronic communications, and commodities. The online edition also includes a summary of every major story for each day.

*Knight-Ridder/Tribune Business News™*—provides same-day, full-text business and related news from 28 Knight-Ridder publications, 4 Tribune Company newspapers, and more than 50 affiliated papers. Articles from contributing newspapers and magazines are available the morning of publication.

*Magazine Database™* (Gale Group Magazine Database™)—is a general interest database that contains indexes, abstracts, and full-text records. Gale Group Magazine Database provides current and retrospective news from more than 400 popular magazines on subjects including consumer behavior, media trends, popular culture, political opinion, leisure activities, and contemporary lifestyles. Gale Group Magazine Database also contains large collections of entertainment reviews and ratings of books, films, theater, concerts, hotels, and restaurants. This database is ideal for searchers who need background material and a variety of perspectives to supplement any business search. Gale Group Magazine Database includes indexes and abstracts for 400 publications and the full text for more than 250 magazines.

*Marketing & Advertising Reference Service®* (Gale Group Marketing & Advertising Reference Service®)—is a multi-industry advertising and marketing database with abstracts and full-text records on a wide variety of consumer products and services. Gale Group Marketing & Advertising Reference Service is widely used by consumer product and service companies to locate market size and market share information, monitor new product or service introductions, evaluate markets for existing products or services, and research the marketing and advertising strategies of competitors. Advertising agencies and public relations firms use Marketing & Advertising Reference Service to research and develop new client proposals; monitor ad campaigns, budgets, and target markets; locate information on products and services; and gain competitive intelligence on other agencies and public relations firms by tracking agency changes, new accounts, launch dates, contracts and appointments.

*The McGraw-Hill Companies Publications Online*—provides the complete text for many major McGraw-Hill publications. The database covers not only general business but also specific industries, i.e., aerospace, chemical processing, electronics, and construction. The complete text of each article is searchable and can be retrieved online in addition to being printed offline.

*MEDLINE®*—a major source of biomedical literature. MEDLINE corresponds to three print indexes: Index Medicus TM, Index to Dental Literature, and International Nursing Index. Additional materials not published in Index Medicus are included in the MEDLINE database in the areas of communication disorders, population and reproductive biology.

*Microcomputer Software Guide Online®*—database contains information on virtually every microcomputer software program and hardware system available or produced in the United States. The database contains bibliographic records for microcomputer software. Each record includes ordering information, technical specifications, subject classifications, and a brief description.

*New England Journal of Medicine*—contains full-text articles from The New England Journal of Medicine excluding meeting notices, ''Books Received,'' and advertising content. Founded in 1812, The New England Journal of Medicine (NEJM) is the oldest continuously published medical journal in the world. It maintains the largest voluntarily paid circulation of any peer-reviewed scientific journal, reaching physicians and other healthcare professionals in more than 120 countries.

*New York Times Abstracts*—contains concise, informative abstracts of articles in the final Late Edition of The New York Times newspaper, a newspaper that is respected around the world for its unparalleled coverage of international, national, business and New York regional news. The file provides abstracts of every article published in the newspaper, including the Magazine, Book Review, and all other Sunday sections.

*Newsletter Database™* (Gale Group Newsletter Database™)—contains the full text of specialized industry newsletters that provide concise information on companies, products, markets, and technologies; trade and geopolitical regions of the world; and government funding, rulings, and regulation and other legislative activities which impact the industries and regions covered. International in scope, the Newsletter Database provides searchers with important facts, figures, analysis, and current information affecting a broad range of industries and sectors. Information from newsletters contained in the Gale Group newsletter Database covers the following industries and geographic regions of the world: biotechnology, broadcasting and publishing, computers and electronics, chemicals, defense and aerospace, energy, environment, financial services, general technology, Japan, Middle East, manufacturing, medical and health, materials, packaging, research and development, telecommunications, transportation, and more.

*Newspapers*—includes the full text of all news stories, features, editorials, and wire stories. Items such as classified ads, sports, statistics, fillers, and certain minor items are excluded. (Description taken from PAPERS in the Dialog Worldwide Database Catalogue.)

*New Product Announcements/Plus (NPA/PLUS)* (Gale Group New Product Announcements/Plus)—contains the full text of press releases from all industries covering announcements related to products, with a focus on new products and services. In addition to product descriptions, press releases generally contain key details about new products and technologies, including technical specifications, availability, uses, licensing agreements, distribution channels, and prices. Company contacts and phone numbers are provided to allow follow-up by interested parties. The press releases contained in the NPA/PLUS database are obtained directly from the product manufacturer, distributor, or an authorized marketing representative.

*NTIS—National Technical Information Service*—database consists of summaries of U.S. government-sponsored research, development, and engineering, plus analyses prepared by Federal agencies, their contractors, or grantees. It is the means through which unclassified, publicly available, unlimited distribution reports are made available for sale from agencies such as NASA, DOD, DOE, HUD, DOT, Department of Commerce, and some 240 other agencies. Additionally, some state and local government agencies now contribute summaries of their reports to the database. NTIS also provides access to the results of government-sponsored research and development from countries outside the U.S. Organizations that currently contribute to the NTIS database include: the Japan Ministry of International Trade and Industry (MITI); laboratories administered by the United Kingdom Department of Industry; the German Federal Ministry of Research and Technology (BMFT); the French National Center for Scientific Research (CNRS); and many more.

*Pharmaceutical and Healthcare Industry News Database*—consists of two files; one file is the current material, updated daily, and contains the full text of all newsletter articles written in the last 25 to 30 days. The other file is an archival database, and contains the full text of indexed articles from the full range of PJB newsletters dating back to 1980. All publications follow a similar structure and contain sections on: Product & Research News, Company News, U.K. & International News, People, Meetings, and Conferences.

*Pharmaceutical News Index (PNI®)*—online source of current news about pharmaceuticals, cosmetics, medical devices, and related health fields. PNI cites and indexes all articles from the publications listed in the SOURCES section below on the following topics: drugs; corporation and industry sales, mergers and acquisitions; and government legislation, regulations, and court action. It covers requests for proposals; research grant applications; industry speeches; press releases; and other news items.

*PR Newswire*—contains the complete text of news releases prepared by U.S. companies, public relations agencies, trade associations, city, state, Federal and municipal government agencies, and other sources covering the entire spectrum of news.

*PROMT®* (Gale Group PROMT®)—is a multiple-industry database that provides broad, international coverage of companies, products, markets, and applied technologies for all industries. PROMT is comprised of abstracts and full-text records from the world's important trade and business journals, local newspapers, regional business publications, national and international business newspapers, industry newsletters, research studies, investment analysts' reports, corporate news releases, and corporate annual reports.

*San Jose Mercury News*—provides local, national, and international news coverage. Bureaus in Sacramento and Washington, DC, enable the newspaper to provide full coverage of state and Federal Government news. Particular emphasis is given to high technology and the developments in the industries of Silicon Valley, including coverage of the following companies: Hewlett-Packard, Apple Computer, Consolidated Freightways, Intel, Amdahl, Sun Microsystems, National Semiconductor, Tandem Computers, Seagate Technology, and Syntex. Bureaus in Tokyo, Mexico City, Los Angeles, and Seattle enable the San Jose Mercury News to focus on business and economic developments of the Pacific Rim. Other major areas of coverage include science, medicine, and real estate.

*SciSearch®*—is an international, multidisciplinary index to the literature of science, technology, biomedicine, and related disciplines produced by the Institute for Scientific Information'' (ISI''). SciSearch contains all of the records published in the Science Citation Index® (SCI®), plus additional records from the Current Contents® publications.

*Social SciSearch®*—database is an international, multidisciplinary index to the literature of the social, behavioral, and related sciences, produced by the Institute for Scientific Information (ISI®). Social SciSearch contains all of the records published in the Social Sciences Citation Index.

*Softbase: Reviews, Companies, and Products*—is a suite of three discrete record types: review records, product records, and company records. The three linked and inter-related record types can be used separately or together, providing an important navigation tool for researchers in the intelligent information technology industry. Detailed descriptions of products in the product record file and of companies in the company record file can be linked to each other and to independent third-party reviews and analyses abstracted from more than 200 business, computer, technical, trade, and consumer publications.

*Trade & Industry Database™* (Gale Group Trade & Industry Database™)—is a multi-industry database covering international company, industry, product, and market information, with strong coverage of such areas as management techniques, financial earnings, economic climate, product evaluations, and executive changes. Industry subfiles allow users to narrow or broaden their searches to one or more groups of industry specific publications.

*Transportation Research Information Services*—is a composite file with records that are either abstracts of published articles and reports, or summaries of ongoing or recently completed research projects relevant to the planning, development, operation, and performance of transportation systems and their components. TRIS provides international coverage of ongoing research projects, published journal articles, state and Federal Government reports, conference proceedings, research and technical papers, and monographs.

*Wall Street Journal Abstracts*—contains abstracts of all articles published in the Eastern 3-star Edition of The Wall Street Journal newspaper. The Wall Street Journal is a daily newspaper valued worldwide for its coverage of business, finance, and economics.

*Wilson Applied Science & Technology Abstracts*—provides comprehensive abstracting and indexing of more than 400 core English-language scientific and technical publications. Non-English-language periodicals are indexed if English abstracts are provided. Periodical coverage includes trade and industrial publications, journals issued by professional and technical societies, and specialized subject periodicals, as well as special issues such as buyers' guides, directories, and conference proceedings. Wilson Applied Science & Technology Abstracts covers a wide range of interdisciplinary fields through a broad array of science and technology journals. Detailed abstracts of 50 to 150 words describe the content and scope of the source articles. Materials indexed include feature articles, interviews, obituaries, biographies, speeches, and product evaluations.

*WIPO/PCT Patents Full-Text*—covers the full text of PCT (Patent Cooperation Treaty) published applications issued under the auspices of the World Intellectual Property Organization (WIPO) since 1983. At present, 171 member states participate in the PCT system. A single PCT application can be designated as valid in any or all of the member states, so it is essentially equivalent to having filed with each designated national and regional patent office.

*World Reporter*—is a comprehensive, global news source, developed jointly by three of the world's leading information companies: The Dialog Corporation, Financial Times Information, and Dow Jones & Company. World Reporter covers the leading newspapers, business magazines, and newswires from all regions of the world, including emerging markets.

[FR Doc. 01–14092 Filed 6–4–01; 8:45 am]

BILLING CODE 3510–16–P

## COMMISSION OF FINE ARTS

### Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for June 21, 2001 at 10:00 a.m., in the Commission's offices at the National Building Museum, Suite 312, Judiciary Square, 441 F Street, NW, Washington, DC, 20001–2728. Items of discussion affecting the appearance of Washington, DC, may include buildings, parks and memorials.

Draft agendas are available to the public one week prior to the meeting. Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated: in Washington, DC, May 30, 2001.

**Charles H. Atherton,**

*Secretary.*

[FR Doc. 01–14115 Filed 6–4–01; 8:45 am]

BILLING CODE 6330–01–M

## DEFENSE NUCLEAR FACILITIES SAFETY BOARD

### FOIA Fee Schedule Update

**AGENCY:** Defense Nuclear Facilities Safety Board.

**ACTION:** Notice.

**SUMMARY:** The Defense Nuclear Facilities Safety Board is publishing its annual update to the Freedom of Information Act (FOIA) Fee Schedule pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations.

**EFFECTIVE DATE:** June 1, 2001.

**FOR FURTHER INFORMATION CONTACT:** Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901, (202) 694–7060.

**SUPPLEMENTARY INFORMATION:** The FOIA requires each Federal agency covered by the Act to specify a schedule of fees applicable to processing of requests for agency records. 5 U.S.C. 552(a)(4)(i). On March 15, 1991, the Board published for comment in the **Federal Register** its proposed FOIA Fee Schedule. 56 FR 11114. No comments were received in response to that notice and the Board issued a final Fee Schedule on May 6, 1991.

Pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations, the Board's General Manager will update the FOIA Fee Schedule once every 12 months. Previous Fee Schedule updates were published in the **Federal Register** and went into effect, most recently, on June 6, 2000, 65 FR 35810.

### Board Action

Accordingly, the Board issues the following schedule of updated fees for services performed in response to FOIA requests:

**Defense Nuclear Facilities Safety Board Schedule of Fees for FOIA Services**

*(Implementing 10 CFR 1703.107(b)(6))*

Search or Review Charge: $55.00 per hour

Copy Charge (paper): $.04 per page, if done in-house, or generally available commercial rate (approximately $.10 per page)

Copy Charge (3.5″ diskette): $5.00 per diskette
Copy Charge (audio cassette): $3.00 per cassette
Duplication of Video: $25.00 for each individual videotape; $16.50 for each additional individual videotape
Copy Charge for large documents (e.g., maps, diagrams): Actual commercial rates

Dated: May 31, 2001.

**Kenneth M. Pusateri,**

*General Manager.*

[FR Doc. 01–14009 Filed 6–4–01; 8:45 am]

BILLING CODE 3670–01–P

## DEPARTMENT OF EDUCATION

## Federal Student Financial Assistance Programs under Title IV of the Higher Education Act of 1965, as Amended

**AGENCY:** Department of Education.

**ACTION:** Notice inviting proposals for participation in experimental sites.

**SUMMARY:** The Secretary of Education invites institutions of higher education to propose new ways of administering the student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended (HEA). Under section 487A(b) of the HEA, if the Secretary approves an institution as an experimental site as a part of this student aid reform initiative, the institution may receive waivers from specific Title IV statutory or regulatory requirements that would bias experimental results. The Secretary cannot waive provisions in the areas of need analysis, award rules, and grant and loan maximum award amounts. However, the Secretary anticipates approving experiments in a wide variety of other areas.

*Instructions for Submitting a Proposal:* Elements to be included in the proposal are described in this notice. Proposals should be submitted electronically by electronic mail or in hard copy to the address below. All proposals should clearly designate a contact person, and the telephone number and the e-mail address of the contact person.

**DATES:** Proposals may be submitted in response to this notice at any time after June 4, 2001.

**ADDRESSES:** Barbara A. Mroz, U.S. Department of Education, 400 Maryland Avenue, SW (Room 3925, ROB–3), Washington, DC, 20202–5232.

**FOR FURTHER INFORMATION CONTACT:** Jacqulyn S. Bannister, U.S. Department of Education, 400 Maryland Avenue, SW (Room 3925, ROB–3), Washington, DC, 20202–5232, telephone: (202) 708–7438 or via internet: Jackie.Bannister@ed.gov.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–888–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the Alternate Format Center at (202) 260–9895.

**SUPPLEMENTARY INFORMATION:**

### Background

Over the past few years, the Department of Education has undertaken a series of initiatives to simplify regulations and administrative processes for the student financial assistance programs. The Experimental Sites Initiative, authorized by section 487A(b) of the HEA, is one such initiative. Through this initiative, the Secretary seeks to improve service to students and free institutions of higher education from administrative burdens by testing new ways to administer certain SFA statutory and regulatory requirements.

Initially, Congress gave the Department authority under section 487A(d) of the HEA of 1992 to treat select institutions as experimental sites. The first group of experiments became effective July 1, 1996. During the coming months, the Secretary will continue this initiative to give institutions of higher education flexibility to test different procedures to carry out the intent of certain SFA statutory and regulatory requirements. Thus, with this notice, the Secretary invites proposals to reinvent the administration of student financial assistance programs authorized by section 487A(b), *Regulatory Improvement and Streamlining Experiments.* One purpose of this initiative, as well as the Department's continuing dialogue with the higher education community, is to help the Secretary develop a set of proposals for amendments to the law or regulations pertaining to the administration of student financial aid programs.

The invitation for proposals in this notice is a part of the Secretary's continuing effort to reform Title IV program administration in partnership with the higher education community. The community has given the Department the benefit of its views in a variety of ways over the last several years. The community's views have been integrated in the reforms that the Department has undertaken to date. For example, in the Higher Education Amendments of 1998, two of the areas of experimentation—Thirty Day Delay for First Time First Year Borrowers and Multiple Disbursement for Single Term Loans—were included in reauthorization for a broader group of institutions. Institutions with default rates at or below 10% are eligible for the exemption from these requirements to withhold funds for thirty days for first time, first year borrowers and/or making multiple disbursements for single term loans. In addition, the Department has expanded the Federal Work Study (FWS) payment provisions and the means for certification of FWS time records. It is the Secretary's hope that in the proposals invited by this notice, the community will again address important issues of program administration that remain to be resolved.

### Invitation for Proposals

The Secretary invites institutions of higher education that administer one or more Title IV programs to submit one or more proposals to participate as experimental sites under section 487A(b) of the HEA. This section authorizes the Secretary to select institutions for voluntary participation in experiments to test new ways of administering the student financial assistance programs. The Secretary is further authorized to exempt a participating institution from many Title IV statutory or regulatory requirements while conducting the experiment, except areas prohibited in section 487A(b)(3)(C).

The Secretary establishes no regulatory requirements for the proposals invited by this notice. It is the Secretary's hope that this approach will encourage institutions to develop truly innovative strategies that relieve unnecessary burden, maintain program accountability, and provide the Department with data to improve Title IV program administration. The Secretary will consider the outcome of these experimental strategies when making changes in Title IV program regulations or, if appropriate, legislative proposals.

### Statutory and Regulatory Provisions That May Not Be Waived

The Secretary may waive any statute or regulatory requirement except those requirements relating to needs analysis, award rules, and grant and loan maximum award amounts. Section 487A(b)(3)(C).

### Submission of Proposals

An institution that administers a Title IV program, or a group of these

institutions (consortium), may submit a proposal in response to this notice at any time by mailing (including electronic mail) or faxing the proposal to Barbara A. Mroz or Jacqulyn Bannister at 202/708–9485. Each proposal to participate in this initiative should include: the name, address, and web site address, if any, of the institution, or members of the consortium seeking to participate, the OPE Identification number, and the name, title, mailing and e-mail addresses, and telephone number of a contact person for the institution, or consortium.

The Secretary emphasizes that the Department seeks to approve proposals for innovative approaches in a variety of different areas relating to the administration of student financial assistance programs. The Secretary also encourages institutions to collaborate in the development of proposals and to submit proposals as a group of institutions (consortium).

To aid in the Department's review of proposals, the Secretary suggests the proposal answer the following questions in detail:

- What problem experienced by the institution or its students, or both, does the proposal address?
- What is the institution's hypothesis?
- What is the institution's experimental design/proposed solution to that problem?
- From which specific statutory or regulatory requirements does the institution seek relief in order to test its proposed solution?
- What alternative actions does the institution propose to achieve the underlying purpose of the requirements from which relief is sought and how will it measure outcomes?
- How will the institution evaluate its success?
- For what period is the experiment proposed?

Cited below are the areas of experimentation previously approved and currently being conducted. The higher education community selected the problems addressed by these experiments because they have been the subject of considerable commentary. In other words, the participants identified most of the provisions being modified through these experiments as common problems. A few of the experiments were specifically proposed to address a particular problem or a particular population. In either case, participating institutions have identified solutions that they believe will better address the needs of their student population while maintaining the fundamental legislative intent. A report on this initiative, including a description of each experiment, can be found on SFA's Information for Financial Aid Professionals (IFAP) site at: http://www.ifap.ed.gov.

**Current Areas of Experimentation**

1. Overaward Tolerance.
2. Entrance Loan Counseling.
3. Exit Loan Counseling.
4. Multiple Disbursement for Single Term Loans.
5. Thirty-Day Delay for First Time, First Year Borrowers.
6. Loan Fees in Cost of Attendance.
7. Loan Proration for Graduating Borrowers.
8. Credit Title IV Aid to Institutional Charges.
9. Credit Title IV Aid to Prior Term Charges.
10. Academic Term (Definition).
11. Federal Work Study Time Records.
12. Federal Work Study Payment to Students.
13. Ability to Benefit.

With this notice, the Secretary encourages proposals for new experiments, in areas other than those listed above. In addition, the Secretary may develop area(s) of experimentation or modify current experiments and invite participation to test the impact requirements have on different types of institutions and/or populations served.

**Selection of Participants**

In selecting participants to test alternative approaches, the Secretary may consider the—

1. Department of Education's capacity to oversee and monitor participation in this initiative.
2. Institution's financial responsibility, administrative capability, program review findings, audits, etc. as outlined in the regulations and in the Student Financial Aid Handbook: Institutional Eligibility and Participation section.
3. Necessity of including a diverse group of participating institutions vis-a-vis size, mission, and geographic distribution.

As part of the selection process, the Department will screen the prospective participants to ensure eligibility. A review of the Department's files on the institution will be conducted to determine if the institution meets eligibility requirements and has a demonstrated record of program compliance.

**Review Process**

The Secretary is prepared to review proposals as soon as they are received. However, early submission (at least sixty days from the date of this notice) is encouraged for consideration of proposals for the 2001–2002 award year.

The Secretary will review each proposal submitted in response to this notice. In reviewing proposals, the Secretary will be guided by the statutory purpose of section 487A(b), namely, to inform future policy choices relating to the administration of Title IV programs. The Secretary may approve a proposal as submitted, reject it, or, if a proposal is not fully approvable but has merit, work with the institution to refine it. However, consultation with Congress is a precondition to granting waivers. After a proposal is approved, the participating institution's Title IV Program Participation Agreement (PPA) will be amended to reflect the terms of the experiment, including the obligations undertaken by the institution, the requirements from which the institution is relieved, the length of the experiment, and the right of either the institution or the Department to terminate the experiment.

Generally, approved experiments will be conducted for five years. The Secretary may extend this period if continuation is in the interest of the Title IV programs and additional experimental data is needed. On the other hand, the Secretary may terminate any experiment if the experiment is no longer providing useful data or is otherwise no longer serving the interest of the Title IV programs.

**Reporting Requirements**

Participating institutions will report annually (a specified date following each academic year the experiment is in effect) to the Department on the results of their experiment(s) using performance measures agreed upon by the institution and the Secretary. Institutions should gather both qualitative and quantitative information from their participation and include it in the annual report. The qualitative information should describe improved service to students, and reduced institutional burden and costs. The Department also notes that quantitative measures are essential for reaching informed decisions relative to change. Thus, the Secretary will work with the participating institution(s) to develop a standard report format designed to capture data based information to evaluate the experiment.

**Note:** The Secretary's decision on institutional proposals will be final. There is no formal appeal process.

**Electronic Access to This Document**

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (PDF) on the World Wide Web at the following site: www.ed.gov/legislation/FedRegister.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

**Note:** The official version of this document is the document 1 published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

**Program Authority:** 20 U.S.C. 1094a.

Dated: May 31, 2001.

**Greg Woods,**

*Chief Operating Officer, Student Financial Assistance.*

[FR Doc. 01–14059 Filed 6–4–01; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER01–1619–000]**

## Duke Energy Mohave, LLC; Notice of Issuance of Order

May 30, 2001.

On March 23, 2001, Duke Energy Mohave, LLC (Duke Mohave) filed an application seeking authority to sell firm and non-firm energy, capacity, and ancillary services at market-based rates and to reassign transmission capacity under the terms of its proposed FERC Electric Tariff No. 1. Duke Mohave also sought certain blanket approvals and waivers of the Commission's regulations. In particular, Duke Mohave requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liabilities by Duke Mohave. On May 18, 2001, the Commission issued an Order Conditionally Accepting For Filing Market-Based Rate Tariff (Order), in the above-docketed proceeding.

The Commission's May 18, 2001 Order granted the request for blanket approval under Part 34, subject to conditions found in Ordering Paragraphs (D), (E), and (G).

(D) Within 30 days of the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Duke Mohave 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.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, Duke Mohave is hereby authorized to issue securities and assume obligations or liabilities as guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Duke Mohave, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither the public nor private interests will be adversely affected by continued Commission approval of Duke Mohave's issuances of securities or assumptions of liabilities.

* * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 18, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). 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. 01–14063 Filed 6–4–01; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EG01–218–000–000, et al.]**

## Biomasse Italia S.p.A., et al.; Electric Rate and Corporate Regulation Filings

May 29, 2001.

Take notice that the following filings have been made with the Commission:

### 1. Biomasse Italia S.p.A.

[Docket No. EG01–218–000]

Take notice that on May 23, 2001, Biomasse Italia S.p.A. (Biomasse Italia) with its principal office at Corso d'Italia 19, Rome 00198, Italy 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.

Biomasse Italia is a company organized under the laws of Italy. Biomasse Italia will be engaged, directly or indirectly through an affiliate as defined in Section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935, exclusively in owning, or both owning and operating an electric generating facility consisting of a 20 MW Power Plant in Crotone, Italy; selling electric energy at wholesale and engaging in project development activities with respect thereto.

*Comment date:* June 19, 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. Rail Energy of Montana, LLC

[Docket No. ER01–1557–001]

Take notice that on May 23, 2001, Rail Energy of Montana (REM), a Montana limited liability company, tendered for filing to accept an amendment to its petition for acceptance of Rail Energy of Montana Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; waiver of certain Commission regulations; and waiver of notice requirement.

REM intends to engage in wholesale electric energy and capacity sales. REM is owned by Commercial Energy of Montana and Montana Rail Link.

*Comment date:* June 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 3. Florida Keys Electric Cooperative Association, Inc.

[Docket No. ER01–1590–001]

Take notice that on May 23, 2001, Florida Keys Electric Cooperative Association, Inc. (FKEC) tendered for filing a compliance filing consisting of FKEC's First Revised FERC Rate Schedule No. 1 containing a new non-firm transmission rate applicable to the City Electric System, Key West, Florida for the period April 1, 2001 through March 31, 2002. This non-firm transmission rate was approved by the Commission effective April 1, 2001 conditioned on this compliance filing

designating such agreement under Order No. 614.

*Comment date:* June 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**4. Neptune Regional Transmission System LLC**

[Docket No. ER01–2099–000]

Take notice that on May 23, 2001, Neptune Regional Transmission System LLC (Neptune) tendered for filing its FERC Electric Tariff Original Volume No. 1 in the above-referenced proceeding. This Tariff is intended to provide for the open access transmission of power at rates established pursuant to negotiations and open seasons, in accordance with procedures detailed in the Tariff. Neptune states that it believes that it can place the initial New Jersey to Long Island and New York capacity into service by the summer of 2003 if it receives its approvals in time.

Neptune therefore requests that the Commission issue its approval no later than August 1, 2001 so that the initial open season can commence on September 10, 2001.

*Comment date:* June 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**5. Delano Energy Company, Inc.**

[Docket No. ER01–2100–000]

Take notice that on May 23, 2001, Delano Energy Company, Inc. (Delano) tendered for filing amendments to Delano's electric rate schedule No. 1 to reflect its pending affiliation with AES Corp. and its franchised public utility subsidiaries. Delano requests waiver of any notice requirements to the extent required.

*Comment date:* June 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**6. PJM Interconnection, L.L.C.**

[Docket No. ER01–2101–000]

Take notice that on May 23, 2001, PJM Interconnection, L.L.C. (PJM), tendered for filing (i) an executed agreement for firm point-to-point transmission service with Calpine Energy Services, L.P. (Calpine); and (ii) an executed agreement for non-firm point-to-point transmission service with Calpine.

Copies of this filing were served upon Calpine and the state commissions within the PJM control area.

*Comment date:* June 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**7. Progress Energy, Inc., Carolina Power & Light Company**

[Docket No. ER01–2102–000]

Take notice that on May 23, 2001, Carolina Power & Light Company (CP&L) tendered for filing Service Agreements for Short-Term Firm and Non-Firm Point-to-Point Transmission Service with Axia Energy, LP. Service to this Eligible Customer will be in accordance with the terms and conditions of the Open Access Transmission Tariff filed on behalf of CP&L.

CP&L is requesting an effective date of May 10, 2001 for the Service Agreements.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

*Comment date:* June 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**8. Enron Power Marketing, Inc.**

[Docket No. ER01–2103–000]

Take notice that on May 22, 2001, Enron Power Marketing, Inc. (EPMI), tendered for filing a Fourth Revised Rate Schedule FERC No. 1. The proposed revisions will permit EPMI to make purchases from and sales to EPMI's affiliate, Portland General Company, through the EnronOnline trading platform.

EPMI requests waiver of the 60 day prior notice period and a July 1, 2001 effective date.

*Comment date:* June 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

**9. PJM Interconnection, L.L.C.**

[Docket No. ER01–2105–000]

Take notice that on May 23, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing an amendment to section 1.49 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement). The proposed amendment clarifies the definition of the term Weighted Interest.

Copies of this filing were served upon all PJM members, and each state electric utility regulatory commission within the PJM control area.

*Comment date:* June 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**10. Entergy Services, Inc.**

[Docket No. ER01–2107–000]

Take notice that on May 22, 2001, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., tendered for filing six copies of the Power and Energy Service Agreement, Firm Power and Energy Service Agreement, and Peaking Power and Energy Service Agreement between Entergy Services and the Municipal Energy Agency of Mississippi.

*Comment date:* June 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

**11. ISO New England Inc.**

[Docket No. ER01–2115–000]

Take notice that on May 22, 2001, the New England Power Pool (NEPOOL) tendered for an informational filing concerning proposed changes to the NEPOOL arrangements that would adopt for New England a standard market design (SMD) for a congestion management system (CMS) and multi-settlement system (MSS) with a request that the Commission issue an order by July 31, 2001 approving the expeditious development of SMD to replace those provisions of the Commission-ordered CMS/MSS for New England that would be changed by SMD. The SMD would be modeled largely after the market design of PJM Interconnection, L.L.C.

The NEPOOL Participants Committee states that copies of these materials were sent to all persons on the services list in these proceedings, the NEPOOL Participants and the New England state governors and regulatory commissions.

*Comment date:* June 12, 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. 01–14065 Filed 6–4–01; 8:45 am]

BILLING CODE 6717–01–P

## FEDERAL ENERGY REGULATORY COMMISSION

**[Docket No. ER01–2104–000, *et al.*]**

## Maclaren Energy, Inc., *et al.*; Electric Rate and Corporate Regulation Filings

May 30, 2001.

Take notice that the following filings have been made with the Commission:

### 1. Maclaren Energy, Inc.

[Docket No. ER01–2104–000]

Take notice that on May 24, 2001, Maclaren Energy, Inc. tendered for filing, pursuant to section 205 of the Federal Power Act, and Part 35 of the Commission's regulations, a Petition for authorization to make sales of electric capacity and energy, including certain ancillary services, at market-based rates and for related waivers and blanket authorizations.

*Comment date:* June 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 2. Allegheny Energy Supply Conemaugh, LLC and Allegheny Energy Supply Company, LLC

[Docket No. EC01–104–000]

Take notice that on May 23, 2001, Allegheny Energy Supply Conemaugh, LLC (Conemaugh) and Allegheny Energy Supply Company, LLC (AE Supply), 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 Conemaugh will become a direct subsidiary of AE Supply, its affiliate.

*Comment date:* June 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 3. Puget Sound Energy, Inc.

[Docket No. ER01–2108–000]

Take notice that on May 24, 2001, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a service agreement for Firm Point-To-Point Transmission Service and a service agreement for Non-Firm Point-To-Point Transmission Service with State of Nevada, Colorado River Commission (Nevada), as Transmission Customer. A copy of the filing was served upon Nevada.

*Comment date:* June 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 4. South Carolina Electric & Gas Company

[Docket No. ER01–2109–000]

Take notice that on May 24, 2001, South Carolina Electric & Gas Company (SCE&G) tendered for filing a service agreement establishing Florida Power Corporation as a customer under the terms of SCE&G's Negotiated Market Sales Tariff. SCE&G requests an effective date of one day subsequent to the date of filing.

Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon Florida Power Corporation and the South Carolina Public Service Commission.

*Comment date:* June 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 5. South Carolina Electric & Gas Company

[Docket No. ER01–2110–000]

Take notice that on May 24, 2001, South Carolina Electric & Gas Company (SCE&G) tendered for filing a service agreement establishing Mirant Americas Energy Marketing, LP as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the date of filing. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon Mirant Americas Energy Marketing, LP and the South Carolina Public Service Commission.

*Comment date:* June 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 6. Allegheny Energy Service Corporation, on behalf of Allegheny Energy Supply Company, LLC (AE Supply)

[Docket No. ER01–2111–000]

Take notice that on May 24, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (AE Supply), tendered for filing First Revised Rate Schedule FERC No. 4 (First Revised Schedule) with West Penn Power Company dba Allegheny Power in order for Allegheny Power to continue to supply Provider of Last Resort Service to its Pennsylvania customers. AE Supply has requested a waiver of notice to make the First Revised Schedule effective on January 1, 2001.

Copies of the filing have been provided to the customer and to the Pennsylvania Public Utility Commission.

*Comment date:* June 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 7. Mountainview Power Company

[Docket No. ER01–2112–000]

Take notice that on May 24, 2001, Mountainview Power Company (Mountainview) tendered for filing amendments to Mountainview's electric rate schedule No. 1 to reflect its pending affiliation with AES Corp. and its franchised public utility subsidiaries. Mountainview requests waiver of any notice requirements to the extent required.

*Comment date:* June 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 8. Boston Edison Company

[Docket No. ER99–35–003]

Take notice that on April 26, 2001, Boston Edison Company tendered for filing its First Revised Rate Schedule FERC No. 169 in compliance with the Commission's order issued March 27, 2001 in this proceeding.

*Comment date:* June 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 9. New York State Electric & Gas Corporation

[Docket No. ER01–2113–000]

Take notice that on May 24, 2001 New York State Electric & Gas Corporation (NYSEG) tendered for filing pursuant to section 205 of the Federal Power Act and section 35 of the Federal Energy Regulatory Commission's (FERC or Commission) Regulations, a May 21, 2001 Facilities Agreement with Otsego Electric Cooperative, Inc. (Otsego). This Agreement provides for NYSEG to install a tap of its transmission system in order to provide increased reliability to Otsego. Additionally, Otsego will pay NYSEG's annual charges for routine operation, maintenance, general expenses, and taxes (O&M).

This rate filing is made pursuant to Paragraph 5.1 of the Facilities Agreement. The annual charges for routine operation and maintenance and general expenses, as well as revenue and property taxes are based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve month period ending December 31, 1999. The facilities charge is levied on the cost of the tap facility constructed and owned by NYSEG to

connect its 46 kV transmission lines to Otsego's transmission system.

NYSEG requests an effective date of June 24, 2001 and therefore asks for waiver of the Commission's sixty (60) day notice requirement.

Copies of the filing were served upon the Chief Executive Officer, Otsego Electric Cooperative, Inc. And the New York State Public Service Commission.

*Comment date:* June 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

**10. Southern Company Services, Inc.**

[Docket No. ER01–2114–000]

Take notice that on May 24, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Company), tendered for filing two (2) umbrella agreements for short-term firm point-to-point transmission service between Southern Company and Tenaska Power Services Company and Calpine Energy Services, L.P. under the Open Access Transmission Tariff of Southern Company (FERC Electric Tariff, Fourth Revised Volume No. 5).

*Comment date:* June 14, 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. 01–14062 Filed 6–4–01; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 1962–000 California]**

## Pacific Gas and Electric Company; Notice of Availability of Final Environmental Assessment

May 30, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 F.R. 47897), the Office of Energy Projects has reviewed the application for license for the Rock Creek-Cresta Hydroelectric Project, located on the North Fork Feather River in Butte and Plumas Counties, California, and has prepared a Final environmental Assessment (FEA) for the project. About 228 acres of the project occupy federal lands, managed by the U.S. Forest Service as part of the Plumas National Forest.

The FEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the FEA are available for review at the Commission's Public Reference Room, located at 888 First Street, NE., Washington, DC 20426, or by calling (202) 208–1371. The FEA may be viewed on the web at http://www.ferc.fed.us/online/rims htm (call (202) 208–2222 for assistance).

For further information, contact Dianne Rodman at (202) 219–2830.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–14014 Filed 6–4–01; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP01–360–000]**

## Tennessee Gas Pipeline Company; Notice of Intent to Prepare an Environmental Assessment for the Proposed Dracut Expansion Project and Request for Comments on Environmental Issues

May 30, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Dracut Expansion Project involving construction and operation of facilities by Tennessee Gas Pipeline Company (Tennessee) in Middlesex County, Massachusetts.[1] Tennessee proposes to replace approximately 11.9 miles of 16-inch-diameter pipeline with approximately 11.5 miles of 24-inch-diameter replacement pipeline and 0.4 mile of 16-inch-diameter replacement pipeline, and construct appurtentant facilities. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the presence of an existing pipeline easement. The majority of the existing pipeline has an associated 30-foot-wide permanent right-of-way and the majority of the new pipeline would not require an expansion of permanent right-of-way. However, in several areas where deviations may be necessary, such as major roadway crossings or where removal would create additional environmental impacts, the existing pipeline would be abandoned in-place.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Tennessee provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (*www.ferc.gov.*)

[1] Tennessee's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

**Summary of the Proposed Project**

Tennessee wants to uprate its existing pipeline system for the transportation of additional volumes of natural gas within the towns of Burlington, Billerica, Tweksbury, and Dracut, Massachusetts. Specifically, Tennessee seeks authority to:

- Replace approximately 11.5 miles of 16-inch-diameter pipeline with a 24-inch-diameter pipeline in Middlesex County, Massachusetts;
- Replace approximately 0.4 mile of 16-inch-diameter pipeline with a new 16-inch-diameter pipeline in Middlesex County, Massachusetts;
- Modify the existing Bedford Street Regulation Station in Burlington, Massachusetts; and
- Construct a new regulation station and pig launcher and receiver facilities in Tewksbury, Massachusetts.

The location of the project facilities is shown in appendix 1.[2]

**Land Requirements for Construction**

Construction of the proposed facilities would require about 93.8 acres of land. The typical construction right-of-way would consist of the 30-foot-wide permanent right-of-way and between 25 and 60 feet of temporary workspace, but in certain areas, may be limited to the permanent 30-foot easement.

**The EA Process**

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands
- Vegetation and wildlife
- Endangered and threatened species
- Public safety
- Land use
- Cultural resources
- Air quality and noise
- Hazardous waste

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.'

**Currently Identified Environmental Issues**

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Tennessee. This preliminary list of issues may be changed based on your comments and our analysis.

- The project would cross a total of 26 streams and 38 wetlands.
- Two federally listed endangered or threatened species and two state-protected species may occur in the project area.
- A total of 130 residences are located within 50 feet of the construction work area, of which 108 are within 25 feet of the construction area.

**Public Participation**

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations or routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas/Hydro.
- Reference Docket No. CP01–360–000.
- Mail your comments so that they will be received in Washington, DC on or before July 2, 2001.

Comments, protests and interventions may also 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.gov* under the link to the User's Guide. Before you can file comments you will need to create an account by clicking on ''Login to File'' and then ''New User Account.''

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

**Becoming an Intervenor**

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).[4] Only

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.gov) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–14010 Filed 6–4–01; 8:45 am]

**BILLING CODE 6717–01–M**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application to Amend License and Soliciting Comments, Motions To Intervene, and Protests

May 30, 2001

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a: *Application Type:* Amendment to License.

b: *Project No.:* 2545–071.

c: *Date Filed:* May 29, 2001.

d: *Applicant:* Avista Corporation.

e: *Name of Project:* Spokane River Project; Monore Street dam.

f: *Location:* The Spokane River Project is on the Spokane River in Spokane, Stevens, and Lincoln Counties, Washington and Kootenai County, Idaho. The project occupies the following tribal lands: Spokane Tribe and Coeur d'Alene Indian Reservation.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h: *Applicant Contact:* Steven A. Fry, Avista Corporation, P.O. Box 3727, Spokane, WA 99220–3727; (509) 495–4084.

i. *FERC Contact:* Steve Hocking at (202) 219–2656 or e-mail address: *steve.hocking@ferc.fed.us.* Please note the Commission cannot accept comments, terms and conditions, motions to intervene or protests sent by e-mail; these documents must be filed as described below.

j. *Deadline for filing comments, terms and conditions, motions to intervene, and protests:* June 19, 2001.

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 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.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Application:* Article 30 of the existing license requires Avista Corporation to spill at least 200 cubic feet per second (cfs) of water over the Monroe Street dam every day during viewing hours (10:00 am to one-half hour after sunset) for aesthetic purposes. Avista Corporation requests a temporary waiver of article 30 so it does not have to spill 200 cfs from June 30 through November 15, 2001.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room 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 http://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 (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

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.

Any filings must bear in all capital letters the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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. 01–14011 Filed 6–4–01; 8:45 am]

**BILLING CODE 6717–01–M**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

May 30, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11977–000.

c. *Date filed:* April 19, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name and Location of Project:* The Wister Dam Project would be located on the Poteau River in Le Flore County, Oklahoma. The project would be partially located on federal lands administered by the U.S. Army Corps of Engineers.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, fax (208) 745–7909.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Motions to intervene, protests, and comments 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–11977–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would use the existing Wister Dam which has a reservoir surface area of 6,745 acres and a storage capacity of 6,745 acre-feet at a normal elevation of 475 feet and include: (1) A proposed powerhouse with a total installed capacity of 4 megawatts; (2) a proposed 200-foot-long, 20-foot-diameter penstock; (3) a proposed 2-mile-long, 15 kv transmission line; and (4) appurtenant facilities. The project would operate in a run-of-river mode and would have an average annual generation of 11.6 GWh.

k. 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 http://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. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *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 protects 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.

q. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', 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. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *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. 01–14012 Filed 6–4–01; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

May 30, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.* 11958–000.

c. *Date filed:* April 16, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name and Location of Project:* The Lower Sunshine Dam Project would be

located on Sunshine Creek in Park County, Wyoming. Part of the project would be on lands administered by Greybull Valley Irrigation District.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, fax (208) 745–7909.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Motions to intervene, protests, and comments 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–11958–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issuer that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would use the existing Greybull Valley Irrigation's District's Lower Sunshine Reservior which has a storage capacity of 58,750 acre-feet and would consist of: (1) A proposed powerhouse with a total installed capacity of 5 megawatts; (2) a proposed 200-foot-long, 10-foot-diameter penstock; (3) a proposed 9-mile-long, 15 kv transmission line; and (4) appurtenant facilities. The project would have an average annual generation of 9.75 GWh.

k. 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 http://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. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *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.

q. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', 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. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *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. 01–14013 Filed 6–04–01; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

May 31, 2001.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. *Application Type:* Temporary Amendment of License.

b. *Project No.:* 8361–034.

c. *Date Filed:* May 18, 2001.

d. *Applicant:* Olsen Power Partners.

e. *Name of Project:* Olsen Water Power Project.

f. *Location:* The Olsen Water Power Project is located on Old Cow Creek in Shasta County, California. The project occupies lands of the United States administered by the U.S. Bureau of Reclamation.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Arthur Hagood, Synergics Energy Services, 191 Main Street, Annapolis, MD 21401; (410) 268–8820.

i. *FERC Contact:* Questions about this notice can be answered by Thomas Lo Vullo at (202) 219–1168 or e-mail address: thomas.lovullo@ferc.fed.us. The Commission cannot accept comments, recommendations, motions to intervene or protests sent by e-mail. These documents must be filed as described below.

j. *Deadline for filing comments, terms and conditions, motions to intervene, and protests:* 14 days from the issuance date of 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 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.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* Olsen Power Partners request a temporary amendment of license article 402 which states, in part, that the licensee shall discharge from the Olsen Project diversion structure, a continuous minimum flow of 30 cubic feet per second (cfs), as measured at the point of diversion, or inflow to the project, whichever is less, for the protection of fish and wildlife resources in Old Cow Creek. The licensee proposed to reduce the minimum flow to 16 cfs for a 180 day period from March 1, 2001. Olsen Power Partners stated that studies would be conducted on the effect of the flow and presented at the end of the 180 day period.

l. *Location of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room 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 http://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 (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *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 tot he proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *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. 01–14064 Filed 6–4–01; 8:45 am]

BILLING CODE 6717–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6991–4]**

## Draft Great Lakes Strategy of the Great Lakes Water Quality Agreement

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of availability, public meetings and the opportunity to comment.

**SUMMARY:** Pursuant to the Great Lakes Water Quality Agreement of 1972, as amended in 1987, federal, state and tribal partners have drafted a new Great Lakes Strategy (The Strategy). The Strategy is a concise, high-level statement of basin wide priorities and activities, reflecting the current state of the Great Lakes basin ecosystem and key environmental goals for the future, so that a unified approach to implementation can be carried out by a diverse set of federal, state, and tribal agencies.

The Strategy presents Great Lakes basin issues under four broad categories: (1) Chemical Integrity: Reducing and Eliminating the Threat of Toxic Pollution and Excess Nutrients, (2) Physical Integrity: Improving Land Use, Water Quantity Management, and Habitat Protection, (3) Biological Integrity: Protecting Human Health and the Ecosystem's Species, and (4) Working Together: Effectively Coordinating Programs and Resources to Ensure The Great Lakes are Protected and Restored.

**DATES:** A draft of the Strategy will be made available to the public by June 1, 2001.

Comment Period: Comments on the Strategy must be submitted no later than July 31, 2001.

*Public Meetings:* Public Meetings on the Strategy will be held on the dates and at the locations listed below:

*Monday, June 25, 2001*

*Location:* Duluth, MN, MPCA Duluth Office, 525 Lake Avenue South, Suite 400, Duluth, MN 55802

Time: 3 p.m.–8 p.m.

*Wednesday, June 27, 2001*

*Location:* Detroit, MI, Southeast Michigan Council of Governments, 535 Griswold Street, Suite 300, Detroit, MI 48226

*Time:* 3 p.m.–8 p.m.

*Thursday, June 28, 2001 Niagara University, Niagara Falls, NY 14109, Dunleavy Hall, Rm 127.*

*Time:* 3 p.m.–8 p.m.

*Monday, July 2, 2001*

*Location:* Chicago, IL, USEPA, Region 5, 77 W. Jackson Blvd (Lake Michigan Conference Room), Chicago, IL 60604

*Time:* 12 p.m.–5.p.m.

**ADDRESSES:** The Strategy can be found on the internet at the following address: *http://www.epa.gov/glnpo/*. Commenters may transmit their comments electronically by following the directions provided on the web site, or may send written comments to Ted Smith at the following address: U.S. EPA, Great Lakes National Program Office, 77 W. Jackson Boulevard, G–17J, Chicago, Illinois, 60604. Comments may also be sent to Mr. Smith via facsimile at (312) 353–2018, or by e-mail *smith.edwin@epa.gov*.

**FOR FURTHER INFORMATION CONTACT:** Ted Smith, EPA–GLNPO, G–17J, 77 W. Jackson Blvd., Chicago, IL 60604 (312–353–6571/smith.edwin@epa.gov)

Dated: May 23, 2001.

**Gary Gulezian,**

*Great Lakes National Program Director.*

[FR Doc. 01–14081 Filed 6–04–01; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6991–6]**

## Science Advisory Board; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Research Strategies Advisory Committee (RSAC) of the U.S. EPA Science Advisory Board (SAB), will meet on Tuesday and Wednesday, June 26 and 27, 2001 at EPA headquarters in room 6013 of the Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20005. The meeting will begin by 8:30 a.m. and adjourn no later than 5 p.m. Eastern Standard Time on both days. The meeting is open to the public, however, seating is limited and available on a first come basis.

*Purpose of the Meeting*—The RSAC plans to complete its advisory on EPA's implementation of the peer review program. Two case studies have been selected (i.e., the review of the Agency's Risk Characterization Handbook, and a combined look at the reviews of the methodology for deriving ambient water quality criteria for the protection of human health and the methyl mercury bioaccumulation factors report) to better understand how the peer review guidance was followed, how the charge questions helped focus the review, and how the product was improved by the review. The Committee will also meet with Agency officials to continue to explore how the Agency identifies, evaluates, and uses science conducted outside EPA to inform its decisions and how the Agency is progressing with it's multiyear planning process.

*Charge to the Committee*—The charge for the Committee' Advisory on the peer review process at EPA is: (a) Is EPA peer reviewing the right products? (b) Are the peer reviews conducted appropriately? (c) Do the peer reviews make a difference? (d) Does EPA peer review all the science it uses (e.g., data submitted from parties outside the Agency)? (e) Does the RSAC have additional comments/guidance for EPA?

*For Further Information*—Any member of the public wishing further information concerning this meeting should contact Dr. John ''Jack'' R. Fowle III, Designated Federal Officer, Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–4547; FAX (202) 501–0323; or via e-mail at *fowle.jack@epa.gov*. For a copy of the draft meeting agenda, please contact Ms. Dorothy Clark, Management Assistant at (202) 564–4537 or by FAX at (202) 501–0582 or via e-mail at *clark.dorothy@epa.gov*.

Materials that are the subject of this review are available from Ms. Barbara Klieforth of the Office of Research and Development (ORD) at (202) 564–6787 or by e-mail at *klieforth.barbara@epa.gov*.

*Providing Oral or Written Comments*—Members of the public who wish to make a brief oral presentation (10 minutes or less) to the Committee must contact Dr. Fowle in writing (by letter or by fax—see contact information above) no later than 12 noon Eastern Time, Thursday, June 19, 2001 in order to be included on the Agenda. The request should identify the name of the individual who will make the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or the presentation itself. Written comments will be accepted until close of business June 27, 2001. See below for more information on providing written or oral comments.

### Providing Oral or Written Comments at SAB Meetings

It is the policy of the Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes. For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 25 copies of their comments for public distribution.

*General Information*—Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in The FY2000 Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

*Meeting Access*—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Dr. Fowle at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: May 24, 2001.

**Donald G. Barnes,**

*Staff Director, Science Advisory Board.*

[FR Doc. 01–14083 Filed 6–4–01; 8:45 am]

**BILLING CODE 6560–50–U**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

**SUMMARY:** In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

*Type of Review:* Renewal of a currently approved collection.

*Title:* Transfer Agent Registration and Amendment Form.

*Form Number:* TA–1.

*OMB Number:* 3064–0026.

*Annual Burden:* Estimated annual number of respondents: 29 (11—initial registrations; 18—amendments); Estimated time per response 1.25 hours (initial registration), .17 hours (amendment); Total annual burden hours 17 hours.

*Expiration Date of OMB Clearance:* July 31, 2001.

*OMB Reviewer:* Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

*FDIC Contact:* Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

*Comments:* Comments on this collection of information are welcome and should be submitted on or before July 5, 2001 to both the OMB reviewer and the FDIC contact listed above.

**ADDRESSES:** Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

**SUPPLEMENTARY INFORMATION:** Section 17A(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q) requires a bank to register with the appropriate Federal bank regulator prior to performing any transfer agent function. Under FDIC regulation 12 CFR 341, an insured nonmember bank uses Form TA–1 to register with the FDIC.

Dated: May 30, 2001.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 01–14051 Filed 6–4–01; 8:45 am]

BILLING CODE 6714–01–P

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of Agency Meeting; Sunshine Act

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:00 a.m. on Tuesday, June 5, 2001, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider matters relating to the Corporation's corporate and supervisory activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: June 1, 2001.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 01–14194 Filed 6–1–01; 11:43 am]

BILLING CODE 6714—01—M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### Agency Information Collection Activities: Proposed Collection; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The Federal Emergency Management Agency (FEMA), as part of its continuing efforts to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed revised information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning FEMA's use a new form title Small Business Claim Notice and Proof of Loss (Cerro Grande Fire Assistance Act. The form will impact small businesses and other small entities; however, the impact of this collection will not be disproportionate to the impact on the general public. FEMA has established customer service offices and has provided business claims specialists to minimize the impact by assisting small business in completing the form. FEMA is requesting emergency processing approval of this collection, under the provisions of OMB regulation 5 CFR 1320.13, for 180 days, effective on or before July 5, 2001. A final OMB clearance package will be submitted to OMB for a long-term approval before the end of the assigned expiration date.

*Supplementary Information:* The Cerro Grande fire destroyed and damaged parts of Los Alamos and surrounding communities in May 2000. The Federal Government took responsibility for the Cerro Grande fire and enacted legislation known as the Cerro Grande Fire Assistance Act, Public Law 106-246 to compensate victims of the fire. Section 104(f) of the Act requires the Director, FEMA promulgate regulations for processing and paying claims under the Act. Subsections 104(b), (c), and (d) of the Act require that FEMA establish a process to receive, investigate, evaluate, determine and settle claims against the United States by victims of the Cerro Grande fire. FEMA's regulations to implement the Act is published at 44 CFR part 295, Disaster Assistance; Cerro Grande Fire Assistance; Final Rule (**Federal Register** Volume 66, Number 55, dated Wednesday, March 21, 2001, pages 15948–15966). The Small Business Claim Notice and Proof of Loss form is the only form that will be used for small business-loss claims to carry out the purposes of the Act.

**Collection of Information**

*Title:* Small Business Claim Notice and Proof of Loss.

*Type of Information Collection:* New collection.

*Abstract:* The form requests basic information identifying claimant(s) and describing their business loses in order to ascertain a claimant's eligibility for Cerro Grande fire claims assistance. The information is intended to be the only step for a business claimant who seeks compensation of $10,000 or less under the Cerro Grande Fire Assistance Act. It will be used by FEMA and other Federal agencies to determine whether a claimant has made the election of remedies—the CGFAA, the Federal Tort Claims Act, or a civil action authorized by any other law, and to track claims from the date received until the date of final payment. It will also be used to determine eligibility for compensation, evaluate the claim, and make payment.

FEMA and contractors will be able to cross check against insurance subrogation claims and other payments and settlements to prevent duplication of benefits. The claimant's statements are made under penalty or perjury and subject claimants to the provisions of 18 U.S.C. section 1001 relating to false statements.

*Affected Public:* Business or other for-profit and not-for-profit institutions.

*Number of Respondents:* 1,250 annually.

*Estimated Hour Burden Per Response:* 30 minutes.

*Estimated Total Annual Burden Hours.* 625 hours.

*Estimated Annual Cost To Respondents.* We have estimated that the annualized cost to respondents for the hour burdens will be approximately $100 per respondent, on average. FEMA has offset this burden for most claimants by allowing claimants who successfully complete the process to an award to receive an additional 5% of their compensation, with a minimum of $100 to a maximum or $500 on this type of small business claim, for claims compensation expenses. Claimants who do not complete the claims process or who do not receive any compensation will not receive the claims preparation fee.

**COMMENTS:** Written comments are solicited to (a) evalute whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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. Send written comments to OMB within [insert date 30 days from the date of publication] of this notice. FEMA will continue to receive comments for an additional 30 days. Such comments should be submitted in writing to Muriel B. Anderson, Chief, Records Management Branch, Program Services Division, Operations Support Directorate, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472. Telephone number (202) 646–2625, FAX number (202) 646–3347, and e-mail address: muriel.anderson&fema.gov.

**ADDRESSES:** Interested persons should submit written comments to the attention of the OMB Desk Officer for FEMA, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Room 10102, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Contact Ms. Anderson for copies of the proposed collection of information.

Dated: May 30, 2001.

**Reginald Trujillo,**

*Director, Program Services Division, Operations Support Directorate.*

[FR Doc. 01–14039 Filed 6–04–01; 8:45 am]

**BILLING CODE 6748–01–M**

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## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA–1370–DR]**

### Minnesota; Amendment No. 2 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of South Minnesota (FEMA–1370–DR), dated May 17, 2001, and related determinations.

**EFFECTIVE DATE:** May 29, 2001.

**FOR FURTHER INFORMATION CONTACT:** Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the incident period for this disaster is closed effective May 29, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

**Lacy E. Suiter,**

*Executive Associate Director, Response and Recovery Directorate.*

[FR Doc. 01–14034 Filed 6–4–01; 8:45 am]

**BILLING CODE 6718–02–P**

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## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA–1372–DR]**

### Puerto Rico; Amendment No. 2 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the Commonwealth of Puerto Rico (FEMA–1372–DR), dated May 16, 2001, and related determinations.

**EFFECTIVE DATE:** May 11, 2001.

**FOR FURTHER INFORMATION CONTACT:** Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the incident period for this disaster is closed effective May 11, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

**Lacy E. Suiter,**

*Executive Associate Director, Response and Recovery Directorate.*

[FR Doc. 01–14035 Filed 6–4–01; 8:45 am]

**BILLING CODE 6718–02–P**

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## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA–1374–DR]**

### Colorado; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Colorado (FEMA–1374–DR), dated May 17, 2001, and related determinations.

**EFFECTIVE DATE:** May 17, 2001.

**FOR FURTHER INFORMATION CONTACT:** Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated May 17, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, as follows:

I have determined that the damage in certain areas of the State of Colorado, resulting from severe winter storms on April 11–22, 2001, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Colorado.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Steven R. Emory of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Colorado to have been affected adversely by this declared major disaster:

Baca, Bent, Cheyenne, Crowley, Kiowa, Lincoln, Logan, Morgan, Phillips, Prowers, Sedgwick, Washington, Weld and Yuma Counties.

All counties within the State of Colorado are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

**Joe M. Allbaugh,**

*Director.*

[FR Doc. 01–14036 Filed 6–4–01; 8:45 am]

BILLING CODE 6718–02–P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA–1367–DR]**

### Iowa; Amendment No. 3 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Iowa, (FEMA–1367–DR), dated May 2, 2001, and related determinations.

**EFFECTIVE DATE:** May 21, 2001.

**FOR FURTHER INFORMATION CONTACT:** Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Iowa is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 2, 2001:

Henry County for Individual and Public Assistance.

Sac County for Individual Assistance (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

**Lacy E. Suiter,**

*Executive Associate Director, Response and Recovery Directorate.*

[FR Doc. 01–14031 Filed 6–4–01; 8:45 am]

BILLING CODE 6718–02–P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA–1367–DR]**

### Iowa; Amendment No. 4 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Iowa (FEMA–1367–DR), dated May 2, 2001, and related determinations.

**EFFECTIVE DATE:** May 24, 2001.

**FOR FURTHER INFORMATION CONTACT:** Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Iowa is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 2, 2001:

Clayton and Jackson Counties for Categories C through G under the Public Assistance program (already designated for Individual Assistance and Categories A and B under the Public Assistance program).

Allamakee, Clinton, and Dubuque Counties for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

**Robert J. Adamcik,**

*Deputy Associate Director, Response and Recovery Directorate.*

[FR Doc. 01–14032 Filed 6–4–01; 8:45 am]

BILLING CODE 6718–02–P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA–1370–DR]**

### Minnesota; Amendment No. 1 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Minnesota, (FEMA–1370–DR), dated May 16, 2001, and related determinations.

**EFFECTIVE DATE:** May 29, 2001.

**FOR FURTHER INFORMATION CONTACT:** Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Minnesota is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 16, 2001:

Mower, Olmsted, and Rice Counties for Individual Assistance.

Aitkin, Carlton, Kanabec, Mille Lacs, Otter Tail, Pine, Sibley, Stearns, and Wright Counties for Individual Assistance and Public Assistance.

Big Stone, Clay, Dakota, Lac qui Parle, Morrison, Norman, Polk, Ramsey, Redwood, Renville, Swift, Todd, Traverse and Wilkin Counties for Individual Assistance (already designated for Public Assistance).

Becker, Brown, Douglas, Kittson, Lake, Le Sueur, Marshall, Nicollet, Pope and Scott Counties for Public Assistance.

Benton County for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

**Lacy E. Suiter,**

*Executive Associate Director, Response and Recovery Directorate.*

[FR Doc. 01–14033 Filed 6–4–01; 8:45 am]

BILLING CODE 6718–02–P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA–1375–DR]**

## South Dakota; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of South Dakota (FEMA–1375–DR), dated May 17, 2001, and related determinations.

**EFFECTIVE DATE:** May 17, 2001.

**FOR FURTHER INFORMATION CONTACT:** Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated May 17, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, as follows:

I have determined that the damage in certain areas of the State of South Dakota, resulting from severe winter storms, flooding, and ice jams on March 1, 2001, through April 30, 2001, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC. 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of South Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Gracia Szczech of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of South Dakota to have been affected adversely by this declared major disaster:

Beadle, Brookings, Clark, Codington, Grant, Hamlin, Kingsbury, Mellette, Roberts, Sanborn, and Spinks Counties for Public Assistance.

All counties within the State of South Dakota are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

**Joe M. Allbaugh,**

*Director.*

[FR Doc. 01–14037 Filed 6–4–01; 8:45 am]

BILLING CODE 6718–02–P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA–1375–DR]**

## South Dakota; Amendment No. 1 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of South Dakota (FEMA–1375–DR), dated May 17, 2001, and related determinations.

**EFFECTIVE DATE:** May 29, 2001.

**FOR FURTHER INFORMATION CONTACT:** Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of South Dakota is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 17, 2001:

Brown, Day, Hanson, Marshall, Moody and Turner Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

**Lacy E. Suiter,**

*Executive Associate Director, Response and Recovery Directorate.*

[FR Doc. 01–14038 Filed 6–4–01; 8:45 am]

BILLING CODE 6718–02–P

## FEDERAL RESERVE SYSTEM

### Federal Open Market Committee; Domestic Policy Directive of March 20, 2001.

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on March 20, 2001.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long-run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with reducing the federal funds rate to an average of around 5 percent.

By order of the Federal Open Market Committee, May 23, 2001.

**Donald L. Kohn,**

*Secretary, Federal Open Market Committee.*

[FR Doc. 01–14054 Filed 6–4–01; 8:45 am]

BILLING CODE 6210–01–S

## FEDERAL RESERVE SYSTEM

### Federal Open Market Committee; Domestic Policy Directive of April 18, 2001.

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its telephone conference meeting held on April 18, 2001.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long-run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with reducing the federal funds rate to an average of around 4-1/2 percent.

By order of the Federal Open Market Committee, May 23, 2001.

**Donald L. Kohn,**

*Secretary, Federal Open Market Committee.*

[FR Doc. 01–14055 Filed 6–4–01; 8:45 am]

BILLING CODE 6210–01–S

[1] Copies of the Minutes of the Federal Open Market Committee meeting of March 20, 2001, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

[1] Copies of the Minutes of the Federal Open Market Committee telephone conference meeting of April 18, 2001, which include the domestic policy directive issued at that telephone conference meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

## FEDERAL RESERVE SYSTEM

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 10 a.m., Monday, June 11, 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: June 1, 2001.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 01–14226 Filed 6–1–01; 12:17 pm]

BILLING CODE 6210–01–P

## FEDERAL RESERVE SYSTEM

### [Docket No. R–1110]

### Policy Statement on Payments System Risk; $50 Million Fedwire Securities Transfer Limit

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Request for comment on policy.

**SUMMARY:** The Board is requesting comment on the desirability of retaining the current $50 million limit on the transaction size of book-entry securities transfers on Fedwire.

**EFFECTIVE DATE:** Comments must be received by August 6, 2001.

**ADDRESSES:** Comments, which should refer to Docket No. R–1110, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551 or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson also may be delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP–500 between 9:00 a.m. and 5:00 p.m. weekdays, pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

**FOR FURTHER INFORMATION CONTACT:** Paul Bettge, Associate Director (202/452–3174), Stacy Coleman, Manager (202/452–2934), or Doug Conover, Financial Services Analyst (202/452–2887), Division of Reserve Bank Operations and Payment Systems.

**SUPPLEMENTARY INFORMATION:** This is one of five notices regarding payments system risk that the Board is issuing for public comment today. Two near-term proposals concern the net debit cap calculation for U.S. branches and agencies of foreign banks (Docket No. R–1108) and modifications to the procedures for posting electronic check presentments to depository institutions' Federal Reserve accounts for purposes of measuring daylight overdrafts (Docket No. R–1109). In addition, the Board is requesting comment on the benefits and drawbacks to several potential longer-term changes to the Board's payments system risk (PSR) policy, including lowering self-assessed net debit caps, eliminating the two-week average caps, implementing a two-tiered pricing system for collateralized and uncollateralized daylight overdrafts, and rejecting payments with settlement-day finality that would cause an institution to exceed its daylight overdraft capacity level (Docket No. R–1111). The Board is also issuing today an interim policy statement and requesting comment on the broader use of collateral for daylight overdraft purposes (Docket No. R–1107). Furthermore, to reduce burden associated with the PSR policy, the Board recently rescinded the interaffiliate transfer (Docket No. R–

1106) and third-party access policies (Docket No. R–1100).

The Board requests that in filing comments on these proposals, commenters prepare separate letters for each proposal, identifying the appropriate docket number on each. This will facilitate the Board's analysis of all comments received.

## I. Background

Beginning in 1985, the Board adopted and subsequently modified a policy to reduce the risks that payment systems present to the Federal Reserve Banks, to the banking system, and to other sectors of the economy. An integral component of the PSR policy was to control depository institutions' use of intraday Federal Reserve credit, commonly referred to as ''daylight credit'' or ''daylight overdrafts.'' The Board's intention was to address the Federal Reserve's risk as well as risks on various types of private-sector networks, primarily large-dollar payments systems.

As part of modifications to the PSR policy in 1988, the Board imposed a $50 million limit on the par value of individual book-entry securities transfers on the Fedwire system (52 FR 29255, August 6, 1987).[1] The purpose of the $50 million limit was to encourage government securities dealers to split large trades into multiple partial deliveries and, thereby, reduce subsequent book-entry securities-related daylight overdrafts. The Board anticipated that government securities dealers' practice of building securities inventories to meet large trade obligations would diminish and book-entry securities transfer volume would be distributed more evenly throughout the day. The Board recognized, however, that the effectiveness of the $50 million limit depended on dealers accepting multiple deliveries for the completion of a single trade obligation. As a result, Federal Reserve staff worked with the Public Securities Association (PSA) to develop delivery guidelines that incorporated necessary changes related to the $50 million limit.[2]

Prior to the implementation of the $50 million limit, the PSA's delivery guidelines required trade obligations to be delivered in full. As a result, dealers often had to accumulate securities in the full amount of the trade before they could deliver them. Partial deliveries, those for less than the full amount of the trade obligation, were typically returned to the sending institution. The incentives to minimize fail-to-deliver costs and maximize fail-to-receive benefits strongly influenced dealers' decisions regarding their settlement of government securities trades.[3] Because fail costs are proportional to the size of unfulfilled obligations, dealers typically organized their deliveries to fulfill their largest obligations first. In addition, in order to maximize fail benefits, a dealer selling and buying the same type of security could strategically delay its deliveries of that security until the end of the day, hoping that counterparties trying to deliver the same securities would be unable to settle their obligations before the close of the securities transfer system.[4] These incentives often led dealers to stockpile large amounts of securities until very near the end of the day.

To stockpile large amounts of securities until very near the end of the day in a delivery-versus-payment environment, dealers often used daylight credit at their clearing banks. The clearing banks, in turn, had to hold positive balances in their Federal Reserve accounts or use Federal Reserve daylight credit. As a dealer accumulates securities and holds them during the day to deliver on its largest obligations first, its overdraft becomes larger and lasts longer. In the absence of charges for daylight credit, however, the dealers' had no incentive to economize on daylight credit but had a strong incentive to avoid the substantial costs associated with failing to deliver on large obligations. In addition, because securities deliveries were often delayed until near the close of the Fedwire book-entry security transfer system, the Federal Reserve frequently extended the system's operating hours.

Although the Board intended the $50 million limit to promote the acceptance of partial deliveries, dealers had limited incentive to change their delivery practices. Under the PSA good delivery guidelines, dealers no longer needed to stockpile securities. As soon as an inventory of $50 million in a particular security was obtained, dealers could immediately deliver that $50 million to a different counterparty, receiving funds to cover any overdraft associated with the original receipt of that security. In effect, the transfer limit and the PSA's modified delivery guidelines allowed dealers to accept partial deliveries and effectively reduced the maximum size of any required position to $50 million. Nonetheless, without fees on daylight overdrafts, dealers could continue to stockpile securities without incurring any explicit costs. Most dealers, therefore, did not change their behavior significantly, and the limit had very little impact on the clearing banks' use of daylight credit.

When the Board began charging a fee for daylight overdrafts in 1994, most clearing banks decided to pass on these charges to their government securities dealers. Because government securities dealers generally relied heavily on intraday credit to conduct their transactions, the fee provided a strong incentive for most major dealers to send securities earlier in the day while the limit and the PSA delivery guidelines allowed dealers to send and required their counterparties to accept partial deliveries in $50 million increments. As dealers began to send securities earlier in the day, Federal Reserve daylight overdrafts decreased substantially.[5]

## II. Effectiveness of the $50 Million Limit

As part of a broad review of the Federal Reserve's daylight credit policies, the Board considered the effectiveness of the $50 million limit policy, with a focus on whether the limit imposes an undue regulatory burden. To understand better the industry's view of the limit, Federal Reserve staff met with representatives of primary dealers, clearing banks, and industry utilities. Federal Reserve staff

[1] The $50 million limit does not apply to original issue deliveries of book-entry securities from a Reserve Bank to a depository institution or transactions sent to or by a Reserve Bank in its capacity as fiscal agent for the United States or international organizations.

[2] The PSA is now known as the Bond Market Association.

[3] Fail costs are the costs dealers incur if they fail to deliver securities to a counterparty on the agreed settlement day. These costs can be significant because a dealer that fails to deliver securities may have to obtain overnight financing as well as forego any interest that the security accrues between the agreed and actual settlement days. The purchasing counterparty that does not receive its securities on the agreed settlement day benefits because that party typically receives the accrued interest on those securities, yet postpones financing the securities until they are actually delivered.

[4] Because many government securities dealers take long and short positions in the same security among a relatively small group of counterparties, a dealer could be expected to deliver a security to one counterparty and receive the same security from another counterparty.

[5] Because the limit forced receiving dealers to accept multiple deliveries for the settlement of one trade, the receiver could not force the sender to stockpile securities. For example, if a dealer had an obligation to deliver $100 million of a certain security, expected to receive $90 million of the same issue, and already held $10 million of that security in its account, delivery of its obligation would be dependent upon first receiving the expected $90 million, if a limit were not present. With the limit in place, the dealer could immediately forward $50 million of that security as soon as it was received, rather than waiting for the entire $90 million. To the extent that a dealer buys securities from many counterparties and that deliveries from these counterparties are dependent on receipt of their own purchases, the limit allows deliveries to occur earlier than otherwise possible, reducing the liquidity required to settle the total amount of transactions.

learned that many government securities dealers and their clearing banks support retaining the $50 million limit. These representatives believe that removing the limit could increase position building and securities-related overdrafts despite the existence of daylight overdraft fees. In addition, the representatives stated that removing the limit would likely require costly system changes throughout the industry. Given that the industry bears a significant portion of the costs and benefits of the limit, both in terms of transaction fees and reduced overdraft fees, the support of the limit voiced by industry representatives reflects their perception that the limit has a positive net effect on the government securities settlement system.

Industry representatives indicated that removal of the limit would likely lead the industry to demand that securities trades be settled in full and to reject partial deliveries. While current delivery guidelines encourage acceptance of partial deliveries, industry representatives expressed concern that there would be no technical mechanism to enforce these guidelines. The Board believes the $50 million limit on book-entry securities transfers in combination with daylight overdraft fees has been effective in reducing daylight overdrafts. Because the limit appears to have a net positive effect, the Board is disposed to retaining the limit. The Board, however, would like to ensure that it considers the perspectives of all parties before making a final determination regarding the retention of this limit.

## III. Request for Comment

The Board is proposing to maintain its current policy limiting the size of individual book-entry security transfers on Fedwire to $50 million in par value. The Board is requesting comment on all aspects of the $50 million limit as well as on the following questions:

1. Should the limit be retained?

If yes, is $50 million a reasonable level for the limit? Do the benefits of the limit support a reduction of the limit to $25 million? Or, would a higher limit reduce transaction costs but maintain the existing benefits of the limit? Would changing the limit require costly system changes?

If no, what would be the effect of eliminating the $50 million limit on delivery fails, daylight overdrafts, and dealer costs? In particular, would eliminating the limit require costly system changes?

2. Does the limit impose any significant costs on dealers or clearing banks, net of any benefits from reduced overdrafts?

3. Does the limit promote specific benefits in the government securities market other than reduced overdrafts?

## IV. Competitive Impact Analysis

Under its competitive equity policy, the Board assesses the competitive impact of changes that have a substantial effect of payments system participants.[6] The Board believes that retention of the $50 million securities transfer limit will have no adverse effect on the ability of other service providers to compete effectively with the Federal Reserve Banks in providing similar transfer services.

## V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. ch. 3506; 5 CFR 1320 appendix A.1), the Board has reviewed the request for comments under the authority delegated to the Board by the Office of Management and Budget. The collection of information pursuant to the Paperwork Reduction Act contained in the policy statement will not unduly burden depository institutions.

By order of the Board of Governors of the Federal Reserve System, May 30, 2001.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 01–13981 Filed 6–4–01; 8:45 am]

BILLING CODE 6210–01–P

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## FEDERAL RESERVE SYSTEM

**[Docket No. R–1109]**

## Policy Statement on Payments System Risk; Modifications to Daylight Overdraft Posting Rules for Electronic Check Presentments

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Request for comment on policy.

**SUMMARY:** The Board is requesting comment on a change to the procedures for measuring daylight overdrafts in depository institutions' Federal Reserve accounts. The Board proposes to modify the procedures to allow debits associated with electronic check presentment (ECP) transactions to post at 1:00 p.m. local time.[1] The current posting times for ECP transactions often create a disincentive for depository institutions to use Federal Reserve electronic check presentment services, and the Board proposes to remove barriers that may discourage their use.

**EFFECTIVE DATE:** Comments must be received by August 6, 2001.

**ADDRESSES:** Comments, which should refer to Docket No. R–1109, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551 or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson also may be delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP–500 between 9:00 a.m. and 5:00 p.m. weekdays, pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

**FOR FURTHER INFORMATION CONTACT:** Paul Bettge, Associate Director (202/452–3174), Stacy Coleman, Manager (202/452–2934), or Jeffrey Yeganeh, Senior Financial Services Analyst (202/728–5801), Division of Reserve Bank Operations and Payment Systems.

**SUPPLEMENTARY INFORMATION:** This is one of five notices regarding payments system risk that the Board is issuing for public comment today. Two near-term proposals concern the net debit cap calculation for U.S. branches and agencies of foreign banks (Docket No. R–1108) and the book-entry securities transfer limit (Docket No. R–1110). In addition, the Board is requesting comment on the benefits and drawbacks to several potential longer-term changes to the Board's payments system risk (PSR) policy, including lowering self-assessed net debit caps, eliminating the two-week average caps, implementing a two-tiered pricing system for collateralized and uncollateralized daylight overdrafts, and rejecting payments with settlement-day finality that would cause an institution to exceed its daylight overdraft capacity level (Docket No. R–1111). The Board is also issuing today an interim policy statement and requesting comment on the broader use of collateral for daylight overdraft purposes (Docket No. R–1107). Furthermore, to reduce burden associated with the PSR policy, the Board recently rescinded the

[6] These assessment procedures are described in the Board's policy statement entitled ''The Federal Reserve in the Payments System'' (55 FR 11648, March 29, 1990).

[1] In the event an electronic check presentment is delayed past 12:00 p.m. local time, the Reserve Banks will post the transaction on the next clock hour that is at least one hour after presentment takes place but no later than 3:00 p.m. local time.

interaffiliate transfer (Docket No. R–1106) and third-party access policies (Docket No. R–1100).

The Board requests that in filing comments on these proposals, commenters prepare separate letters for each proposal, identifying the appropriate docket number on each. This will facilitate the Board's analysis of all comments received.

## I. Background

The Board's PSR policy establishes maximum limits (net debit caps) and fees on daylight overdrafts in depository institutions' accounts at Federal Reserve Banks. When the Board adopted daylight overdraft fees, the Federal Reserve Banks began measuring depository institutions' intraday account balances according to a set of ''posting rules'' established by the Board. These rules comprise a schedule for the posting of debits and credits to institutions' Federal Reserve accounts for different types of payments.[2] The Board's objectives in designing the posting rules include minimizing intraday float, facilitating depository institutions' monitoring and control of their cash balances during the day, and reflecting the legal rights and obligations of parties to payments. The Board's objective of minimizing intraday float is especially important in light of the daylight overdraft fee, which gives intraday credit an explicit value. The posting rules attempt to eliminate aggregate Federal Reserve intraday float because such float would be equivalent to unpriced Federal Reserve daylight credit.

As part of a broad review of its PSR policies, the Board evaluated the effectiveness of the current posting rules and found these rules to be generally effective and well understood by the industry. In reviewing the posting rules, however, the Board found that the posting times for ECP transactions often create a disincentive for depository institutions to use Federal Reserve electronic check services. The Federal Reserve Banks deliver the majority of electronic check presentments in the morning, and the delivery of the ECP files constitutes legal presentment of the checks under the terms of the Federal Reserve's uniform Operating Circular 3. In accordance with the Board's objectives in designing the posting rules, the current posting rules stipulate that debits to depository institutions' Federal Reserve accounts for check presentments occur on the next clock hour that is at least one hour after presentment takes place, beginning at 11:00 a.m. Eastern Time (ET) and no later than 3:00 p.m. local time.[3] Because the Reserve Banks generally deliver electronic check presentments in the morning, the corresponding debits occur at 11:00 a.m. ET. As a result, for many depository institutions, the posting times for electronic check presentments are earlier than the posting times associated with their paper check presentments.

The often earlier debit posting times associated with electronic check presentments have caused some depository institutions to incur daylight overdrafts earlier in the day and, in many cases, for longer periods of time. Because the Reserve Banks charge depository institutions a fee for the amount and duration of their Federal Reserve daylight credit use, the daylight overdraft charges of some institutions that have moved to electronic check services have grown substantially. As a result, some depository institutions have asserted that the increases in their daylight overdraft charges have reduced or eliminated the benefits of using Federal Reserve electronic check services.

The Federal Reserve is interested in removing barriers that may discourage depository institutions from using electronic check services. For several years, the Federal Reserve has been working on various initiatives to apply electronic technologies to the check collection process to gain efficiencies and to reduce the associated costs and risks. Electronic check services provide operational efficiencies, improve accuracy of information, reduce costs, improve the likelihood of timely presentment, and improve opportunities for accessing and using cash management information. The Board is requesting comment on a proposed change to the posting times for ECP transactions to remove a barrier to the use of ECP.

The Board also notes that its daylight credit policies are primarily intended to address intraday risk to the Federal Reserve arising from daylight overdrafts. Most transactions that lack settlement-day finality, such as checks, however, pose primarily interday, rather than intraday, risk. Modifying the posting times associated with ECP transactions should not create significant, if any, additional credit risk for the Reserve Banks.

## II. Posting Times for ECP Transactions

The Board proposes modifying the daylight overdraft posting rules to allow debits associated with ECP transactions to post at 1:00 p.m. local time in order to remove the disincentive created by the current posting rules for depository institutions to use Federal Reserve electronic check presentment services.[4] A 1:00 p.m. local time posting time should remove the disincentive to move to electronic check presentment services created by the current posting rules. The Reserve Banks generally deliver electronic check presentment files by 10:00 a.m. ET; and, therefore, many depository institutions currently receive the related debits at 11:00 a.m. ET.[5] For many depository institutions, especially those not located in the Eastern Time zone, the 11:00 a.m. ET posting time is substantially earlier than the posting times associated with their paper check presentments. A posting time of 1:00 p.m. local time should reduce or eliminate the increase in daylight overdraft charges potentially created by the difference between the posting times of ECP and paper check presentment transactions.

The Board also considered posting ECP debits at the time the paying bank's paper check presentments would have been posted. The problem with matching the posting times of ECP and paper check presentments is that, over time, as electronic check presentments replace the physical delivery of the paper checks for a larger proportion of banks and courier routes are modified or eliminated, there is no longer a reasonable basis for determining specific ECP posting times for each depository institution. Moreover, a single debit posting time in each time zone for ECP transactions is more straightforward than a debit posting time that matches the posting time of paper check presentments. In determining a single debit posting time, the Board considered the aggregate value of checks posted to depository institutions' Federal Reserve accounts by each hour of the day. Currently, the Reserve Banks post the vast majority of check transactions, on average approximately 90 percent, by 1:00 p.m. local time. Because the Reserve Banks already post most checks by 1:00 p.m.

[2] See ''Federal Reserve Policy Statement on Payments System Risk,'' section I.A (57 FR 47093, October 14, 1992).

[3] On the day a paying bank receives a cash item from a Reserve Bank, it shall settle for the item so that the proceeds of the settlement are available to its Administrative Reserve Bank, or return the item, by the latest of (1) the next clock hour that is at least one hour after the paying bank receives the item; (2) 9:30 a.m. Eastern Time; or (3) such later time as provided in the Reserve Banks' operating circulars (12 CFR 210.9(b)).

[4] The Reserve Banks would modify the operating circulars as necessary.

[5] The Reserve Banks usually deliver electronic check presentment files by 12:00 p.m. ET in the Pacific Time zone.

local time, the Board believes that applying this posting time to ECP transactions should minimize any disincentive created by the posting rules to move to electronic check presentment services.

The primary drawback of posting ECP debits later in the day is the associated shift in posting credits to depository institutions' Federal Reserve accounts for check deposits to later in the day.[6] Institutions must choose one of two check credit posting options: (1) All credits posted at a single float-weighted posting time or (2) fractional credits posted throughout the day. The first option allows an institution to receive all of its check credits at a single time, which may not necessarily fall on a clock hour, for each type of cash letter. The second option lets the institution receive a portion of its available check credits on the clock hours between 11:00 a.m. and 6:00 p.m. ET. The option selected by an institution applies to all of its check deposits, including those for its respondents. Because the crediting fractions and single float-weighted posting times are based upon the Reserve Banks' ability to present checks and obtain settlement from payor institutions, posting times for check credits would become concentrated around 1:00 p.m. local time as more depository institutions began using Federal Reserve electronic check services. Consequently, depository institutions would receive their check credits somewhat later than they do today.[7] In addition, changes to the posting rules might entail some costs for depository institutions that may have developed internal monitors and controls for the management of their daily account balances around current posting times; however, the Board believes that such costs would be minimal.

## III. Request for Comment

The Board proposes changing the posting times associated with ECP transactions to 1:00 p.m. local time. This revised posting time would allow the Federal Reserve to remove the barriers associated with the current posting rules for ECP transactions while providing a single and straightforward posting time that should not adversely affect depository institutions' account management procedures and practices or Federal Reserve credit risk. The Board requests comment on all aspects of the proposed modification to the posting rules. The Board is also requesting specific comments on the following questions:

1. Are there significant benefits or drawbacks associated with a posting time of 1:00 p.m. local time not identified in this notice?

2. Does the proposed posting time provide Federal Reserve Banks an inappropriate competitive advantage relative to the ability of private-sector banks or other service providers to compete in the provision of check collection services? If so, how?

## IV. Competitive Impact Analysis

The Board has established procedures for assessing the competitive impact of rule or policy changes that have a substantial effect on payments system participants.[8] Under these procedures, the Board assesses whether a change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints, or due to a dominant market position of the Federal Reserve deriving from such differences. If no reasonable modifications would mitigate the adverse competitive effects, the Board will determine whether the expected benefits are significant enough to proceed with the change despite the adverse effects.

To obtain settlement from paying banks for checks presented, the Reserve Banks debit directly the account of the paying bank or its designated correspondent (12 CFR 210.9(b)(5)). In contrast, a paying bank settles for checks presented by a private-sector bank for same-day settlement by sending a Fedwire funds transfer to the presenting bank or by another agreed-upon method (12 CFR 229.36(f)(2)). In addition, the Reserve Banks have the right to debit the account of the paying bank for settlement of checks on the next clock hour that is at least one hour after presentment (12 CFR 210.9(b)(2)) whereas a paying bank becomes accountable to a private-sector collecting bank if it does not settle for the check by the close of Fedwire on the day of presentment (12 CFR 229.36(f)(2)). In March 1998, the Board requested comment on whether these legal differences between the Reserve Banks and the private sector provided the Reserve Banks with a competitive advantage and, if so, whether these legal differences should be reduced or eliminated (63 FR 12700, March 16, 1998). Based on an analysis of the comments received, the Board concluded that these legal disparities do not materially affect the efficiency of or competition in the check collection system (63 FR 68701, December 14, 1998). The proposed posting rule change for ECP transactions decreases, rather than exacerbates, the legal disparities between the Reserve Banks and the private sector. The Board, therefore, believes that the proposed change would not have a direct or material adverse effect on the ability of other service providers to compete effectively with the Reserve Banks' payments services.

## V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. ch. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed the policy statement under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the policy statement.

## VI. Policy Statement on Payments System Risk

The Board proposes to amend section I.A. under the heading *''Modified Procedures for Measuring Daylight Overdrafts''* as follows with changes identified by *italics:*

* * * * *

### Modified Procedures for Measuring Daylight Overdrafts[3]

Opening Balance (Previous Day's Closing Balance)

*Post at 1:00 p.m. Local Time:*

*—Electronic check presentments*

[3] The posting changes do not affect the overdraft restrictions and overdraft-measurement provisions for nonbank banks established by the Competitive Equality Banking Act of 1987 and the Board's Regulation Y (12 CFR 225.52).

By order of the Board of Governors of the Federal Reserve System, May 30, 2001.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 01–13980 Filed 6–4–01; 8:45 am]

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[6] The Federal Reserve calculates the posting times for check credits based on surveys of check presentments in each time zone.

[7] If the Board modifies the posting rules to permit Reserve Banks to post debits for ECP transactions at 1:00 p.m. local time, the Federal Reserve will update the credit schedule concurrent with the effective date of the policy change and, as needed, thereafter. As a result, aggregate net intraday float would continue to be close to zero because the amounts of intraday credit and debit float created for brief periods generally would offset one another.

[8] These procedures are described in the Board's policy statement ''The Federal Reserve in the Payments System,'' as revised in March 1990. (55 FR 11648, March 29, 1990).

## FEDERAL RESERVE SYSTEM

**[Docket No. R–1106]**

## Policy Statement on Payments System Risk Interaffiliate Transfers

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Policy statement.

**SUMMARY:** The Board is rescinding section I.F., entitled Interaffiliate Transfers, of its payments system risk (PSR) policy. The Board adopted the interaffiliate transfer policy in 1987 to address potential risks resulting from a lack of an arm's-length credit decision among affiliates.

**EFFECTIVE DATE:** January 1, 2002.

**FOR FURTHER INFORMATION CONTACT:** Paul Bettge, Associate Director (202/452–3174) or Stacy Coleman, Manager (202/452–2934), Division of Reserve Bank Operations and Payment Systems.

**SUPPLEMENTARY INFORMATION:** The Board is issuing this notice in conjunction with five other notices requesting comment on the PSR policy. Three near-term proposals concern the net debit cap calculation for U.S. branches and agencies of foreign banks (Docket No. R–1108), modifications to the procedures for posting electronic check presentments to depository institutions' Federal Reserve accounts for purposes of measuring daylight overdrafts (Docket No. R–1109), and the book-entry securities transfer limit (Docket No. R–1110). In addition, the Board is requesting comment on the benefits and drawbacks to several potential longer-term changes to the Board's policy, including lowering self-assessed net debit caps, eliminating the two-week average caps, implementing a two-tiered pricing system for collateralized and uncollateralized daylight overdrafts, and rejecting payments with settlement-day finality that would cause an institution to exceed its daylight overdraft capacity level (Docket No. R–1111). The Board is also issuing today an interim policy statement and requesting comment on the broader use of collateral for daylight overdraft purposes (Docket No. R–1107). Furthermore, to reduce burden associated with the PSR policy, the Board recently rescinded the third-party access policy (Docket No. R–1100).

### I. Background

In April 1985, the Board adopted the PSR policy to reduce the risks that large-dollar payments systems presented to the Federal Reserve Banks, to the banking system, and to other sectors of the economy (50 FR 21120, May 22, 1985). An integral component of this policy is a program to control the use of intraday Federal Reserve credit, commonly referred to as daylight overdrafts. The PSR policy establishes maximum limits (net debit caps) on daylight overdrafts in depository institutions' accounts at Federal Reserve Banks.

At the time it adopted the PSR policy, the Board also explored allowing depository institutions affiliated through common holding company ownership to consolidate their Fedwire activity and net debit caps for the purpose of monitoring compliance with the PSR policy. The Board determined, however, that while the operations of some holding companies are centrally managed, the regulatory and supervisory framework within which their subsidiaries operate is based on the separate corporate charter of each subsidiary. Therefore, the PSR policy requires that depository institutions be monitored for compliance on a separate legal-entity basis.

Although the Board prohibited affiliated depository institutions from outright consolidation of their Fedwire activity and net debit caps, a depository institution could simulate consolidation by sending Fedwire funds transfers to an affiliated institution in amounts not to exceed its net debit cap. The institution would have to repay the funds before the end of the day. The Board, however, identified two potential risks associated with depository institutions transferring their net debit caps to affiliated institutions: Increased credit risk to the Federal Reserve Banks and systemic risk among affiliated depository institutions, resulting from a lack of an arm's-length relationship among affiliates. The Board believed that this lack of an arm's-length relationship among affiliates, in some cases, might weaken the independence of credit judgment exercised by one affiliate in advancing funds to another. The concern that common ownership erodes an arm's-length credit decision grew out of the bank failures in the 1930s, which pointed to the relationship between depository institutions and their affiliates as a source of instability for the depository institutions.[1]

To address these risks, the Board modified the PSR policy in 1987 to permit interaffiliate transfers that are intended to concentrate the daylight overdraft capacity of affiliated institutions in one or more institutions provided that: (1) Each sending institution's board of directors specifically approves, at least once each year, the intraday extension of credit to the specified affiliate(s) and sends a copy of the directors' resolution to its Federal Reserve Bank and (2) during regular examination, each sending institution's primary federal supervisor reviews the timeliness of board-of-directors resolutions, the establishment by the institution of limits on credit extensions to each affiliate, the establishment by the institution of controls to ensure that credit extensions stay within such limits, and whether credit extensions have in fact stayed within those limits (52 FR 29255, August 6, 1987).

### II. Discussion

Recognizing that significant changes have occurred in the banking, payments, and regulatory environment in the past few years, the Board decided to conduct a broad review of the Federal Reserve's daylight credit policies. As part of its review, the Board considered the effectiveness of the interaffiliate transfer policy. Because of the policy's limited use and the credit risk management techniques available to the Reserve Banks, the Board decided to rescind the policy.

The Board evaluated the interaffiliate transfer policy's effectiveness and found that very few institutions are using interaffiliate transfers to consolidate their Fedwire activity and daylight overdraft capacity. The Board also notes that those institutions engaging in interaffiliate transfers, primarily insured depository institutions owned by the same bank holding company, appear to be managing their Federal Reserve accounts prudently. In addition, subsequent to the adoption of the interaffiliate transfer policy, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 included a cross-guarantee provision that allows the Federal Deposit Insurance Corporation (FDIC) to recover part of its resolution cost by seeking reimbursement from affiliated institutions.[2] The Board notes that, under the cross-guarantee provisions, an insured depository institution is generally liable for any loss incurred by the FDIC in connection with the default of a commonly controlled insured depository institution. Furthermore, the Federal Reserve Banks retain the right to reduce or eliminate the credit exposure that they will accept for any depository

[1] In addition, the Basle Committee's Core Principles requires that transactions between banks and related companies and individuals should be on an arm's length basis, be effectively monitored, and appropriate steps should be taken to mitigate risks. *Core Principles for Effective Banking Supervision,* Basle Committee on Banking Supervision, September 1997.

[2] 12 U.S.C. 1468.

institution by reducing the institution's net debit cap or monitoring the institution's Fedwire funds transfers and enhanced net settlement transactions in real time. The Board believes that these controls mitigate any increased credit risk to the Federal Reserve or systemic risk from interaffiliate transfers intended to simulate daylight overdraft cap consolidation.

The Board also believes that any institution-specific supervisory concerns associated with interaffiliate credit extensions are more appropriately addressed through the existing supervisory process, including through regulatory restrictions on interaffiliate transactions embodied in sections 23A and 23B of the Federal Reserve Act.[3] Sections 23A and 23B of the Federal Reserve Act are intended to limit the risks to an insured depository institution from transactions with its affiliates. In May 2001, the Board published an interim final rule that (1) requires, under section 23A, that institutions establish and maintain policies and procedures to manage the credit exposure arising from the institutions' intraday extensions of credit to affiliates and (2) clarifies that intraday extensions of credit by an insured depository institution to an affiliate are subject to the market terms requirement of section 23B (Docket No. R–1104).

The Board notes that the interim rule under sections 23A and 23B could restrict the ability of depository institutions to consolidate their daylight overdraft caps. Because of statutory exemptions, however, the market terms requirement of section 23B and the policies and procedures requirement of the interim rule generally would not apply to intraday credit extensions between affiliated insured depository institutions. Thus, intraday credit extensions between affiliated depository institutions, including the consolidating transfers discussed above, would generally be permissible under sections 23A and 23B provided they are conducted in a safe and sound manner. On the other hand, intraday credit extensions designed to transfer the daylight overdraft cap of an insured depository institution to an affiliate that is not an insured depository institution, such as a branch or agency of a foreign bank affiliate, would be subject to the market terms requirement of section 23B and the policies and procedures requirement of the interim rule.

Because the risks addressed by the interaffiliate transfer policy are appropriately addressed through the existing supervisory process, the Board is rescinding the interaffiliate transfer policy, part I, section F of the Policy Statement on Payments System Risk.[4] Upon rescission of the interaffiliate transfer policy, depository institutions will no longer be required to submit a board-of-directors resolution to their Reserve Banks; however, institutions are expected to comply with supervisory and regulatory requirements regarding affiliate relationships and exposures, including sections 23A and 23B, as described in 12 CFR 250.248, 12 CFR Part 223, and any future rulemaking.

By order of the Board of Governors of the Federal Reserve System, May 30, 2001.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 01–13977 Filed 6–4–01; 8:45 am]

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[3] 12 U.S.C. 371c.

[4] The current part I, section G of the policy, Monitoring, will be designated as section F.

## FEDERAL RESERVE SYSTEM

## [Docket No. R–1107]

## Policy Statement on Payments System Risk

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Interim policy statement with request for comment.

**SUMMARY:** The Board is issuing and requesting comment on an interim policy statement that allows a depository institution that has a self-assessed net debit cap (average, above average, or high) to pledge collateral to its Federal Reserve Bank in order to access additional daylight overdraft capacity above its net debit cap level. The Board may modify the final policy statement after considering the comments received.

**DATES:** The interim policy statement is effective on May 30, 2001. Comments on the interim policy must be received by August 6, 2001.

**ADDRESSES:** Comments, which should refer to Docket No. R–1107, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551 or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson also may be delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP–500 between 9 a.m. and 5 p.m. weekdays, pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

**FOR FURTHER INFORMATION CONTACT:** Paul Bettge, Associate Director (202/452–3174) or Stacy Coleman, Manager (202/452–2934), Division of Reserve Bank Operations and Payment Systems.

**SUPPLEMENTARY INFORMATION:** This is one of five notices regarding payments system risk that the Board is issuing for public comment today. Three near-term proposals concern the net debit cap calculation for U.S. branches and agencies of foreign banks (Docket No. R–1108), modifications to the procedures for posting electronic check presentments to depository institutions' Federal Reserve accounts for purposes of measuring daylight overdrafts (Docket No. R–1109), and the book-entry securities transfer limit (Docket No. R–1110). In addition, the Board is requesting comment on the benefits and drawbacks to several potential longer-term changes to the Board's payments system risk (PSR) policy, including lowering self-assessed net debit caps, eliminating the two-week average caps, implementing a two-tiered pricing system for collateralized and uncollateralized daylight overdrafts, and rejecting payments with settlement-day finality that would cause an institution to exceed its daylight overdraft capacity level (Docket No. R–1111). Furthermore, to reduce burden associated with the PSR policy, the Board recently rescinded the interaffiliate transfer (Docket No. R–1106) and third-party access policies (Docket No. R–1100).

The Board requests that in filing comments on these proposals, commenters prepare separate letters for each proposal, identifying the appropriate docket number on each. This will facilitate the Board's analysis of all comments received.

### I. Background

Beginning in 1985, the Board adopted and has subsequently modified a policy to reduce the risks that payments systems present to the Federal Reserve Banks, to the banking system, and to other sectors of the economy. An integral component of the current PSR policy is a program to control depository institutions' use of intraday Federal Reserve credit, commonly referred to as ''daylight credit'' or ''daylight overdrafts.'' The Board's

intention was to address the Federal Reserve's risk as well as risks on private-sector networks, primarily large-dollar payments systems. Risk can arise from transactions on the Federal Reserve's wire transfer system (Fedwire); from other types of payments, including checks and automated clearing house (ACH) transactions; and from transactions on private large-dollar networks.

The Federal Reserve Banks face direct risk of loss should depository institutions be unable to settle their daylight overdrafts in their Federal Reserve accounts before the end of the day. Moreover, systemic risk may occur if an institution participating on a private large-dollar payments network were unable or unwilling to settle its net debit position. If such a settlement failure occurred, the institution's creditors on that network might also be unable to settle their commitments. Serious repercussions could, as a result, spread to other participants in the private network, to other depository institutions not participating in the network, and to the nonfinancial economy generally. A Reserve Bank could be exposed to indirect risk if Federal Reserve policies did not address this systemic risk.

The 1985 policy required all depository institutions incurring daylight overdrafts in their Federal Reserve accounts as a result of Fedwire funds transfers to establish a maximum limit, or net debit cap, on those overdrafts (50 FR 21120, May 22, 1985).[1] Initially, the Board exempted book-entry securities overdrafts from quantitative overdraft controls because of concerns about the effect that overdraft restrictions could have on the U.S. government securities market and on the Federal Reserve's ability to conduct monetary policy through open market operations. In 1990, however, the Board announced that a depository institution's funds and book-entry securities overdrafts would be combined for purposes of determining the institution's compliance with its cap (55 FR 22087, May 31, 1990).

The Board recognized that receivers of book-entry securities generally cannot control the timing of their book-entry securities overdrafts, but that intraday book-entry securities overdrafts, like funds overdrafts, have the potential to become overnight overdrafts. Given the seller-driven nature of the book-entry system and the Board's sensitivity to the markets it supports, the Board determined that only collateralized book-entry securities overdrafts would be exempt from cap limits.[2] This aspect of the policy was designed to protect the Reserve Banks from the very large exposures that can result from book-entry transfers without creating serious disruptions in the market.

In 1989, the Board requested comment on a proposed change to its payments system risk reduction program that would assess a fee of 60 basis points, phased in over three years, for average daily overdrafts in excess of a deductible of 10 percent of risk-based capital (54 FR 26094, June 21, 1989). In October 1992, the Board approved charging a fee for daylight overdrafts, which was to be phased in as 24 basis points in 1994, 48 basis points in 1995, and 60 basis points in 1996 (57 FR 47084, October 14, 1992).[3] The purpose of the fee was to induce behavior that would reduce risk and increase efficiency in the payments system.

Some depository institutions and securities dealers commented that they opposed a fee on book-entry securities overdrafts that were collateralized. These depository institutions and securities dealers argued that pricing book-entry securities overdrafts was inequitable because collateral protected the Federal Reserve against losses and there are already costs associated with pledging collateral. For that reason, these institutions and securities dealers argued that pricing and requiring collateral for book-entry securities overdrafts was unduly burdensome. The Board stated, however, that allowing collateral to substitute for daylight overdraft fees would not provide a meaningful incentive for depository institutions or their dealer customers to change their procedures and reduce daylight overdrafts.[4]

In March 1995, the Board decided to raise the daylight overdraft fee to 36 basis points instead of 48 basis points (60 FR 12559, March 7, 1995). Because aggregate daylight overdrafts fell approximately 40 percent after the introduction of fees, the Board was concerned that raising the fee to 48 basis points could produce undesirable market effects contrary to the objectives of the risk-control program. The Board believed, however, that an increase in the overdraft fee was needed to provide additional incentives for institutions to reduce overdrafts related to funds transfers. The Board stated it would evaluate further fee increases two years after the 1995 fee increase.[5]

In considering its obligation to evaluate further fee increases, the Board recognized that significant changes have occurred in the banking, payments, and regulatory environment in the past few years and, as a result, decided to conduct a broad review of the Federal Reserve's daylight credit policies. During the course of its review, the Board evaluated the effectiveness of the current daylight credit policies and determined that these policies appear to be generally effective in controlling risk to the Federal Reserve and creating incentives for depository institutions to manage their intraday credit exposures. In addition, the Board determined that the current policy is well understood by the industry and that private-sector participants generally have benefited from the policy's risk controls. The Board also recognizes, however, that the policy has imposed costs on the industry and is considered burdensome by some depository institutions.

In conducting its review, the Board evaluated the impact of past policy actions on depository institutions' behavior and on the markets generally. The Board also took into consideration the effect of various payment system initiatives on payments activity and the demand for daylight credit. While the Board believes that the current policy is generally effective, it did identify growing liquidity pressures among certain payment system participants. Specifically, the Board learned that a

[1] Net debit caps are calculated by applying a cap multiple from one of six cap classes (zero, exempt, de minimis, average, above average, and high) to a capital measure. Cap multiples are determined through either a self-assessment process (for average, above average, and high cap classes) or a board-of-directors resolution or assigned by the Reserve Bank. Requests for a particular cap multiple are granted at the discretion of the Reserve Bank.

[2] The policy requires that depository institutions with ''frequent and material'' book-entry securities overdrafts fully collateralize these overdrafts. Book-entry daylight overdrafts become frequent and material when an account holder exceeds its net debit cap, because of book-entry securities transactions, on more than three days in any two consecutive reserve maintenance periods and by more than 10 percent of its capacity.

[3] To facilitate the pricing of daylight overdrafts, the Federal Reserve also adopted a modified method of measuring daylight overdrafts that more closely reflects the timing of actual transactions affecting an institution's intraday Federal Reserve account balance. This measurement method incorporates specific account posting times for different types of transactions.

[4] The Board also stated that collateral is required for large book-entry overdrafters as an exception that permits clearing banks and similarly situated institutions to exceed their caps because of the difficulty of controlling book-entry securities overdrafts.

[5] On an average annual basis since 1995, overdrafts caused by book-entry securities transfers have decreased almost 10 percent per year and the value of book-entry securities transfers has grown more than 5 percent per year; whereas funds overdrafts and the value of Fedwire funds transfers have grown between 15 and 18 percent per year. The growth in funds overdrafts appears to be directly related to the growth in large-value funds transfers.

small number of financially healthy institutions regularly find their net debit caps to be constraining, causing them to delay sending payments and, in some cases, to turn away business.[6] Payment system initiatives, such as the Clearing House Interbank Payments System with intraday finality (new CHIPS), the Continuous Linked Settlement (CLS) system, and the Federal Reserve's settlement-day finality for ACH credit transactions, may exacerbate these institutions' liquidity needs at specific times during the day.[7]

## II. Interim Policy Statement

The Board is adopting an interim policy statement that allows depository institutions with net debit caps derived through a self-assessment to pledge collateral voluntarily to the Federal Reserve Banks in order to access additional daylight overdraft capacity above their net debit cap levels.[8] The Board's analysis of overdraft levels, liquidity patterns, and payment system developments revealed that while net debit caps provide sufficient liquidity to most institutions, some depository institutions are experiencing liquidity pressures. The Board recognizes that the interim policy could increase the public sector's credit exposure but believes that requiring collateral will allow the Federal Reserve to protect the public sector from additional credit exposure while providing extra liquidity to the few institutions that might otherwise be constrained. Providing extra liquidity to constrained institutions should help prevent liquidity-related market disruptions. The option to pledge collateral for additional daylight overdraft capacity would provide the private sector with the flexibility that it has requested to relieve liquidity pressures that have arisen or may arise from payment system innovations such as new CHIPS, CLS, and ACH finality as well as other payment system initiatives.

The Board believes it is important to provide an environment in which payment systems may function effectively and efficiently and remove barriers, as appropriate, to foster risk-reducing payment system initiatives. The Board recognizes that large-dollar networks are an integral part of clearing and settlement systems, that it is of considerable importance to keep the payments system operating without significant disruption, and that some intraday credit may be necessary to keep the payments system running smoothly and efficiently. Given these principles, the Board believes that allowing depository institutions with self-assessed net debit caps to pledge collateral for additional daylight overdraft capacity will continue to promote the PSR policy's risk-reduction efforts while minimizing disruptions to the payments system. In addition, daylight overdraft fees will continue to apply to all overdrafts, collateralized or uncollateralized, as the fee provides a meaningful incentive for depository institutions to manage efficiently their use of Federal Reserve daylight credit.

### *A. Payment System Initiatives*

#### CHIPS Real-Time Final Settlement

On January 22, 2001, the Clearing House Interbank Payments Company L.L.C. (CHIPCo) converted CHIPS from an end-of-day multilateral net settlement system to one that provides real-time final settlement for all payment orders as they are released.[9] Under an end-of-day system, the delay between the release of a payment order and its settlement results in the risk that the failure of one or more participants could trigger a failure of the system to settle. In response to demands of CHIPS participants to eliminate any possibility of an unwind, CHIPCo developed a method to achieve real-time final settlement of CHIPS payment orders. Under real-time final settlement, all CHIPS payment instructions are settled against a positive current position in the CHIPS prefunded balance account held at the Federal Reserve Bank of New York (FRBNY) or simultaneously offset by incoming payments or both. As a result, real-time final settlement eliminates the complexity and potential systemic risks of an end-of-day settlement failure that could lead to a general unwinding of CHIPS payments. In addition, the real-time final settlement of new CHIPS reduces credit and liquidity risks.

To accomplish real-time final settlement, each CHIPS participant must transfer (directly or through another participant) a predetermined amount into the CHIPS ''prefunded balance account'' on the books of FRBNY. While new CHIPS settles all of the payment orders when they are released, some payment orders remain unreleased at the end of the day. These payment orders are netted and set off against one another on a multilateral basis, with each participant in a net debit closing position transferring the amount of its closing position requirement into the prefunded balance account. Many CHIPS participants use Federal Reserve daylight credit to pay their end-of-day closing position requirements on CHIPS. Some of these participants have stated that making these Fedwire payments has, on occasion, increased their demand for intraday credit.

#### CLS Bank

CLS Bank is being designed as a multi-currency facility for settling foreign exchange transactions. Under the proposed procedures, participating institutions will be required to make daily U.S. dollar payments to CLS Bank over Fedwire during the early hours of the Fedwire funds transfer operating day. Because U.S. financial money markets are not currently active during those hours, a number of CLS members assert that they will use Federal Reserve daylight credit to fund their CLS-related payment obligations and have requested that the Federal Reserve grant them additional intraday credit.[10]

[6] Current net debit cap levels provide sufficient liquidity for the majority of depository institutions. Approximately 97 percent of depository institutions with positive net debit caps use less than 50 percent of their daylight overdraft capacity for their average daily peak overdrafts.

[7] New CHIPS was implemented on January 22, 2001, CLS is scheduled for implementation in the fourth quarter of 2001, and ACH credit transactions will be final on the settlement date beginning in mid-2001. Settlement-day finality for ACH credit transactions may exacerbate liquidity pressures for credit originators on the real-time monitor that must prefund.

[8] Depository institutions that wish to have access to larger amounts of intraday credit than that provided by the exempt-from-filing and de minimis net debit caps must perform a self-assessment of their creditworthiness, intraday funds management and control, customer credit policies and controls, and operating controls and contingency procedures to support a higher daylight overdraft cap.

[9] CHIPCo is the affiliate of The New York Clearing House Association L.L.C. that owns and operates CHIPS.

[10] For additional information on payment system initiatives, refer to the Payments Risk Committee's report entitled ''Intraday Liquidity Management in the Evolving Payment System: A Study of the Impact of the Euro, CLS Bank, and CHIPS Finality,'' New York, April 2000. *http://www.ny.frb.org/prc/intraday.html.*

ACH Settlement-Day Finality In November 1999, the Board announced a decision to make the settlement of ACH credit transactions processed by the Federal Reserve final when posted to the accounts of the receivers, which is currently 8:30 a.m. ET on the day of settlement (64 FR 62673, November 17, 1999). The Board noted that, in order to protect the Federal Reserve from the credit risk of granting finality to receiving depository institutions, the Reserve Banks would require settling depository institutions that are monitored in real time to prefund the total of their ACH credit originations before the transactions are processed. Settlement-day finality for ACH credit transactions reduces risk to receiving depository institutions and receivers while the prefunding requirement permits the Reserve Banks to manage their settlement risk for ACH credit transactions as they do for other services with similar finality features.

When the Board requested comment on the ACH finality proposal, a number of depository institutions asked that the Federal Reserve allow the flexibility of posting collateral as an alternative to the prefunding requirement (63 FR 70132, December 18, 1998). The Board noted that allowing collateral to cover non-securities related overdrafts was not in accordance with the PSR policy. The Board, however, also indicated that it would consider the commenters' request in future reviews of its PSR policies. Under the conditions described in this interim policy, some depository institutions submitting ACH credit transactions on the day of settlement will be able to secure additional daylight overdraft capacity.[11]

*B. Collateralized Daylight Overdraft Capacity*

Depository institutions with self-assessed net debit caps that wish to expand their daylight overdraft capacity levels by pledging collateral should consult with their Reserve Banks. In developing guidelines for approving maximum limits on collateralized daylight overdraft capacity beyond net debit cap levels, the Board and Reserve Bank staff will consider financial and supervisory information. The financial and supervisory information may include, but is not limited to, potential daylight credit usage, capital and liquidity ratios, the composition of balance sheet assets, CAMELS or other supervisory ratings and assessments, and the Strength of Support Assessment rankings for U.S. branches and agencies of foreign banks.

Depository institutions may pledge the same types of collateral they do today for discount window or PSR purposes. In addition, the Board believes that it would be reasonable for depository institutions to use collateral pledged to the discount window for additional daylight overdraft capacity and notes that more than 25 percent of account holders already have collateral pledged to the Reserve Banks.[12] While several hundred depository institutions have collateral pledged to the Federal Reserve, the Board expects that very few depository institutions will seek to expand their daylight overdraft capacity levels by pledging collateral because approximately 97 percent of all account holders use less than 50 percent of their net debit caps for their average peak overdrafts. This modification of the PSR policy, allowing depository institutions with self-assessed net debit caps to pledge collateral for extra daylight overdraft capacity, affects other areas of the policy, including the policy's treatment of U.S. branches and agencies of foreign banks, book-entry securities transfers, and account monitoring procedures.

U.S. Branches and Agencies of Foreign Banks

For U.S. branches and agencies of foreign banks, net debit caps on daylight overdrafts in Federal Reserve accounts are calculated by applying the cap multiples for each cap category to a foreign banking organization's (FBO's) consolidated ''U.S. capital equivalency.''[13] U.S. capital equivalency is calculated in one of several ways. In the case of FBOs whose home-country supervisors adhere to the Basle Capital Accord, U.S. capital equivalency is equal to the greater of 10 percent of worldwide capital or 5 percent of the liabilities to nonrelated parties of each agency or branch.[14] For FBOs whose home-country supervisors do not adhere to the Basle Capital Accord, U.S. capital equivalency is measured as the greater of (1) the sum of the amount of capital (but not surplus) that would be required of a national bank being organized at each agency or branch location, or (2) the sum of 5 percent of the liabilities to nonrelated parties of each agency or branch.

The current policy allows U.S. branches and agencies of FBOs whose home-country supervisors do not adhere to the Basle Capital Accord to incur daylight overdrafts above their net debit caps up to a maximum amount equal to their cap multiples times 10 percent of their FBOs' capital, provided that any overdrafts above the net debit caps are collateralized. The interim policy offers all foreign banks, under terms that reasonably limit Reserve Bank risk, a level of overdrafts based on the same proportion of worldwide capital. Under the interim policy statement, the above distinction is no longer pertinent because any U.S. branch or agency of a foreign bank that has a self-assessed net debit cap and that would like to access daylight credit above its net debit cap level may consult with its Administrative Reserve Bank to discuss an appropriate daylight overdraft capacity level.[15] In addition, a notice published elsewhere in today's **Federal Register** requests comment on the net debit cap calculation for U.S. branches and agencies of foreign banks (Docket No. R–1108).

Book-Entry Securities Transactions

The current policy stipulates that depository institutions with book-entry securities overdrafts that meet the frequency and materiality thresholds must *fully* collateralize these overdrafts, not only the overdraft amount that exceeds the net debit cap level.[16] Under the interim policy statement, the Board is eliminating the frequent and material collateralization requirement for self-assessed depository institutions' book-entry securities overdrafts. Instead, the policy statement will allow Reserve Banks to require collateral from self-assessed depository institutions that frequently exceed their caps as a result of transactions with settlement-day

[11] Federal Reserve systems in place today would not be effective for monitoring the collateralization of ACH credit transactions over several days.

[12] The Board notes that the majority of Federal Reserve daylight credit extensions are currently implicitly collateralized because depository institutions that have pledged collateral must sign Operating Circular 10, which provides the Reserve Banks with a secured interest in any collateral recorded on the Reserve Banks' books.

[13] The term ''U.S. capital equivalency'' is used in this context to refer to the particular capital measure used to calculate daylight overdraft net debit caps and does not necessarily represent an appropriate capital measure for supervisory or other purposes.

[14] Liabilities to nonrelated parties include acceptances but excludes accrued expenses and amounts due and other liabilities to offices, branches, and subsidiaries of the foreign bank.

[15] The Administrative Reserve Bank is responsible for managing an institution's account relationship with the Federal Reserve.

[16] Book-entry daylight overdrafts become ''frequent and material'' when an account holder exceeds its net debit cap, due to book-entry securities transactions, by more than 10 percent of its capacity and on more than three days in any two consecutive reserve maintenance periods.

[17] These transactions include Fedwire funds and book-entry securities transfers, enhanced net settlement service transactions, and ACH credit originations (beginning in mid-2001).

finality.[17] [18] While the interim policy statement requires collateralization of overdrafts *only* above net debit cap levels, which could increase the Federal Reserve's credit exposure, the Board believes an increase in Federal Reserve credit risk would be minimal given that very few institutions that participate in the government-securities market meet the frequent and material criteria. The Board also believes that eliminating the frequent and material collateralization requirement for book-entry securities overdrafts specifically and developing guidelines that require collateralization of overdrafts above net debit cap levels regardless of the cause would simplify administration of and compliance with the policy.

The changes described above do not apply to institutions with exempt-from-filing or de minimis net debit caps. Under the interim policy, the Board plans to continue to allow depository institutions with exempt-from-filing or de minimis caps to collateralize voluntarily all or part of their book-entry securities overdrafts. The Board also intends to continue:

- Requiring depository institutions with exempt-from-filing or de minimis caps that frequently exceed their caps, even if only partly because of book-entry securities transactions, to collateralize all of their book-entry securities overdrafts.
- Prohibiting depository institutions with exempt-from-filing or de minimis caps to pledge collateral to increase their daylight overdraft capacity for funds overdrafts.
- Requiring depository institutions with zero caps that have access to the discount window to collateralize fully all book-entry securities overdrafts.

With the adoption of a final policy statement, the Board intends to eliminate the current policy's separate treatment of book-entry securities overdrafts. The policy will require any depository institution with an exempt-from-filing or de minimis cap to apply for a higher net debit cap if the institution frequently exceeds its cap because of transactions with settlement-day finality. The Board believes that such a change would simplify administration and compliance with the policy. Furthermore, the Board notes that very few depository institutions (currently there are six) with exempt-from-filing or de minimis caps voluntarily hold collateral to cover their book-entry securities overdrafts and would not be adversely affected by the proposed policy change.[19]

Account Monitoring

Currently, a depository institution's funds and book-entry securities overdrafts are combined for purposes of determining the institution's compliance with its cap. Under the ex post monitoring procedures, the Reserve Banks contact and counsel institutions with net debit positions in excess of their caps, discussing ways to reduce their excessive use of intraday credit. Each Reserve Bank retains the right to protect its risk exposure from individual institutions by unilaterally reducing net debit cap levels, imposing collateralization or clearing-balance requirements, holding or rejecting Fedwire transfers or enhanced net settlement service transactions during the day until the institution has collected balances in its Federal Reserve account, or, in extreme cases, prohibiting it from using Fedwire.

The Board does not intend to modify significantly the Federal Reserve's ex post monitoring procedures. The Board notes, however, that three aspects of the ex post monitoring procedures warrant clarification with implementation of the interim policy. First, the Reserve Banks will monitor the net debit positions of depository institutions with self-assessed caps that choose to pledge collateral voluntarily for additional overdraft capacity against these institutions' daylight overdraft capacity levels and not their net debit cap levels.

Second, Reserve Banks may require depository institutions with self-assessed net debit caps that frequently exceed their daylight overdraft capacity levels to collateralize the difference between their peak daylight overdrafts and their net debit cap levels. Depository institutions have some flexibility as to the specific types of collateral they may pledge to the Reserve Banks; all collateral, however, must be acceptable to the Reserve Banks.

Finally, the policy will continue to allow administrative counseling flexibility for institutions that frequently exceed their net debit caps due to the posting of transactions that do not have settlement-day finality, such as checks and ACH debit originations.[20] Escalated counseling or requiring collateral for daylight overdrafts caused by these transactions may be of limited use in reducing associated overdrafts.

## III. Request for Comment

The Board requests comment on all aspects of the interim policy statement. The Board is also requesting specific comments on the following questions:

1. What are the benefits and drawbacks of allowing depository institutions with self-assessed net debit caps to pledge collateral for additional daylight overdraft capacity?
2. Would a policy change that requires depository institutions with exempt-from-filing and de minimis caps to apply for higher net debit caps if they frequently exceed their caps because of book-entry securities transfers simplify the policy or create an undue burden?
3. Would the interim policy cause institutions to pledge additional collateral to the Federal Reserve or would they primarily use collateral already pledged to a Reserve Bank?

## IV. Competitive Impact Analysis

The Board has established procedures for assessing the competitive impact of rule or policy changes that have a substantial impact on payments system participants.[21] Under these procedures, the Board assesses whether a change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints, or due to a dominant market position of the Federal Reserve deriving from such differences. If no reasonable modifications would mitigate the adverse competitive effects, the Board will determine whether the expected benefits are significant enough to proceed with the change despite the adverse effects.

The Board does not believe that the broader use of collateral for daylight overdraft purposes will have a direct and material effect on the ability of other service providers to compete with the Reserve Banks' payments services. The Board notes that the interim policy

[18] Under the interim policy, ''frequently'' will continue to mean more than three days in any two consecutive reserve maintenance periods. In the vast majority of cases where depository institutions' overdrafts exceed their net debit cap levels, the materiality threshold is met. The Board, therefore, is eliminating the ''materiality'' criteria entirely from the policy because it has little practical purpose.

[19] Currently there are no depository institutions with exempt-from-filing or de minimis caps that are required to pledge collateral for book-entry securities overdrafts as a result of meeting the frequency and materiality criteria.

[19] Currently there are no depository institutions with exempt-from-filing or de minimis caps that are required to pledge collateral for book-entry securities overdrafts as a result of meeting the frequency and materiality criteria.

[20] In October 1994, the Board approved administrative counseling flexibility for institutions that continue to exceed their net debit caps due to the posting of non-Fedwire transactions (59 FR 27122, November 2, 1994).

[21] These procedures are described in the Board's policy statement ''The Federal Reserve in the Payments System,'' as revised in March 1990. (55 FR 11648, March 29, 1990).

statement is intended to facilitate the smooth functioning of private-sector payment systems.

**V. Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. ch. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed the policy statement under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the policy statement.

**VI. Federal Reserve Policy Statement on Payments System Risk**

The ''Federal Reserve Policy Statement on Payments System Risk,'' section I is amended, effective *DATE,* as follows with changes identified by *italics:*

I. FEDERAL RESERVE POLICY
- A. Daylight overdraft definition
- B. Pricing
- C. Capital
- 1. U.S.-chartered institutions
- 2. U.S. agencies and branches of foreign banks
- D. Net debit caps
- 1. Cap set through self-assessment
- 2. De minimis cap
- 3. Exemption from filing
- 4. Special situations
- a. Edge and agreement corporations
- b. Bankers' banks
- c. Limited-purpose trust companies
- d. Zero-cap depository institutions
- *E. Collateral*
- *F. Book-entry securities transactions*
- 1. Collateralization
- 2. Transfer-size limit
- *G. Monitoring*
- 1. Ex post
- 2. Real time
- 3. Multi-District institutions
- 4. ACH controls

The last paragraph in section I.C.2., under the heading ''*U.S. agencies and branches of foreign banks,*'' has been deleted, effective *DATE.*

A new heading ''*Collateral*'' and text have been added to read as follows in section I.E., effective *DATE:*

E. Collateral

Depository institutions with self-assessed net debit caps may pledge collateral to their Administrative Reserve Banks to secure daylight overdraft capacity in excess of their net debit caps. The Reserve Banks will work with self-assessed depository institutions that request additional daylight overdraft capacity to decide on the appropriate maximum daylight overdraft capacity levels, that is, net debit cap levels plus allowable collateralized credit. Depository institutions have some flexibility as to the specific types of collateral they may pledge to the Reserve Banks; all collateral, however, must be acceptable to the Reserve Banks. Depository institutions with exempt-from-filing and de minimis net debit caps may not obtain additional capacity by pledging collateral. These depository institutions must perform a self-assessment of their creditworthiness, intraday funds management and control, customer credit policies and controls, and operating controls and contingency procedures to support a higher daylight overdraft cap.

In addition, Reserve Banks may require depository institutions with self-assessed net debit caps that frequently exceed their caps due to transactions with settlement-day finality to collateralize the difference between their peak daylight overdrafts and their net debit cap levels. For the purposes of this policy, ''frequently'' means more than three occasions in two consecutive reserve-maintenance periods.

The policy allows administrative counseling flexibility for most institutions that frequently exceed their net debit caps because of the posting of transactions that lack settlement-day finality, such as checks and ACH debit originations. The Board's policy on net debit caps is intended to address intraday risk to the Federal Reserve arising from daylight overdrafts. Most transactions that lack settlement-day finality, however, pose primarily interday, rather than intraday, risk. Escalated counseling or requiring collateral for daylight overdrafts caused by these transactions may be of limited use in reducing associated overdrafts. Under administrative counseling flexibility, the Reserve Banks work with affected institutions on means of avoiding daylight overdrafts, but generally do not subject these institutions to escalated levels of counseling, require collateral, or assign a zero cap.

Section I.F.1., under the heading ''*Collateralization*'' is replaced, effective *DATE,* to read as follows:

F. Book-Entry Securities Transactions

*1. Collateralization*

A depository institution's funds and book-entry securities overdrafts are combined for purposes of determining an institution's compliance with its cap.[18] The policy requires depository institutions with exempt-from-filing or de minimis caps that frequently exceed their caps, even if only partly because of book-entry securities transactions, to collateralize all of their book-entry securities overdrafts. For the purposes of this policy, ''frequently'' means on more than three occasions in two consecutive reserve-maintenance periods. To determine whether an institution exceeds its net debit cap because of book-entry securities transactions, the Reserve Bank determines what activity in an institution's Federal Reserve account is attributable to funds transfers and other payment transactions and what activity is attributable to book-entry securities transactions. A book-entry securities overdraft occurs when an institution's book-entry securities balance, less any credit in its funds balance, is a net debit.

In addition, all depository institutions with exempt-from-filing or de minimis caps may collateralize all or part of their book-entry securities overdrafts. Such secured overdrafts shall not be included with those overdrafts measured against their caps. For example, a depository institution with a de minimis cap of $50 million and a $30 million overdraft—$15 million due to funds transfers and $15 million due to book-entry securities transfers—would ordinarily have excess capacity of $20 million. Such an institution may increase its excess capacity by $15 million by collateralizing all of its book-entry securities overdrafts (or may increase its excess capacity by less than $15 million by collateralizing some portion of its book-entry securities overdrafts). Such an institution may not increase its cap of $50 million by over-collateralizing its book-entry securities overdrafts or by collateralizing any part of its funds overdrafts.

Section I.G.1., under the heading ''*Ex Post*'' is amended, effective *DATE,* as follows with changes identified by *italics:*

G. Monitoring

*1. Ex Post*

Under the ex post monitoring procedure, an institution with a net debit position in excess of its cap *or daylight overdraft capacity level* will be contacted by its Reserve Bank. The Reserve Bank will counsel the institution, discussing ways to reduce its excessive use of intraday credit. Each Reserve Bank retains the right to protect its risk exposure from individual institutions by unilaterally reducing Fedwire caps, imposing collateralization or clearing-balance requirements, holding or rejecting Fedwire transfers during the day until the institution has

[18] Funds overdrafts refer to overdrafts caused by funds transfers as well as NSS, TIP, cash, ACH, and check transactions.

collected balances in its Federal Reserve account, or, in extreme cases, taking the institution off-line or prohibiting it from using Fedwire.

By order of the Board of Governors of the Federal Reserve System, May 30, 2001.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 01–13978 Filed 6–4–01; 8:45 am]

**BILLING CODE 6210–01–P**

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## FEDERAL RESERVE SYSTEM

**[Docket No. R–1108]**

## Policy Statement on Payments System Risk; Daylight Overdraft Capacity for Foreign Banking Organizations

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Request for comment on policy.

**SUMMARY:** The Board is requesting comment on proposed changes to its payments system risk (PSR) policy. The proposal would modify the criteria used to determine the U.S. capital equivalency for foreign banking organizations (FBOs). Specifically, the proposed policy would (1) eliminate the Basel Capital Accord (BCA) criteria used in the current policy to determine U.S. capital equivalency for FBOs, (2) replace the BCA criteria with the strength of support assessment (SOSA) rankings and financial holding company (FHC) status in determining U.S. capital equivalency for FBOs, and (3) raise the percentage of capital used in calculating U.S. capital equivalency for certain FBOs.

**EFFECTIVE DATE:** Comments must be received by August 6, 2001.

**ADDRESSES:** Comments, which should refer to Docket No. R–1108, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551 or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson also may be delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP–500 between 9 a.m. and 5 p.m. weekdays, pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

**FOR FURTHER INFORMATION CONTACT:** Paul Bettge, Associate Director (202/452–3174), Stacy Coleman, Manager (202/452–2934), Myriam Payne, Project Leader (202/452–3219), or Adam Minehardt, Financial Services Analyst (202/452–2796), Division of Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System.

**SUPPLEMENTARY INFORMATION:** This is one of five notices regarding payments system risk that the Board is issuing for public comment today. Two near-term proposals concern modifications to the procedures for posting electronic check presentments to depository institutions' Federal Reserve accounts for purposes of measuring daylight overdrafts (Docket No. R–1109) and the book-entry securities transfer limit (Docket No. R–1110). In addition, the Board is requesting comment on the benefits and drawbacks to several potential longer-term changes to the Board's policy, including lowering self-assessed net debit caps, eliminating the two-week average caps, implementing a two-tiered pricing system for collateralized and uncollateralized daylight overdrafts, and rejecting payments with settlement-day finality that would cause an institution to exceed its daylight overdraft capacity level (Docket No. R–1111). The Board is also issuing today an interim policy statement and requesting comment on the broader use of collateral for daylight overdraft purposes (Docket No. R–1107). Furthermore, to reduce burden associated with the PSR policy, the Board recently rescinded the interaffiliate transfer (Docket No. R–1106) and third-party access policies (Docket No. R–1100).

The Board requests that in filing comments on these proposals, commenters prepare separate letters for each proposal, identifying the appropriate docket number on each. This will facilitate the Board's analysis of all comments received.

### I. Background

In April 1985, the Board adopted a policy to reduce risk on large-dollar payments systems (50 FR 21120, May 22, 1985). This policy established maximum amounts of uncollateralized daylight credit, or net debit caps, that depository institutions are permitted to incur in their Federal Reserve accounts. Net debit caps for U.S. branches and agencies of foreign banks are calculated in the same manner as for domestic banks, by applying cap multiples from one of the six cap classes to a capital measure.[1] [2] A depository institution's cap class and associated cap multiple either are determined through a self-assessment or a board-of-directors resolution or are assigned by the Administrative Reserve Bank.[3] All net debit caps, including those requested by an institution's board of directors, are granted at the discretion of the Federal Reserve. Under the current policy, the Federal Reserve Banks apply the cap multiple to 100 percent of domestic depository institutions' risk-based (or equivalent) capital. The capital measure used for an FBO, known as the U.S. capital equivalency, however, is substantially less than the FBO's total capital.

In 1987, the Board considered and decided against changing the original definition of U.S. capital equivalency (52 FR 29255, August 6, 1987). At the request of several FBOs, however, the Board requested comment again in June 1989 on alternatives for determining FBOs' U.S. capital equivalency used in calculating net debit caps for U.S. branches and agencies of foreign banks (54 FR 26108, June 21, 1989). After further analysis, in 1991, the Board adopted the current policy based on the BCA distinction (55 FR 22095, May 31, 1990).[4]

FBOs from countries that adhere to the BCA are currently eligible to use as their U.S. capital equivalency the greater of 10 percent of their capital or 5 percent of their liabilities to nonrelated parties.[5] FBOs from countries that do not adhere to the BCA may use as their U.S. capital equivalency the greater of 5 percent of

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[1] U.S. branches and agencies of foreign banks are entities contained within and controlled by a foreign banking organization. For the definition of ''branch'' and ''agency'', refer to 12 U.S.C. 3101 and 12 CFR.

[2] The net debit cap classes and their associated single-day multiples are a zero cap (0), an exempt-from-filing cap (equal to the lesser of $10 million or 0.2 times a capital measure), a de minimis cap (0.4); and three self-assessed caps, average (1.125), above average (1.875), and high (2.25). A net debit cap is calculated for the FBO and then distributed among its U.S. branches and agencies at the discretion of the FBO and the Administrative Reserve Bank.

[3] The Administrative Reserve Bank is responsible for managing an institution's account relationship with the Federal Reserve.

[4] The BCA was developed by the Basel Committee on Banking Supervision and endorsed by the central bank governors of the Group of Ten countries. The BCA provides a framework for assessing the capital adequacy of a depository institution by risk weighting its assets and off-balance sheet exposures primarily based on credit risk.

[5] Liabilities to nonrelated parties include acceptances, but exclude accrued expenses and mounts due and other liabilities to offices, branches, and subsidiaries of the foreign bank of each agency or branch.

their liabilities to nonrelated parties or the amount of capital that would be required of a national bank being organized at each location.[6] Under the current policy, if the home country supervisor of an FBO does not adhere to the BCA, the U.S. branch or agency of the FBO may still incur daylight overdrafts above its net debit cap up to a maximum equal to its cap multiple times 10 percent of its capital, provided that any overdrafts above the net debit cap are collateralized.

In 2000, as part of a broad review of the PSR policy, the Board again assessed the determination of U.S. capital equivalency for FBOs. The review included analysis of trends of daylight credit, consideration of supervisory issues, analysis of new or emerging payments system initiatives, and discussions with FBOs.

## II. Discussion

### *A. FBO Liquidity Issues*

A few FBOs have indicated that their net debit caps constrain their business activity and place them at a competitive disadvantage to U.S. depository institutions. These FBOs assert that certain U.S. depository institutions hold a significant portion of their assets in foreign markets but are able to use 100 percent of their total risk-based capital in establishing their caps, while the PSR policy does not recognize the FBOs' worldwide financial strength. During 2000, approximately 35 percent of U.S. branches and agencies of foreign banks with nonzero net debit caps had cap utilization levels of 75 percent or more.[7] In contrast, less than 5 percent of domestically chartered institutions use more than 50 percent of their net debit caps for their average daily peak daylight overdrafts.

A number of FBOs have expressed concern over being able to meet the intraday liquidity requirements of the Continuous Linked Settlement (CLS) system and the new Clearing House Interbank Payments System with intraday finality (new CHIPS). CLS Bank is being designed as a multi-currency facility for settling foreign exchange transactions. Under the proposed procedures, participating institutions will be required to make daily U.S. dollar payments to CLS Bank over Fedwire during the early hours of the Fedwire funds transfer operating day. Because U.S. financial money markets are not currently active during those hours, a number of CLS members assert that they will use Federal Reserve daylight credit to fund their CLS-related payment obligations and have requested that the Federal Reserve grant them additional intraday credit.[8]

On January 22, 2001, the Clearing House Interbank Payments Company L.L.C. converted CHIPS from an end-of-day multilateral net settlement system to one that provides real-time final settlement for all payment orders as they are released.[9] To accomplish real-time final settlement, each CHIPS participant must transfer (directly or through another participant) a predetermined amount into the CHIPS ''prefunded balance account'' on the books of the Federal Reserve Bank of New York. While new CHIPS settles all of the payment orders when they are released, some payment orders remain unreleased at the end of the day. These payment orders are netted and set off against one another on a multilateral basis, with each participant in a net debit closing position transferring the amount of its closing position requirement into the prefunded balance account. Many CHIPS participants use Federal Reserve daylight credit to pay their end-of-day closing position requirements on CHIPS. Some of these participants have stated that making these Fedwire payments has, on occasion, increased their demand for intraday credit.

In addition to the concerns raised by FBOs, the Board recognizes the continued globalization of the financial industry and that many FBOs have established substantial operations within the United States. Furthermore, FBOs might increase their U.S. activities with the business opportunities created by the Gramm-Leach-Bliley Act (Public Law 106–102) (GLB Act). As their U.S. business expands, FBOs could have a corresponding increase in their need for use of the U.S. payments system and daylight credit.

### *B. National Treatment Considerations*

While the Board understands the concerns of the foreign banking community, FBO participants in the payments system present risks that domestic depository institutions do not pose to the same extent and, accordingly, some differential treatment is warranted. Additional risks posed by FBOs include increased legal risk in pursuing claims against insolvent FBOs under the laws of various countries and increased supervisory risk in the monitoring of FBOs.

FBOs present special legal risks to the Federal Reserve because of the differences in insolvency laws and public policy associated with the various FBOs' home countries. In international financial transactions, the overall risk borne by each party is affected not only by the governing law set out in the contract, but also by the law governing the possible insolvency of its counterparty. The insolvency of an international bank presents significant legal issues in enforcing particular provisions of a financial contract (such as close-out netting or irrevocability provisions) against third parties (such as the liquidator or supervisor of the failed bank). The insolvent party's national law also may permit the liquidator to subordinate other parties' claims (such as by permitting the home country tax authorities to have first priority in bankruptcy), may reclassify or impose a stay on the right the nondefaulting party has to collateral pledged by the defaulting party in support of a particular transaction, or may require a separate proceeding to be initiated against the head office in addition to any proceeding against the branch.

It is not practicable for the Federal Reserve to undertake and keep current extensive analysis of the legal risks presented by the insolvency law(s) applicable to each FBO with a Federal Reserve account in order to quantify precisely the legal risk that the Federal Reserve incurs by providing intraday credit to that institution. It is reasonable, however, for the Federal Reserve to recognize that FBOs generally present additional legal risks to the payments system and, accordingly, limit its exposure to these institutions.

In addition to the legal risks associated with FBO failures, the Federal Reserve faces elevated supervisory risks when monitoring FBOs. In some countries, supervisory information available to U.S. regulators may be less timely and not comparable to similar information used in the supervision of U.S. depository institutions. U.S. bank supervisors also lack a consolidated view of the FBO's risk management process and are unable to test its implementation on a global basis. Furthermore, FBO risk profiles differ due to varying industry and regulatory structures across countries.

[6] The latter measure is not normally reported to the Federal Reserve. If an FBO desires to use this measure as its capital equivalency, the Administrative Reserve Bank must be notified to make special arrangements.

[7] In this context, cap utilization is equal to an FBO's average daily peak daylight overdraft divided by the FBO's net debit cap.

[8] For additional information on payment system initiatives, refer to the Payments Risk Committee's report entitled ''Intraday Liquidity Management in the Evolving Payment System: A Study of the Impact of the Euro, CLS Bank, and CHIPS Finality,'' New York, April 2000. *http://www.ny.frb.org/prc/intraday.html.*

[9] CHIPCo is the affiliate of The New York Clearing House Association L.L.C. that owns and operates CHIPS.

## III. Proposed Changes to PSR Policy

The Board is requesting comment on the following policy changes related to the determination of FBOs' U.S. capital equivalency used in calculating net debit caps for their U.S. branches and agencies. Specifically, the proposed policy would allow

1. FBOs that hold an FHC classification to use 35 percent of their capital as their U.S. capital equivalency. The Board believes that the capital and management requirements for FHCs and the heightened monitoring and supervision to which FHCs are subject justify permitting these FBOs to incur a higher level of daylight overdrafts.

2. FBOs that are not FHCs and are ranked SOSA 1 to use 25 percent of capital as their U.S. capital equivalency. The Board believes that achieving the standards of the SOSA 1 ranking provide sufficient support for increasing the percentage of capital used for net debit cap calculations to 25 percent.[10]

3. FBOs that are not FHCs and are ranked SOSA 2 to use 10 percent of their capital as their U.S. capital equivalency.

4. FBOs that are not FHCs and are ranked SOSA 3 to use 5 percent of the FBO's ''net due to related depository institutions.'' [11] Recognizing that net debit caps are granted at the discretion of the Federal Reserve, the Reserve Banks could require certain SOSA 3-ranked FBOs to fully collateralize their net debit caps.

The Board believes its proposal to permit the use of higher percentages of capital for FBOs that hold an FHC classification or a SOSA 1-ranking will provide sufficiently larger daylight overdraft capacity to those institutions whose payment activity is currently constrained by their net debit caps. The Board believes that the benefits to the payments system of increasing the U.S. capital equivalency for FBOs that hold an FHC classification or a SOSA 1-ranking outweigh the potential increase in credit risk to the Federal Reserve.

In addition, an interim policy statement (Docket No. R–1107) that was published elsewhere in today's **Federal Register** allows depository institutions that have self-assessed net debit caps to pledge collateral to the Federal Reserve Banks in order to incur additional daylight overdrafts above their net debit cap levels. An FBO whose U.S. branch or agency has a self-assessed net debit cap and is in need of additional capacity may consult with its Administrative Reserve Bank on pledging collateral for this purpose.[12]

### *A. Supervisory Rankings*

The Board considered how the SOSA rankings might alleviate some concerns about the timeliness and reliability of supervisory information. SOSA rankings reflect an assessment of an FBO's ability to provide financial, liquidity, and management support to its U.S. operations. In October 2000, SOSA rankings were made available to the FBOs' management and home country supervisor.[13] Previously, SOSA rankings were used for internal Federal Reserve purposes only. SOSA rankings provide broader information about the condition of the FBO, its supervision, and the home country, whereas the BCA distinction provides information only about the home country treatment of bank capital adequacy. Furthermore, the BCA designation reflects the one-time adoption of BCA standards by a country's supervisory authority, while U.S. bank supervisors update the SOSA rankings regularly.

The Board also considered the FHC status created by the GLB Act. The GLB Act authorizes bank holding companies (BHCs) and FBOs that are well capitalized and well managed, as those terms are defined in the statute and the Board's regulations, to elect FHC status and thereby engage in securities, insurance, and other activities that are financial in nature or incidental to a financial activity and that are otherwise impermissible for BHCs. FHCs must continue to meet the applicable capital and management standards in order to maintain their status and are subject to enhanced reporting requirements. The Board believes that, like the SOSA ranking, FHC status is preferable to the BCA distinction in determining the risk posed by FBOs to the U.S. payments system.[14]

The Board, therefore, proposes to replace the current BCA distinction in the PSR policy with a combined SOSA-FHC structure and to increase the percentage of capital used in calculating net debit caps for certain U.S. branches and agencies of foreign banks. The Board believes that the SOSA ranking provides more specific, more comprehensive, and more timely information than the BCA distinction. As result, the Board believes that the definition of U.S. capital equivalency can be expanded further for FBOs that are FHCs or have a SOSA 1 ranking.

### *B. Alternative Measure of U.S. Capital Equivalency*

Under the current policy, an FBO from a country that does not adhere to the BCA must use an alternative measure for its U.S. capital equivalency that is not based on total capital. Currently, the alternative measure is 5 percent of ''liabilities to nonrelated parties'' or the amount of capital that would be required of a national bank being organized at a specific location. The Board believes that using an alternative measure of U.S. capital equivalency when an FBO's home country does not adhere to the BCA is appropriate given concerns over the potential lack of timely supervisory information regarding these FBOs and the Federal Reserve's inability to monitor each FBO's non-U.S. operations.

While the Board proposes to eliminate the BCA criteria used in the current policy, the Board continues to support using an alternative measure of U.S. capital equivalency for U.S. branches and agencies of foreign banks that represent the greatest levels of supervisory concern. The Board believes that this alternative measure should be applied only to those FBOs that may exhibit significant financial or supervisory weaknesses, specifically SOSA 3-ranked FBOs under the proposed policy. In achieving this end, the Board believes that the alternative measure of U.S. capital equivalency for SOSA 3-ranked FBOs should reflect the capital investment of the FBO in its U.S. operations rather than its total capital.

As an alternative measure for U.S. capital equivalency, the Board intends to replace the use of ''liabilities to nonrelated parties'' with ''net due to

[10] The SOSA ranking is composed of four factors including the FBO's financial condition and prospects; the system of supervision in the FBO's home country; the record of the home country's government in support of the banking system or other sources of support for the FBO; and transfer risk concerns. Transfer risk relates to the FBO's ability to access and transmit U.S. dollars, which is an essential factor in determining whether an FBO can support its U.S. operations. The SOSA ranking is based on a scale of 1 through 3 with 1 representing the lowest level of supervisory concern.

[11] The Reserve Banks may review other relevant information when considering whether to permit SOSA 3-ranked FBOs access to intraday credit. The PSR policy allows Reserve Banks to deny any depository institution access to Federal Reserve intraday credit based on any applicable information.

[12] The interim policy statement expands the prior policy that permitted certain FBOs to pledge collateral to reach a maximum daylight overdraft capacity equal to their cap multiple times 10 percent of their capital.

[13] For full text, see SR Letter 00–14 (SUP), *Enhancements to the Interagency Program for Supervising the U.S. Operations of Foreign Banking Organizations,* October 23, 2000.

[14] While applying for FHC status is voluntary, the regulatory burden associated with applying is minimal for most institutions.

related depository institutions.'' [15] ''Liabilities to nonrelated parties'' may increase relative to assets when an institution becomes financially weaker and could unduly increase the institution's overdraft capacity. ''Net due to related depository institutions'' reflects the amounts owed to the parent by the branch and can be viewed as the capital investment by the FBO parent in its U.S. operations. In addition, the Board notes that this policy change would not affect any SOSA 3-ranked FBOs at this time.

*C. Capital Reporting*

In order to comply with the proposed policy changes, most U.S. branches and agencies of foreign banks requesting a net debit cap will need to complete the form ''Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks'' (form FR 2225) to report capital that is used as the basis for their caps.[16] Given that the form is short and does not require any calculations, the Board believes the cost of completing this form is not significant or burdensome. Currently, only five FBOs that have nonzero net debit caps do not file form FR 2225. These five FBOs would have to submit form FR 2225 to comply with the revised policy.[17]

**IV. Request for Comment**

The Board requests comments on all aspects of the proposed policy changes outlined above. The Board is also requesting comments on the following questions:

1. If the proposed policy changes are adopted, will the resulting net debit cap levels combined with the broader use of collateral outlined in the interim policy statement also published today for comment (Docket No. R–1107) provide a reasonable and prudent level of daylight overdraft capacity to address the liquidity needs of FBOs?

2. Recognizing differences in risk between FBOs and domestic depository institutions, would the proposed policy provide FBOs appropriate access to the U.S. payments system?

3. With regard to calculating U.S. capital equivalency, is ''net due to related depository institutions'' an appropriate proxy for SOSA 3-ranked FBOs' U.S. capital equivalency?

**V. Competitive Impact Analysis**

Under its competitive equity policy, the Board assesses the competitive impact of changes that have a substantial effect of payments system participants.[18] The Board believes these modifications to its payments system risk program will have no adverse effect on the ability of other service providers to compete effectively with the Federal Reserve Banks in providing similar services.

**VI. Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. ch. 3506; 5 CFR 1320 appendix A.1), the Board has reviewed the request for comments under the authority delegated to the Board by the Office of Management and Budget. The collection of information pursuant to the Paperwork Reduction Act contained in the policy statement will not unduly burden depository institutions.

**VII. Federal Reserve Policy Statement on Payments System Risk**

The Board proposes to replace section I.C.2. of the ''Federal Reserve Policy Statement on Payments System Risk'' as follows:

**2. U.S. Branches and Agencies of Foreign Banks**

For U.S. branches and agencies of foreign banks, net debit caps on daylight overdrafts in Federal Reserve accounts are calculated by applying the cap multiples for each cap category to a foreign banking organization's (FBO's) U.S. capital equivalency.[10]

- For FBOs that are financial holding companies (FHCs), U.S. capital equivalency is equal to 35 percent of capital.
- For FBOs that are not FHCs and have a strength of support assessment ranking (SOSA) of 1, U.S. capital equivalency is equal to 25 percent of capital.
- For FBOs that are not FHCs and are ranked a SOSA 2, U.S. capital equivalency is equal to 10 percent of capital.
- For FBOs that are not FHCs and are ranked a SOSA 3, U.S. capital equivalency is equal to 5 percent of the FBO's ''net due to related depository institutions.''

Given the heightened supervisory concerns associated with SOSA 3-ranked FBOs, a Reserve Bank may deny a SOSA 3-ranked FBO access to intraday credit. In the event a Reserve Bank grants a net debit cap to a SOSA 3-ranked FBO, the Reserve Bank may require the net debit cap to be fully collateralized.

[15] Reporting Form FFIEC 002/002S. Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks. Schedule RAL—Assets and Liabilities: Liabilities: item 4—''Liabilities to nonrelated parties'' and item 5—''Net due to related depository institutions.''

[16] SOSA 3-ranked FBOs would not be required to file FR 2225 because they would not be eligible to base their U.S. capital equivalency on capital.

[17] In 1998, the Board surveyed FBOs that filed FR 2225 to estimate the burden to the public of completing the form. As a result of the survey, the Board estimated the annual burden of completing FR 2225 to be one hour per FBO.

[18] These assessment procedures are described in the Board's policy statement entitled ''The Federal Reserve in the Payments System'' (55 FR 11648, March 29, 1990).

[10] The term U.S. capital equivalency is used in this context to refer to the particular capital measure used to calculate daylight overdraft net debit caps and does not necessarily represent an appropriate capital measure for supervisory or other purposes.

By order of the Board of Governors of the Federal Reserve System, May 30, 2001.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 01–13979 Filed 6–4–01; 8:45 am]

BILLING CODE 6210–01–P

## FEDERAL RESERVE SYSTEM

**[Docket No. R–1111]**

## Policy Statement on Payments System Risk; Potential Longer-Term Policy Direction

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Request for comment on policy.

**SUMMARY:** The Board is requesting comment on the benefits and drawbacks of various policy options that it is evaluating as part of a potential longer-term direction for its payments system risk (PSR) policy. The longer-term policy options include the following: (1) Lowering single-day net debit cap levels to approximately the current two-week average cap levels and eliminating the two-week average net debit cap, (2) implementing a two-tiered pricing regime for daylight overdrafts such that institutions pledging collateral to the Reserve Banks pay a lower fee on their collateralized daylight overdrafts than on their uncollateralized daylight overdrafts, and (3) monitoring in real time all payments with settlement-day finality and rejecting those payments that would cause an institution to exceed its net debit cap or daylight overdraft capacity level.

**EFFECTIVE DATE:** Comments must be received by October 1, 2001.

**ADDRESSES:** Comments, which should refer to Docket No. R–1111, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551 or mailed electronically to *regs.comments@federalreserve.gov.*

Comments addressed to Ms. Johnson also may be delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP–500 between 9:00 a.m. and 5:00 p.m. weekdays, pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

**FOR FURTHER INFORMATION CONTACT:** Paul Bettge, Associate Director (202/452–3174), Stacy Coleman, Manager (202/452–2934), or John Gibbons, Senior Financial Services Analyst (202/452–6409), Division of Reserve Bank Operations and Payment Systems.

**SUPPLEMENTARY INFORMATION:** This is one of five notices regarding payments system risk that the Board is issuing for public comment today. Three near-term proposals concern the net debit cap calculation for U.S. branches and agencies of foreign banks (Docket No. R–1108), modifications to the procedures for posting electronic check presentments to depository institutions' Federal Reserve accounts for purposes of measuring daylight overdrafts (Docket No. R–1109), and the book-entry securities transfer limit (Docket No. R–1110). The Board is also issuing today an interim policy statement and requesting comment on the broader use of collateral for daylight overdraft purposes (Docket No. R–1107). Furthermore, to reduce burden associated with the PSR policy, the Board recently rescinded the interaffiliate transfer (Docket No. R–1106) and third-party access policies (Docket No. R–1100).

The Board requests that in filing comments on these proposals, commenters prepare separate letters for each proposal, identifying the appropriate docket number on each. This will facilitate the Board's analysis of all comments received.

## I. Background

Beginning in 1985, the Board adopted and subsequently modified a policy to reduce the risks that payment systems present to the Federal Reserve Banks, to the banking system, and to other sectors of the economy. An integral component of the PSR policy was to control depository institutions' use of intraday Federal Reserve credit, commonly referred to as ''daylight credit'' or ''daylight overdrafts.'' The Board intended to address the Federal Reserve's risk as well as risks to various types of private-sector networks, primarily large-dollar payments systems. Risk can arise from transactions on the Federal Reserve's wire transfer system (Fedwire), from other types of payments, including checks and automated clearing house transactions, and from transactions on private large-dollar networks.

The Federal Reserve Banks face direct risk of loss should depository institutions be unable to settle their daylight overdrafts in their Federal Reserve accounts before the end of the day. Moreover, systemic risk might occur if an institution participating on a private large-dollar payments network were unable or unwilling to settle its net debit position. If such a settlement failure occurred, the institution's creditors on that network might also be unable to settle their commitments. Serious repercussions could, as a result, spread to other participants in the private network, to other depository institutions not participating in the network, and to the nonfinancial economy generally. A Reserve Bank could be exposed to indirect risk if Federal Reserve policies did not address this systemic risk.

The 1985 policy required all depository institutions incurring daylight overdrafts in their Federal Reserve accounts as a result of Fedwire funds transfers to establish a maximum limit, or net debit cap, on those overdrafts (50 FR 21120, May 22, 1985). In subsequent years, the Federal Reserve modified and expanded the original PSR policy by reducing net debit cap levels and addressing the risk controls for activities such as book-entry securities transfers, large-dollar multilateral netting systems, and certain private securities clearing and settlement systems.

In 1986, the Board requested comment on reducing net debit cap levels (51 FR 45050, December 15, 1986). At that time, the Board noted that it purposely set the original net debit cap levels relatively high so that institutions and examiners could gain experience with the caps. In 1987, the Board announced that it would reduce cap levels by 25 percent and stated that it would evaluate further reductions in the future (52 FR 29255, August 6, 1987). In May 1990, the Board issued a revised policy statement that incorporated the exempt-from-filing net debit cap, changed the existing de minimis cap, and included book-entry securities transfers in measuring institutions' overdrafts against their caps (55 FR 22087 and 22092, May 31, 1990).

In 1989, the Board requested comment on a proposed change to its payments system risk reduction program that would assess a fee of 60 basis points, phased in over three years, for average daily overdrafts in excess of a deductible of 10 percent of risk-based capital (54 FR 26094, June 21, 1989). The fee was to be phased in as 24 basis points in 1994, 48 basis points in 1995, and 60 basis points in 1996. The purpose of the fee was to encourage behavior that would reduce risk and increase efficiency in the payments system. The Board approved the proposed policy change in 1992 and began pricing daylight overdrafts in April 1994 (57 FR 47084, October 14, 1992).[1]

In March 1995, the Board decided to raise the daylight overdraft fee to 36 basis points instead of the 48 basis points originally announced (60 FR 12559, March 7, 1995). Because aggregate daylight overdrafts fell approximately 40 percent after the introduction of fees, the Board was concerned that raising the fee to 48 basis points could produce undesirable market effects contrary to the objectives of the risk-control program. The Board believed, however, that an increase in the overdraft fee was needed to provide additional incentives for institutions to reduce overdrafts related to funds transfers. The Board stated it would evaluate further fee increases two years after the 1995 fee increase.

In considering its commitment to evaluate further fee increases, the Board recognized that significant changes have occurred in the banking, payments, and regulatory environment in the past few years and, as a result, is conducting a broad review of the Federal Reserve's daylight credit policies. During the course of its review, the Board has evaluated the effectiveness of the current daylight credit policies and determined that these policies appear to be generally effective in reducing risk to the Federal Reserve and creating incentives for depository institutions to control and manage their intraday credit exposures. In addition, the Board determined that the current policy is well understood by the industry and that private-sector participants generally have benefited from the policy's risk controls.

[1] To facilitate the pricing of daylight overdrafts, the Federal Reserve adopted a modified method of measuring daylight overdrafts that more closely reflects the timing of actual transactions affecting an institution's intraday Federal Reserve account balance. This measurement method incorporates specific account posting times for different types of transactions.

As part of this review, the Board refined the objective that would guide its formulation and evaluation of daylight credit policies. The Board's daylight credit policy objective is to attain an efficient balance among the costs and risks associated with the provision of Federal Reserve intraday credit, including the comprehensive costs and risks to the private sector of managing Federal Reserve account balances, and the benefits of intraday liquidity. The Board used certain criteria to evaluate the effectiveness of policy options. These criteria include credit risk to the public sector, Federal Reserve resource costs of monitoring and counseling credit usage, private-sector resource costs of monitoring credit usage, payment delays and gridlock, and private-sector opportunity costs.

*II. Potential Longer-Term Policy Options*

A. Net Debit Cap Levels

The Board is evaluating the benefits and drawbacks of reducing self-assessed single-day net debit caps to levels near those of the current two-week average caps and eliminating the two-week average net debit caps. Under the Board's PSR policy, the Reserve Banks establish limits or net debit caps on the maximum amount of uncollateralized daylight credit that depository institutions may incur in their Federal Reserve accounts. Net debit caps are calculated by applying a cap multiple from one of six cap classes to a depository institution's capital measure. (See Cap Multiple Matrix below.) A Reserve Bank may assign the exempt-from-filing cap without a depository institution taking any action. A depository institution may request a de minimis cap by submitting a board-of-directors resolution to its Reserve Bank, or the institution may request a self-assessed cap (average, above average, and high) by completing a self-assessment.[2] Reserve Banks may assign a zero cap in consideration of certain factors, or a depository institution that wants to restrict its own use of Federal Reserve daylight credit may request a zero cap.

When the Board adopted its net debit cap framework in 1985, it implemented two cap multiples for depository institutions with self-assessed caps: one for the maximum allowable overdraft on any day (single-day cap) and one for the maximum allowable average of the peak daily overdrafts in a two-week period (two-week average cap). The Federal Reserve implemented the higher single-day cap to limit excessive daylight overdrafts on any day and to ensure that institutions develop internal controls that focus on daily exposures. The purpose of the two-week average cap was to reduce the overall levels of overdrafts while allowing for daily payment fluctuations.

CAP MULTIPLE MATRIX

| Cap categories | Cap multiples | |
|---|---|---|
| | Single day | Two-week average |
| Zero | 0 | 0 |
| Exempt-from-filing [3] | $10 million or 0.20 | $10 million or 0.20 |
| De minimis | 0.40 | 0.40 |
| Average | 1.125 | 0.75 |
| Above average | 1.875 | 1.125 |
| High | 2.25 | 1.50 |

As [3] part of the Board's current PSR policy review and its commitment to evaluate further cap reductions, the Board reviewed depository institutions' use of their daylight overdraft capacity. The Board found that more than 96 percent of institutions with self-assessed net debit caps use less than 50 percent of their daylight overdraft capacity for their average peak overdrafts.[4] To evaluate further the effects of reducing the single-day net debit cap to about the two-week average net debit cap, Board staff compared depository institutions' daily peak overdrafts with their respective two-week average caps. Compared with the current single-day net debit cap, an additional 7 percent of depository institutions with self-assessed caps (approximately twenty) would regularly exceed their single-day net debit cap if it were reduced to the two-week average levels. If depository institutions that have pledged collateral with the Reserve Banks were to use their collateral to increase their daylight overdraft capacity, less than 4 percent (approximately twelve) more depository institutions would regularly exceed their reduced net debit caps.[5] In addition, some of these institutions would exceed their reduced net debit caps because of certain non-Fedwire activity. These depository institutions would likely be eligible for counseling flexibility. Because few account holders with self-assessed caps would regularly exceed a net debit cap reduced to the two-week average levels, it appears that most depository institutions generally manage their daily overdraft activity within the two-week average cap level. This analysis suggests that current single-day net debit cap levels may commit Reserve Banks to potential credit exposures in excess of what is needed to facilitate the smooth operation of the payment system. The Board believes that in conjunction with allowing institutions with self-assessed net debit caps to pledge collateral for daylight overdraft capacity above their caps, reducing self-assessed net debit caps could improve the balance between the public-sector costs of providing daylight credit and the net private-sector benefits of using daylight credit.

[2] The self-assessment requires an institution to evaluate and rate its creditworthiness, intraday funds management and controls, customer credit policies and controls, operating controls, and contingency procedures to support a higher daylight overdraft cap.

[3] The net debit cap for the exempt-from-filing category is equal to the lesser of $10 million or 20 percent of risk-based capital.

[4] Approximately 300 depository institutions currently have self-assessed caps. Of these depository institutions, approximately 20 percent use more than 70 percent of their overdraft capacity for their peak overdrafts. The majority of institutions using more than 70 percent of their daylight overdraft capacity for their peak overdrafts are doing so because of substantial non-Fedwire payment activity. The current policy provides ''counseling flexibility'' for depository institutions with de minimis and self-assessed caps that exceed their net debit caps as a result of certain non-Fedwire payment activity. Most of the institutions referenced above would fall into this category. The Federal Reserve, therefore, would not subject depository institutions that are provided counseling flexibility to additional counseling for certain non-Fedwire related cap breaches and would not require these institutions to post collateral or adopt a zero cap.

[5] Published elsewhere in today's **Federal Register** is the Board's interim policy statement that allows depository institutions with self-assessed caps to pledge collateral above their net debit caps for additional daylight overdraft capacity.

The Board believes that, if it were to reduce single-day net debit caps to about the same level as the current two-week average net debit caps, eliminating the two-week average caps should simplify the policy. Eliminating the two-week average cap also should reduce some of the administrative cost and burden of complying with the policy. The Board, however, recognizes that reducing single-day net debit caps could impose costs on certain depository institutions because some may consider their unused overdraft capacity as a safeguard to manage infrequent or unexpected liquidity needs. Finally, the Board believes that the current daylight overdraft limits for depository institutions with exempt-from-filing and de minimis net debit caps are adequate and should not be modified at this time.

The Board seeks comment on the benefits and drawbacks of reducing self-assessed single-day net debit caps to levels near those of the current two-week average net debit caps and eliminating the two-week average net debit caps. The Board also requests comment on the following questions:

1. In conjunction with the policy change that would allow institutions with self-assessed net debit caps to pledge collateral for Federal Reserve daylight credit above their net debit caps, would reducing self-assessed net debit caps improve the balance between the public-sector costs of providing daylight credit and the net private-sector benefits of using daylight credit?

2. How would a reduction in the single-day net debit cap level affect the way institutions manage their Federal Reserve accounts with respect to daylight overdrafts? Do institutions target a maximum level of daylight overdrafts that is at or below their two-week average caps? How much additional capacity between routine peak overdrafts and the current single-day net debit cap is prudent or necessary?

3. Would lowering the single-day net debit caps for self-assessed institutions cause depository institutions to delay sending payments, potentially increasing overdrafts at other depository institutions?

4. Should the Board consider a policy that gradually moves uncollateralized net debit caps to significantly lower levels (for example, to the levels associated with the de minimis net debit cap) and require all depository institutions to post collateral for overdrafts beyond the net debit cap?

*B. Two-Tiered Pricing Regime*

The Board is also evaluating the benefits and drawbacks of implementing a two-tiered pricing regime that would assess a lower fee on collateralized daylight overdrafts than on uncollateralized daylight overdrafts. The daylight overdraft fee is a critical component of the PSR policy, and its modification in 1995 was the impetus for the Board's current review of its daylight credit policies.[6] The initial implementation of a 24-basis-point daylight overdraft fee in 1994 caused a 40 percent decrease in daylight overdrafts in Federal Reserve accounts, mostly related to changes in the timing of book-entry securities transfers. Daylight overdrafts caused by Fedwire funds transfers (funds overdrafts) declined slightly after the implementation of fees; however, funds overdrafts began to rise again even before the 1995 modified fee increase. On an average annual basis since 1995, overdrafts caused by Fedwire book-entry securities transfers (book-entry securities overdrafts) have decreased almost 10 percent per year and the value of Fedwire book-entry securities transfers has grown more than 5 percent per year; whereas funds overdrafts and the value of Fedwire funds transfers have grown between 15 and 18 percent per year. The growth in funds overdrafts appears to be directly related to the growth in large-value funds transfers. Even though funds overdrafts have grown substantially, the relationship between average funds overdrafts and the value of Fedwire funds transfers has remained relatively constant since the late 1980s.

In evaluating the level of the daylight overdraft fee, the Board is considering policy changes that might result in a more efficient balance of the costs, risks, and benefits associated with the provision of Federal Reserve intraday credit. The Board believes that daylight overdraft fees have been effective in reducing overdrafts from book-entry securities transfers and provide a strong incentive for institutions to continue controlling their overdrafts. From its inception, the fee was intended to create economic incentives for the largest daylight overdrafters to reduce and allocate more efficiently their use of daylight credit. The Board notes that since the Federal Reserve began pricing daylight overdrafts in 1994, less than 4 percent of account holders pay fees in a given year and the majority of these institutions pay less than $1,000 per year. In addition, the largest users of daylight credit, in general depository institutions with assets greater than $10 billion, pay more than 95 percent of aggregate daylight overdraft fees.

While the Board believes that daylight overdraft fees have been relatively effective, it also recognizes that the daylight overdraft pricing policy has imposed costs on the industry and that some depository institutions consider the policy burdensome. To assess policy alternatives that might create a more efficient balance of the costs, risks, and benefits associated with Federal Reserve intraday credit, the Board compared Federal Reserve daylight credit extensions and private-sector lending under line-of-credit arrangements. The most notable distinction between daylight credit extensions and private-sector lending is that private loans are often collateralized. Collateralized lending generally carries a lower interest rate than uncollateralized lending because taking collateral lowers the lender's risk, allowing for a lower credit risk premium. In most situations, the Reserve Banks do not require collateral when extending daylight credit to depository institutions.[7] When Reserve Banks require collateral for daylight credit extensions, however, the same daylight overdraft fee applies to both collateralized and uncollateralized daylight overdrafts. The Board also notes that the majority of Federal Reserve daylight credit extensions are currently implicitly collateralized because depository institutions that pledge collateral must sign the applicable agreements in Operating Circular 10, which provides the Reserve Banks with a secured interest in any collateral recorded on the Reserve Banks' books.[8]

[6] The current daylight overdraft fee is 36 basis points, quoted as an annual rate on the basis of a 24-hour day. To obtain the daily overdraft fee for the standard Fedwire operating day, the 36-basis-point fee is multiplied by the fraction of the 24-hour day during which Fedwire is scheduled to operate. For example, under the current 18-hour Fedwire operating day, the daylight overdraft fee equals 27 basis points.

[7] The current policy requires that ''frequent and material'' book-entry securities overdrafters fully collateralize these overdrafts. Book-entry securities overdrafts become frequent and material when an account holder exceeds its net debit cap, solely because of book-entry securities transactions, on more than three days in any two consecutive reserve maintenance periods and by more than 10 percent of its capacity. The policy also allows financially healthy U.S. branches and agencies of foreign banks for which the home-country supervisor does *not* adhere to the Basle Capital Accord to incur daylight overdrafts above their net debit caps up to an amount equal to their cap multiples times 10 percent of their worldwide capital, provided that any overdrafts above the net debit caps are collateralized.

[8] The majority of the collateral pledged to the Reserve Banks is pledged for discount window purposes.

The Board is considering the benefits and drawbacks of implementing a two-tiered or differential pricing regime for daylight overdrafts. The fundamental argument for a two-tiered pricing regime is that such a regime might achieve a better balance between the benefits and costs of collateralized overdrafts relative to uncollateralized overdrafts, including the public sector's costs and risks as well as the private sector's opportunity costs of pledging collateral. Under a differential pricing regime, depository institutions that have pledged collateral with the Federal Reserve would receive the collateralized price for intraday credit used up to the level of collateral.[9] In addition, while the interim policy statement does not permit depository institutions with exempt or de minimis caps to increase their daylight overdraft capacity by pledging collateral to the Federal Reserve, these institutions would be allowed to pledge collateral in order to receive the lower daylight overdraft fee. A lower fee on collateralized daylight credit than on uncollateralized daylight credit might also provide an extra incentive for the largest daylight overdrafters to maintain their current levels of collateral pledged to the Reserve Banks or to pledge additional collateral. The relative price of collateralized to uncollateralized daylight credit, however, would likely influence the degree to which depository institutions would maintain their collateral levels or pledge additional collateral.[10]

While private-sector lenders generally price collateralized lending cheaper than uncollateralized lending because it is typically less risky, the Board is concerned that differential pricing of daylight credit could have broader public policy implications. For example, the collateralization of daylight credit could disadvantage junior creditors in the event that a depository institution fails in a daylight overdraft position. It is unclear whether junior creditors take the Federal Reserve's extensions of daylight credit into account when making their own loans. Consequently, it may be appropriate when setting the collateralized daylight overdraft fee to include some measure of the additional risk that junior creditors bear as a result of collateralized Federal Reserve daylight credit extensions. If Federal Reserve daylight credit extensions were to dilute private-sector creditors' claims dollar for dollar, it might be appropriate to treat collateralized and uncollateralized Federal Reserve daylight credit extensions as equally risky and price them at the same level. In addition, a marginal increase in collateralized Federal Reserve overdrafts could potentially exacerbate any scarcity of available collateral to support financial market activities.[11]

The Board plans to continue evaluating the benefits and drawbacks of a two-tiered pricing regime for daylight overdrafts. To assess better the impact of such a policy change, the Board requests comment on all aspects of differential pricing. The Board is also requesting comment on the following questions:

1. What are the major drawbacks and benefits of a two-tiered pricing regime for collateralized and uncollateralized daylight overdrafts in Federal Reserve accounts?

2. If Reserve Banks would accept the same types of collateral currently accepted for discount window purposes, how might two-tiered pricing affect the industry, especially with respect to the availability of collateral for other financial market activity? How might two-tiered pricing affect creditors and other participants?

3. Would a two-tiered daylight overdraft pricing regime cause institutions to pledge additional collateral to the Federal Reserve or would they primarily use collateral already pledged to a Reserve Bank?

4. If collateralized daylight overdrafts were subject to a fee lower than the current 36-basis-point fee, would institutions' daylight credit usage change from current levels?

5. Currently, Federal Reserve daylight credit is generally provided only to financially healthy depository institutions that have regular access to the discount window and are subject to supervisory examination. Does taking collateral from these depository institutions provide the Federal Reserve a sufficient reduction in risk to warrant a lower fee?

*C. Monitoring in Real Time All Institutions' Payments With Settlement-Day Finality*

The Board is also evaluating the benefits and drawbacks of universal real-time monitoring (URTM), which is defined as using the Reserve Banks' Account Balance Monitoring System (ABMS) to reject any payment with settlement-day finality that would cause any account holder's overdrafts to exceed its net debit cap.[12] Payments with settlement-day finality include Fedwire funds and book-entry securities transfers, enhanced net settlement service (NSS) transactions, automated clearing house (ACH) credit transactions, and cash withdrawals.[13] [14]

Reserve Banks can monitor any account holder's balance and its payment activities in real time using the ABMS. The Reserve Banks currently reject, for specific depository institutions falling within established parameters, certain final payments that would cause overdrafts to exceed these account holders' available account balances or net debit cap.[15] As a result, Reserve Banks are able to control their credit exposure from certain higher-risk institutions by restricting those institutions' access to Federal Reserve intraday credit to specified levels

[9] To estimate the spread between collateralized and uncollateralized lending, the Board sought a financial market measure of the risk differential between collateralized and uncollateralized credit extensions. Because loans of federal funds are uncollateralized, while loans through repurchase agreements are collateralized, the spread between the federal funds rate and the interest rate for repurchase agreements on general Treasury collateral provides the closest available approximation of this risk differential. The federal funds-repurchase agreement spread averaged 12 to 15 basis points at a 24-hour annualized rate over the period since the mid-1980s. As much as possible, this estimate was adjusted for days of unusual supply pressures in the federal funds-repurchase market.

[10] Administrative costs incurred by depository institutions in identifying, segregating, auditing, or transporting collateral to conform with Reserve Bank requirements could affect the relative price of collateralized to uncollateralized daylight credit.

[11] Bank for International Settlements, Committee on the Global Financial System, *Collateral in wholesale financial markets: recent trends, risk management and market dynamics*, March 2001 (Bank for International Settlements, 2001).

[12] The ABMS provides intraday account information to the Reserve Banks and depository institutions. ABMS serves as both an information source and a monitoring control tool. ABMS is used primarily to give authorized Reserve Bank personnel a mechanism to control and monitor account activity for selected institutions. ABMS also provides a means for institutions to obtain information concerning their intraday balances for managing daylight overdrafts. This information includes opening balances, a depository institution's net debit capacity and collateral limits, Fedwire funds and book-entry securities transfers, enhanced Net Settlement Service (NSS) transactions, and other payment activity from the Integrated Accounting System.

[13] The Board likely would not subject book-entry securities transfers to real-time rejects for institutions that pledge in-transit collateral. In-transit collateral is securities purchased by a depository institution but not yet paid for and owned by its customers.

[14] ACH credit transactions will have settlement-day finality beginning in mid-2001. The Board, however, recognizes that including ACH credit transactions under URTM could have implications for the value dating of ACH transactions, wherein originators may submit transactions for settlement on a later, specified date.

[15] The Reserve Banks monitor in real time Fedwire funds transfers and NSS transactions for institutions meeting the established risk parameters. Currently, the Reserve Banks are monitoring in real time approximately five percent of account holders; however, the number of monitored institutions generally increases as the health of the financial industry weakens.

through real-time monitoring of their account balances.[16]

Real-time enforcement of depository institutions' daylight overdraft capacity levels through URTM could allow the Reserve Banks to manage better the small, yet important, risk that a depository institution could unexpectedly fail with a significant daylight overdraft position that far exceeds its net debit cap. URTM also could assist Reserve Banks and depository institutions in managing Federal Reserve accounts by preventing depository institutions from exceeding their net debit caps with payments that have settlement-day finality. As a result, URTM would likely reduce costs associated with the Reserve Banks' administration of the policy.

The Board is considering URTM for payments with settlement-day finality because they represent greater credit risk to the Federal Reserve than payments without settlement-day finality. Payments with settlement-day finality also represent the majority of the dollar value of payments that the Federal Reserve processes. Because Reserve Banks may return or reverse payments that do not have settlement-day finality, such as checks and ACH debit transactions, these payments pose less risk to the Federal Reserve if the payor institution defaults.

While URTM provides advantages by monitoring all accounts in real time, the Board has concerns about potential negative consequences of URTM. Specifically, the Board is concerned about possible adverse effects on the government-securities market from rejecting book-entry securities transfers. The Board also is concerned about URTM creating disruptions for net settlement arrangements and ACH participants. Finally, URTM raises significant policy issues related to payment delays or gridlock.

To evaluate the potential adverse effects of URTM, the Board reviewed depository institutions' daylight credit use over the past several years and found that the majority of depository institutions generally do not fully use their daylight overdraft capacity. Approximately 97 percent of all account holders use less than 50 percent of their net debit caps for their average peak overdrafts. Even if net debit caps were reduced to the two-week average level, as described previously in the first policy option, most institutions should not experience rejected payments under URTM. In addition, the Board's interim policy statement that allows depository institutions to pledge collateral for additional daylight overdraft capacity should alleviate potential payment disruptions over the long term as depository institutions adjust their behavior.

While the Board does not believe that URTM would disrupt the payments system over the long term, URTM could cause payments gridlock under circumstances of severe financial market stress or significant liquidity shortages. In the event of gridlock, the Federal Reserve has systems and procedures to detect, evaluate, and address payments gridlock. The Federal Reserve's communication protocols and problem escalation procedures are well established and designed to manage any critical payments system problem quickly and effectively.[17]

While several payment types, such as book-entry securities transfers or NSS transactions, raise issues related to implementing URTM, monitoring ACH credit originations for all account holders presents a number of additional issues. The most significant concern is that URTM could compromise ACH value dating. Value dating allows depository institutions to originate credit transactions one or two days in advance of the settlement date. When the Board approved settlement-day finality for ACH credit transactions, it required all institutions monitored in reject mode to prefund their originations at the time the files are processed (64 FR 62673, November 17, 1999). Prefunding was required so that risk controls for ACH credit transactions were similar to those of other payment services with similar finality characteristics, such as Fedwire funds transfers. In the current monitoring environment, only a subset of credit originators are required to prefund. Under a URTM environment, all ACH credit originators would have to prefund. As a result, depository institutions that send files one or two days in advance could perceive prefunding as costly. To avoid prefunding one or two days in advance, many depository institutions might originate their ACH files in the early morning hours of the settlement day, thereby eliminating certain benefits of ACH value dating.

Value dating ACH transactions allows originating and receiving depository institutions to process large numbers of transactions in advance of the settlement date and time. Processing ACH transactions in advance of the settlement date and time often allows institutions to resolve operational problems with minimal effects on ACH participants and to post the transactions to their customers' accounts in a timely manner. In addition, advanced knowledge of the transactions that will settle over the next several days allows institutions to manage their account positions better and to handle incorrect or erroneous transactions before settlement occurs.

A policy change that potentially discourages value dating or encourages originating depository institutions to submit files later than they do today could fundamentally change the nature of the ACH service and disrupt established and effective business practices for ACH participants. For example, an operational problem or funding problem might cause an originating depository institution to miss the close of the ACH processing cycle. By missing the close of the processing cycle, the ACH payments intended for settlement that same day would not settle on a timely basis. Missed settlements could impose undue costs on receiving institutions and their customers and undermine the perceived reliability of ACH. Applying URTM to ACH could, therefore, increase costs to some unknown extent for most ACH participants, including originating institutions, receiving institutions, and their customers.

To alleviate the prefunding issue, some respondents to the request for comment on ACH settlement-day finality proposed collateral as an alternative to prefunding (63 FR 70132, December 18, 1998). Because of the value-dating nature of ACH, the Federal Reserve systems in place today would not be effective for monitoring the collateralization of ACH credit transactions over several days. The ABMS and other systems would have to be modified significantly to substitute collateral for prefunding if the transactions are not submitted on the same day as the intended settlement day; the Board is uncertain of the cost or timing of systems modifications that would be necessary to implement this functionality. Under the conditions described in the interim policy statement, some depository institutions submitting ACH credit transactions on the day of settlement will be able to secure additional daylight overdraft capacity.

The Board plans to continue evaluating the benefits and drawbacks of URTM, including the benefits and drawbacks of implementing URTM for all payments with settlement-day

[16] The account activity of an institution that is not monitored in real time is monitored for compliance with the daylight overdraft posting rules on an after-the-fact or ex post basis.

[17] The Federal Reserve System extensively tested and used these protocols and procedures to prepare for and manage the Y2K rollover period.

finality and implementing URTM for only a subset of those payments. One of the Board's primary concerns with implementing URTM for only a subset of payments, for example for Fedwire funds transfers and NSS transactions, is whether this would create an incentive for liquidity constrained depository institutions to move payments from Fedwire and NSS to the ACH to avoid the real-time monitor. Another concern is whether implementing URTM for only a subset of payments creates a competitive advantage for the Federal Reserve's ACH service.[18] To assess better the effect of such policy changes, the Board requests comment on all aspects of URTM. The Board also requests comment on the following questions:

1. What would be the benefits and drawbacks of URTM?

2. If the Federal Reserve were to implement URTM, should it do so for all payments with settlement-day finality? If not, which payments should the Federal Reserve include under URTM?[19] [20]

3. If the Federal Reserve implemented URTM for only Fedwire funds transfers and NSS transactions, would this action increase risk of large-dollar payments moving from Fedwire or NSS to the ACH?[21] Would this provide the Federal Reserve with a competitive advantage in providing ACH services?

4. What are the most significant benefits and drawbacks of implementing URTM for only Fedwire funds transfers and NSS transactions initially and continuing to evaluate moving other payments to URTM as the Federal Reserve and the industry gain more experience with URTM?

5. What disruptions in the government-securities market, if any, could occur if the Federal Reserve were to implement URTM for Fedwire book-entry securities transfers?

6. What disruptions in settlement arrangements, if any, could occur if the Federal Reserve were to implement URTM for NSS transactions?

7. Would URTM lead to significantly greater payment delays, or would there be little effect?

## III. Request for Comment

The Board requests comment on all aspects of the potential policy options outlined above, and on the benefits and drawbacks of implementing these options together or separately.

## IV. Competitive Impact Analysis

The Board has established procedures for assessing the competitive impact of rule or policy changes that have a substantial impact on payments system participants.[22] Under these procedures, the Board will assess whether a change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints, or due to a dominant market position of the Federal Reserve deriving from such differences. If no reasonable modifications would mitigate the adverse competitive effects, the Board will determine whether the anticipated benefits are significant enough to proceed with the change despite the adverse effects.

The Board does not believe that the policy options outlined above would have a direct and material impact on the ability of other service providers to compete effectively with the Reserve Banks' payments services. The Board believes that two of the daylight credit policies outlined above, lowering single-day net debit caps and universal real-time monitoring, are generally more restrictive than the current policies. The Board plans to evaluate further whether implementing URTM for only a subset of payments creates a competitive advantage for the Federal Reserve's financial services. More restrictive Federal Reserve credit policies, however, could encourage some depository institutions to seek other payment service providers, thereby encouraging competition with the Reserve Banks. While the two-tiered pricing regime is generally more consistent with private-sector practices, the policy cannot be viewed as being more restrictive or liberal until a more definitive set of fees is recommended.

## V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. ch. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed the policy statement under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the policy statement.

By order of the Board of Governors of the Federal Reserve System, May 30, 2001.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 01–13982 Filed 6–4–01; 8:45 am]

BILLING CODE 6210–01–P

[18] Competitive issues might be raised if the Reserve Banks were to monitor in real time all Fedwire funds transfers and NSS transactions but not all ACH credit transactions. Private-sector ACH operators that use the Federal Reserve's Fedwire-based or enhanced net settlement service might have some participants that experience rejected settlement payments under URTM while most Federal Reserve ACH credit transactions would not be subject to real-time monitoring. Depository institutions that are concerned about settlement disruptions through private-sector ACH operators might find the Federal Reserve's ACH service more attractive; however, these institutions might find that certain benefits from using private-sector ACH services sufficiently offset concerns about settlement disruptions. In addition, under any monitoring environment, depository institutions meeting certain risk parameters would be required to prefund their Federal Reserve ACH credit transactions. For those institutions, the Federal Reserve's ACH service might not be more attractive than private-sector ACH services.

[19] To analyze more fully the potential for payment disruptions, Board staff developed a simulation of URTM for Fedwire funds transfers, book-entry securities transfers, and NSS transactions. The URTM simulation for Fedwire funds, book-entry securities, and NSS activity showed that under current net debit cap levels, ABMS would delay approximately 40 payments out of almost 500,000 per day. In addition, the average value of a delayed payment was about $3.2 million and the average delay was around an hour. Using the two-week average net debit cap levels, the simulation showed that ABMS would delay approximately 50 payments out of almost 500,000 per day and the average value of a delayed payment was about $11.4 million with an average delay of about an hour.

[20] While the URTM simulation did not demonstrate significant NSS transaction delays, the Board notes that given the nature of the net settlement service, the delay of any payment into a net settlement arrangement would hold up settlement for the entire arrangement.

[21] Under any monitoring environment, depository institutions meeting certain risk parameters would be required to prefund ACH credit transactions.

[22] These procedures are described in the Board's policy statement ''The Federal Reserve in the Payments System,'' as revised in March 1990. (55 FR 11648, March 29, 1990).

# FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

## Sunshine Act Meeting

**TIME AND DATE:** 10:00 a.m. (EDT), June 11, 2001.

**PLACE:** 4th Floor, Conference Room 4506, 1250 H Street, N.W., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Approval of the minutes of the May 14, 2001, Board member meeting.

2. Thrift Savings Plan activity report by the Executive Director.

**CONTACT PERSON FOR MORE INFORMATION:** Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

**Elizabeth S. Woodruff,**

*Secretary to the Board, Federal Retirement Thrift Investment Board.*

[FR Doc. 01–14178 Filed 6–1–01; 10:07 am]

BILLING CODE 6760–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Officer on (202) 690–6207.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Proposed Projects 1. Assessment of State Laws, Regulations, and Practice Affecting the Collection and Reporting of Racial and Ethnic Data by Health Insurers and Managed Care Plans—NEW—One of the overarching goals of Healthy People 2010 is the elimination of health disparities, including those associated with race and ethnicity. The lack of data is a barrier to performance measurement for this goal. Therefore, the Office of Minority Health is proposing a study which will examine States' laws and policies concerning the collection and use of racial and ethnic data by health insurers and managed care plans. The study involves visits to 13 States for an in-depth look at their policies and practices, interviews with State officials and representatives of the States' major managed care plans and health insurance industry, and focus groups with consumer and civil right organizations. Respondents: State or local governments; businesses or other for-profit; non-profit institutions.

BURDEN INFORMATION

| Instrument | Number of respondents | Hours per response | Total burden hours |
|---|---|---|---|
| Administrator Interview Guide | 78 | 4 | 312 |
| Consumer Focus Group | 130 | 2 | 260 |
| Total | | | 572 |

Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington DC, 20201. Written comments should be received within 60 days of this notice.

Dated: May 22, 2001.

**Kerry Weems,**

*Acting Deputy Assistant Secretary, Budget.*

[FR Doc. 01–14056 Filed 6–4–01; 8:45 am]

BILLING CODE 4150–29–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

*Name:* National Committee on Vital and Health Statistics (NCVHS).

*Time and Date:*

June 27, 2001—9:00 a.m.–5:00 p.m.
June 28, 2001—10:00 a.m.–4:00 p.m.

*Place:* Renaissance Hotel, 999 9th Street, NW., Washington, DC, (202) 898–9000.

*Status:* Open.

*Purpose:* At this meeting the Committee will hear presentations and hold discussions on several health data policy topics. On the first day an update from HHS has been scheduled on the implementation of the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Committee also will be briefed by HHS staff on a number of additional data policy activities including quality of care for racial and ethnic minorities and the implementation of OMB federal data standards on race and ethnicity. The Committee will review reports in progress including the report from the Subcommittee on Populations on functional status data, and Subcommittees will hold working sessions in the afternoon. There will also be Subcommittee sessions early in the morning of the second day. Day two of the full Committee meeting will feature a briefing on the HHS Patient Safety Task Force, the National Quality Forum and the National Quality Report from the Institute of Medicine. The afternoon agenda begins with a briefing on the status of the Centers for Disease Control's National Electronic Data Surveillance System (NEDSS). The remainder of the afternoon's agenda will be devoted to Committee business including reports from the Subcommittees and planning future agendas.

*Contact Person for More Information:* Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS website: http://www.ncvhs.hhs.gov/, where further information including an agenda will be posted when available.

Dated: May 30, 2001.

**James Scanlon,**

*Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.*

[FR Doc. 01–14057 Filed 6–4–01; 8:45 am]

BILLING CODE 4151–05–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Statement of Organization, Functions, and Delegations of Authority

This notice amends Part K of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF), Chapter KB, the Administration on Children, Youth and Families (ACYF), as last amended on August 27, 1991 [56 FR 42332], December 8, 1997 [62 FR 64592] and October 6, 1999 [63 FR 58742] is being reorganized to move the Office of State Systems from the Office of the Commissioner and place it in the Children's Bureau as a new Division and to establish a third Division within the Head Start Bureau. In addition, this

notice revises the description of the research and evaluation activities within the Office of the Commissioner and the functions of the Divisions within the Head Start Bureau and makes other minor editorial changes.

1. Chapter KB, Administration on Children, Youth, and Families is amended as follows:

A. Delete KB.10 Organization in its entirety and replace with the following:

KB.10 Organization. The Administration on Children, Youth and Families is headed by a Commissioner, who reports directly to the Assistant Secretary for Children and Families and consists of:

Office of the Commissioner (KBA)
Office of Management Services (KBA1)
Office of Grant Management (KBA2)
Head Start Bureau (KBC)
Program Operations Division (KBC1)
Program Support Division (KBC2)
Program Management Division (KBC3)
Children's Bureau (KBD)
Office of Child Abuse and Neglect (KBD1)
Division of Policy (KBD2)
Division of Program Implementation (KBD3)
Division of Data, Research and Innovation (KBD4)
Division of Child Welfare Capacity Building (KBD5)
Division of State Systems (KBD6)
Family and Youth Services Bureau (KBE)
Child Care Bureau (KBG)
Immediate Office/Administration (KBG1)
Program Operations Division (KBG2)
Policy Division (KBG3)
Technical Assistance Division (KBG4)

B. Delete KB.20 Functions, Paragraph A, in its entirety and replace with the following:

KB.20 Functions. A. The Office of the Commissioner serves as principal advisor to the Assistant Secretary for Children and Families, the Secretary, and other officials of the Department on the sound development of children, youth, and families. It provides executive direction and management strategy to ACYF components. The Deputy Commissioner assists the Commissioner in carrying out the responsibilities of the Office.

In the immediate Office of the Commissioner, research and evaluation staff provide scientific consultation, coordination, direction, and support for research activities across the four Bureaus within ACYF. Research staff also partner with other Federal agencies and the broader research community to conduct program evaluations, develop new knowledge relevant to programs and policies implemented by ACYF, and build research capacity within the field. Additional staff perform special projects for the Office of the Commissioner. In addition to the Immediate Office, the Office of the Commissioner contains two organizational units. In support of the Commissioner and Deputy Commissioner and in consultation with ACYF programs the:

1. Office of Management Services manages the formulation and execution of the budgets for ACYF programs and for Federal administration; serves as the central control point for operational and long range planning; functions as Executive Secretariat for ACYRF, including managing correspondence, correspondance systems, and electronic mail requests; reviews and manages clearance for program announcements for ACYF, the Administration for Native Americans (ANA), and the Administration on Developmental Disabilities (ADD); plans for/coordinates the provision of staff development and training; provides support for ACYF's personnel administration, including staffing, employee and labor relations, performance management and employee recognition; manages procurement planning and provides technical assistance regarding procurement; plans for/oversees the discretionary grant paneling process; manages ACYF-controlled space and facilities; performs manpower planning and administration; plans for, acquires, distributes and controls ACYF supplies; provides mail and messenger services; maintains duplicating, fax, and computer and computer peripheral equipment; supports and manages automation within ACYF; provides for health and safety; and oversees travel, time and attendance, and other administrative functions for ACYF.

The Office of Management Services also reviews and approves formula and entitlement programs for ACYF's bureaus and ADD. It assures that all formula and entitlement awards conform with applicable statutes, regulations, and policies; computes grantee allocations; prepares formula and entitlement awards; ensures incorporation of necessary grant terms and conditions; monitors grantee expenditures; analyzes financial needs under formula and entitlement programs; provides data in support of apportionment requests; prepares reports and analyses on the grantees' use of funds; maintains liaison and coordination with appropriate ACF and HHS organizations to ensure consistency between ACF formula and entitlement grant systems and the Department's grant payment systems; and performs audit resolution activities for formula and entitlement programs.

2. Office of Grants Management provides management and technical administration for discretionary grants for ACYF, ADD, and ANA; reviews, certifies and/or signs all discretionary grants; assures that all discretionary grants awarded by ACYF, ADD, and ANA conform with applicable statutes, regulations, and policies; computes grantee allocations, prepares discretionary grant awards, ensures incorporation of necessary grant terms and conditions, and monitors grantee expenditures; analyzes financial needs under discretionary grant programs; provides data in support of apportionment requests; prepares reports and analyses on the grantees' use of funds; maintains liaison and coordination with appropriate ACF and HHS organizations to ensure consistency between ACYF, ADD, and ANA discretionary grant systems and the Department's grant payment systems; provides technical assistance to regional components on discretionary grant operations and technical grants management issues; and performs audit resolution activities for ACYF, ADD, and ANA discretionary grant programs. The Office of Grants Management coordinates and maintains liaison with the Department and other federal agencies on discretionary grants management and administration operational issues and activities.

C. Delete KB.20 Function, Paragraph C in its entirety and replace with the following:

C. The Head Start Bureau serves as the principal advisory unit to the Commissioner on issues regarding the Head Start program (including Early Head Start). It develops legislative and budgetary proposals; identifies areas for research, demonstration and developmental activities; presents operational planning objectives and initiatives relating to Head Start to the Office of the Commissioner; and oversees the progress of approved activities. It provides leadership and coordination for the activities of the Head Start program in headquarters and the regional offices. The Bureau represents Head Start in inter-agency activities with other federal and non-federal organizations.

1. Program Operations Division manages the American Indian and Alaska Natives and migrant and seasonal farmworkers Head Start programs; reviews applications for programs serving American Indian and Alaska Natives children and children of migratory and seasonal farmworkers;

monitors and assesses the programs and assures provision of training and technical assistance to all Head Start programs funded for the children of American Indian and Alaska Natives and migrants and seasonal farmworkers; analyzes and ensures consideration of the needs of American Indian and Alaska Natives and migrant and seasonal farmworkers' children; and coordinates with other agencies and organizations serving American Indian and Alaska Natives and migrant and seasonal farmworkers' children.

2. Program Support Division provides technical expertise in the areas of Head Start education birth to age five, health (medical, dental, mental health and nutrition), family and community partnerships, parent involvement, and disabilities services for Head Start program staff. It recommends and establishes policy in these areas; recommends strategies for achieving quality services; and develops guidance, and other policy materials aimed at improving grantee performance.

The Division develops areas for research and demonstration activities to improve the quality and levels of services provided to Head Start children. The Division also manages discretionary projects and develops training and technical assistance strategies to improve Head Start programs' performance in specific component areas.

3. Program Management Division develops and coordinates program and administrative management regulations and policy for the Head Start program, provides guidance to the regional offices in carrying out these policies and monitors their implementation; and designs and oversees a national system for program monitoring and quality improvement. The Division develops and manages discretionary projects that are designed to investigate and improve the operation and management of the Head Start program; plans and manages training and technical assistance (T & TA) activities in Head Start; and manages national data collection and analysis for the Head Start program.

D. Delete KB.20 Function, Paragraph D in its entirety and replace with the following:

D. The Children's Bureau is headed by an Associate Commissioner who advises the Commissioner, Administration on Children, Youth and Families, on matters related to child welfare, including child abuse and neglect, child protective services, family preservation and support, adoption, foster care and independent living. It recommends legislative and budgetary proposals, operational planning system objectives and initiatives, and projects and issue areas for evaluation, research and demonstration activities. It represents ACYF in initiating and implementing interagency activities and projects affecting children and families, and provides leadership and coordination for the programs, activities, and subordinate components of the Bureau.

1. Office on Child Abuse and Neglect provides leadership and direction on the issues of child maltreatment and the prevention of abuse and neglect under the Child Abuse Prevention and Treatment Act (CAPTA). It is the focal point for interagency collaborative efforts, national conferences and special initiatives related to child abuse and neglect, and for coordinating activities related to the prevention of abuse and neglect and the protection of children at-risk. It supports activities to build networks of community-based, prevention-focused family resource and support programs through the Community-Based Family Resource and Support Program. It supports improvement in the systems which handle child abuse and neglect cases, particularly child sexual abuse and exploitation and maltreatment related fatalities, and improvement in the investigation and prosecution of these cases through the Children's Justice Act.

2. Division of Policy provides leadership and direction in policy development and interpretation under titles IV–B and IV–E of the Social Security Act, and the Basic State Grant under the Child Abuse Prevention and Treatment Act. It writes regulations and interprets policy for the Bureau's formula and entitlement grant programs, and responds to requests for policy clarification from ACF Regional Offices and a variety of other sources.

3. Division of Program Implementation provides leadership and direction in the operation and review of programs under titles IV–B and IV–E of the Social Security Act, and the Basic State Grant under the Child Abuse Prevention and Treatment Act. It develops program instructions, information memoranda, and annual reports. It analyzes State Plans and develops State profiles and other reports; participates in monitoring and reviewing State information systems to ensure the accuracy and relevancy of the data. It is responsible for the Monitoring Team, which schedules and coordinates the monitoring of State reviews and ensures effective corrective action if necessary. It works with appropriate other agencies and organizations on the implementation and oversight of relevant sections of the Indian Child Welfare Act. It is the focal point for financial issues, including disallowances, appeals, and the decisions of the Departmental Appeals Board (DAB). It responds to client and constituent correspondence received electronically and from a variety of sources.

4. Division of Data, Research and Innovation provides leadership and direction in program development, innovation, research and in the management of the Bureau's information systems under titles IV–B and IV–E of the Social Security Act, and under the Child Abuse Prevention and Treatment Act. It defines critical issues for investigation and makes recommendations regarding subject areas for research, demonstration and evaluation. It administers the Bureau's discretionary grant programs, and awards project grants to State and local agencies and organizations nationwide. It provides direction to the Crisis Nurseries and Abandoned Infants Resource Centers. It is responsible for the Data and Technology Team which analyzes and disseminates program data from the Adoption and Foster Care Analysis and Reporting System (AFCARS), and the National Child Abuse and Neglect Data System (NCANDS); develops systematic methods of measuring the impact and effectiveness of various child welfare programs; performs statistical sampling functions; provides comprehensive guidance to States, local agencies and others on data collection issues, and performance and outcome measures; and is the focal point for technology development within the Bureau.

5. Division of Child Welfare Capacity Building provides leadership and direction in the areas of training, technical assistance and information dissemination under titles IV–B and IV–E of the Social Security Act, and under the Child Abuse Prevention and Treatment Act. Either directly or through the Resource Centers, it provides training and technical assistance to assist service providers, State and local governments and tribes, and strengthen headquarters and regional office staff.

It manages section 426 discretionary training grants and title IV–E training. It directs the operations and activities of the National Center on Child Abuse and Neglect Information Clearinghouse and the National Adoption Information Clearinghouse. It identifies best practices for treating troubled families and preventing abuse and neglect. It participates in the development of grant announcements, and manages certain discretionary grant projects. It develops

and issues a periodic newsletter, and is the focal point for conference and meeting planning activities for the Bureau.

6. Division of State Systems (DSS) reviews, assesses, and inspects the planning, design and operation of State management information systems and approves advanced planning documents for automated data systems. The Division provides leadership for the provision of technical assistance to States on information systems projects and advances the use of computer technology in the administration of child welfare and social services programs by States. The Division reviews, analyzes, and approves/disapproves State requests for federal financial participation for automated systems development and activities which support child welfare programs, including foster care and adoption. It provides assistance to States in developing or modifying automation plans to conform to federal requirements. It monitors approved State system development activities and conducts periodic reviews to assure State compliance with regulatory requirements applicable to automated systems supported by Federal financial participation. It provides guidance to States on functional requirements for these automated information systems. It promotes interstate transfer of existing automated systems and provides assistance and guidance to improve ACYF's programs through the use of automated systems.

Dated: May 30, 2001.

**James A. Harrell,**

*Acting Commissioner, Administration on Children, Youth and Families.*

[FR Doc. 01–14058 Filed 6–4–01; 8:45 am]

BILLING CODE 4184–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Toxic Substances and Disease Registry

### Medical Testing Associated With Exposure to Asbestos; Meeting

The Agency for Toxic Substances and Disease Registry (ATSDR), Division of Health Studies (DHS) announces the following meeting:

*Name:* Medical Testing Associated with Exposure to Asbestos.

*Times and Dates:* 10:00 a.m.–6:00 p.m., June 18, 2001; 8:30 a.m.–5:00 p.m., June 19, 2001.

*Place:* Sheraton Buckhead Hotel; 3405 Lenox Road; Atlanta, GA 30326.

*Status:* Open to the public, limited only by the space available.

*Purpose:* This is a working group meeting to discuss issues related to initial and follow-up testing of persons with environmental and historic occupational exposure to asbestoform materials from vermiculite mined in Libby, MT.

*Matters To Be Discussed:* The agenda will include a discussion on the routes and duration of exposure to asbestoform materials through both historic environmental and occupational routes; commonly conducted screening tests; frequency and periodicity of follow-up testing; use of standard testing procedures; and testing of special and/or sensitive populations.

Agenda items are subject to change as priorities dictate.

*Contact Person for More Information:* Jeffrey A. Lybarger, M.D., director, Division of Health Studies, ATSDR, 1600 Clifton Road, NE, m/s E31, Atlanta, Georgia 30333. Telephone 404/639–6200.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 24, 2001.

**Carolyn J. Russell,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 01–14050 Filed 6–4–01; 8:45 am]

BILLING CODE 4163–70–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 01N–0069]**

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Information From U.S. Processors That Export to the European Community

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Submit written comments on the collection of information by July 5, 2001.

**ADDRESSES:** Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

**FOR FURTHER INFORMATION CONTACT:** Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

#### Request for Information From U.S. Processors That Export to the European Community (OMB Control Number 0910–0320)—Extension

The European Community (EC) is a group of 15 European countries that have agreed to harmonize their commodity requirements to facilitate commerce among member States. EC legislation for intra-EC trade has been extended to trade with non-EC countries, including the United States. For certain food products, including those listed below in this document, EC legislation requires assurances from the responsible authority of the country of origin that the processor of the food is in compliance with applicable regulatory requirements.

With the assistance of trade associations and State authorities, FDA requests information from processors that export certain animal-derived products (e.g., shell eggs, dairy products, game meat, game meat products, animal casings, and gelatin) to EC. FDA uses the information to maintain lists of processors that have demonstrated current compliance with U.S. requirements and provides the lists to EC quarterly. Inclusion on the list is voluntary. EC member countries refer to the lists at ports of entry to verify that products offered for importation to EC from the United States are from processors that meet U.S. regulatory requirements. Products processed by firms not on the list are subject to detention and possible refusal at the port. FDA requests the following information from each processor:

1. Business name and address;
2. Name and telephone number of person designated as business contact;
3. Lists of products presently being shipped to EC and those intended to be shipped in the next 6 months;
4. Name and address of manufacturing plants for each product;
5. Names and affiliations of any Federal, State, or local governmental agencies that inspect the plant, government-assigned plant identifier, such as plant number, and last date of inspection; and

6. Assurance that the firm or individual representing the firm and submitting a certificate for signature to FDA is aware of and knows that they are subject to the provisions of section 1001 of Title 18, United States Code. This law provides that it is a criminal offense to knowingly and willfully make a false statement or alter or counterfeit documents in a matter within the jurisdiction of a U.S. agency.

In the **Federal Register** of February 28, 2001 (66 FR 12802), the agency requested comments on the proposed collection of information. One comment was received. In this comment there were two concerns regarding burden. The first was that States may incur more than ''information'' burden. The impact on a few States has been to retrieve inspection reports from FDA contracted inspections or from a State inspection. The second concern was that FDA ''assumed no operating or maintenance costs''. The burden on a company for placement on an EC required list is only the initial information asked for in the **Federal Register** notice. A company may inquire about the status during the review process for placement on the list but this is of their choosing.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

| Products | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| Shell eggs | 10 | 1 | 10 | 0.25 | 2.5 |
| Dairy | 100 | 1 | 100 | 0.25 | 25 |
| Game meat and meat products | 10 | 1 | 10 | 0.25 | 2.5 |
| Animal casings | 15 | 1 | 15 | 0.25 | 3.75 |
| Gelatin | 6 | 1 | 6 | 0.25 | 1.5 |
| Total | | | | | 35.25 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated number of respondents is based on the volume of exports and responses received to date. The estimated number of yearly responses has decreased from the estimate in FDA's previous notice seeking comment for this collection of information (63 FR 29738, June 1, 1998) because the actual number of responses has been decreasing. Companies do not need to reapply unless they have a compliance problem. An estimate for processors that export gelatin also has been added because these processors are now being included in the listing process.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

| Respondents | No. of Record-keepers | Annual Frequency of Recordkeeping | Total Annual Records | Hours per Record-keeper | Total Hours |
|---|---|---|---|---|---|
| Trade association | 15 | 1 | 15 | 8 | 120 |
| State | 50 | 1 | 50 | 8 | 400 |
| Total | | | | | 520 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimated for the trade associations assumes the trade associations will disseminate FDA's information request through mass mailings to their membership or publish it in their trade magazine or newsletter. The burden estimated for State authorities assumes dissemination of information to the processors or dissemination of information about processors to FDA.

Dated: May 29, 2001.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 01–13985 Filed 6–4–01; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Indian Health Service

### Indians Into Medicine Program; Correction

**AGENCY:** Indian Health Services, HHS.

**ACTION:** Notice; correction.

**SUMMARY:** The Indian Health Service published a document in the **Federal Register** on May 18, 2001, concerning an application deadline of June 1, 2001, for the Indians Into Medicine Program. The document contained an incorrect deadline date.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jacqueline Santiago, Chief, Loan Repayment Branch, Division of Health Professions Support, Indian Health Service, 12300 Twinbrook Parkway, Suite 100A, Rockville, MD 20852, Telephone 301–443–3396. (This is not a toll-free number.)

**Correction**

In the **Federal Register** of May 18, 2001, in FR Doc. 01–12529, on page 27665, in the third column, correct the **DATES** caption to read:

**DATES:** A. Application Receipt Date—An original and two (2) copies of the completed grant application must be submitted with all required documentation to the Grants Management Branch, Division of Acquisition and Grants Management, Twinbrook Building, Suite 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852, by close of business June 18, 2001.

Dated: March 29, 2001.

**Michel E. Lincoln,**

*Deputy Director.*

[FR Doc. 01–13987 Filed 6–4–01; 8:45 am]

BILLING CODE 4160–16–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Center for Substance Abuse Prevention; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Center for Substance Abuse Prevention (CSAP) Drug Testing Advisory Board to be held in June 2001. A portion of the meeting will be open and will include a Department of Health and Human Services drug testing program update, a Department of Transportation drug testing program update, and an update on the draft guidelines for alternative specimen testing and on-site testing.

If anyone needs special accommodations for persons with disabilities, please notify the Contact listed below.

The meeting will also include the review, discussion, and evaluation of sensitive National Laboratory Certification Program (NLCP) internal operating procedures and program development issues which may contain information of a personal nature and confidential commercial information obtained from a person. Therefore, a portion of the meeting will be closed to the public as determined by the SAMHSA Administrator in accordance with Title 5 U.S.C. 552b(c)(4) and (6) and 5 U.S.C. App. 2, section 10(d).

A roster of the board members may be obtained from: Mrs. Giselle Hersh, Division of Workplace Programs, 5600 Fishers Lane, Rockwall II, Suite 815, Rockville, MD 20857, Telephone: (301) 443–6014. The transcript for the open session will be available on the following website: www.health.org/workplace. Additional information for this meeting may be obtained by contacting the individual listed below.

*Committee Name:* Center for Substance Abuse Prevention, Drug Testing Advisory Board.

*Meeting Date:*

June 5, 2001; 8:30 a.m.–4:30 p.m.

June 6, 2001; 8:30 a.m.–3:30 p.m.

*Place:* Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

*Type:*

*Open:* June 5, 2001; 8:30 a.m.–Noon

*Closed:* June 5, 2001; Noon–4:30 p.m.

*Closed:* June 6, 2001; 8:30 a.m.–3:30 p.m.

*Contact:* Donna M. Bush, Ph.D., Executive Secretary, Telephone: (301) 443–6014, and FAX: (301) 443–3031.

Dated: May 29, 2001.

**Toian Vaughn,**

*Committee Management Officer, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 01–13986 Filed 6–4–01; 8:45 am]

BILLING CODE 4162–20–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4652–N–12]**

### Notice of Proposed Information Collection for Public Comment—Section 5(h) Homeownership Program for Public and Indian Housing: Submission of Plan, Reporting

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date:* August 6, 2001.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4238, Washington, DC 20410–5000.

**FOR FURTHER INFORMATION CONTACT:** Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Section 5(h) Homeownership Program for Public and Indian Housing: submission of plan, reporting.

*OMB Control Number:* 2577–0201.

*Description of the need for the information and proposed use:* Housing Agencies (HAs), to participate in this Program will submit plans to HUD to sell public and Indian housing to residents of the housing. The homeownership plans must meet criteria established in HUD regulations and residents must be involved in plan development. HUD will review and approve or disapprove the plan and notify PHAs of their action. PHAs will maintain records which may be subject to audit by HUD and the Government Accounting Office (GAO). In cases where implementation of the plan takes more than one year, PHAs will prepare annual reports and submit them to HUD.

*Agency form numbers, if applicable:* None.

*Members of affected public:* State or Local Government; individuals or households.

*Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* 73 responses for a three-year period, on occasion, 73 total responses, 76 average hours per response, 5,548 total reporting burden hours.

*Status of the proposed information collection:* Extension.

**Authority:** Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 31, 2001.

**Gloria Cousar,**

*Acting General Deputy, Assistant Secretary for Public and Indian Housing.*

[FR Doc. 01–14121 Filed 6–4–01; 8:45 am]

BILLING CODE 4210–33–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4650–N–41]**

### Notice of Submission of Proposed Information Collection to OMB; Pet Ownership in Assisted Rental Housing for the Elderly or Handicapped

**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 5, 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 (2502–0342) 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, Southwest, 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:* Pet Ownership in Assisted Rental Housing for the Elderly or Handicapped.

*OMB Approval Number:* 2502–0342.

*Form Numbers:* None.

*Description of the Need for the Information and its Proposed use:* The Information is collected to carry out the regulations that allow tenants in elderly or handicapped rental projects to be pet owners. Information is distributed to tenants of assisted rental housing units detailing guidelines for pet ownership.

*Respondents:* Individual or households, business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

*Frequency of Submission:* On occasion.

| | Number of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Reporting burden | 8,793 | | 14 | | 0.23 | | 28,671 |

*Total Estimated Burden Hours:* 28,671.

*Status:* Reinstatement, without change.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 24, 2001.

**Wayne Eddins,**

*Departmental Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 01–14022 Filed 6–4–01; 8:45 am]

BILLING CODE 4210–01–M

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### Notice of Meeting

**AGENCY:** Department of the Interior, Office of the Secretary.

**ACTION:** Notice of meeting.

**SUMMARY:** The Department of the Interior, Office of the Secretary is announcing a public meeting of the Exxon Valdez Oil Spill Public Advisory Group.

**DATES:** July 18, 2001, at 9:00 a.m.

**ADDRESSES:** Fourth floor conference room, 645 ''G'' Street, Anchorage, Alaska.

**FOR FURTHER INFORMATION CONTACT:** Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 ''C'' Street, Suite 119, Anchorage, Alaska, (907) 271–5011.

**SUPPLEMENTARY INFORMATION:** The Public Advisory Group was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV. The meeting agenda will feature discussions on the draft fiscal year 2002 restoration work plan and the proposed Gulf Ecosystem Monitoring program.

**Willie R. Taylor,**

*Director, Office of Environmental Policy and Compliance.*

[FR Doc. 01–14118 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–RG–M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Receipt of Application for Endangered Species Permit

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of application for endangered species permit.

**SUMMARY:** The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

If you wish to comment, you may submit comments by any one of several

methods. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to ''victoria_davis@fws.gov''. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

**DATES:** Written data or comments on these applications must be received, at the address given below, by July 5, 2001.

**ADDRESSES:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Victoria Davis, Permit Biologist). Telephone: 404/679–4176; Facsimile: 404/679–7081.

**FOR FURTHER INFORMATION CONTACT:** Victoria Davis, Telephone: 404/679–4176; Facsimile: 404/679–7081.

**SUPPLEMENTARY INFORMATION:**

*Applicant:* Dr. Richard L. Mayden, University of Alabama, Tuscaloosa, Alabama, TE042764–0

The applicant requests authorization to take (capture, hold temporarily, identify, anesthetize with clover oil, take small fin clippings, and photograph) from each of the fifteen sampling populations a maximum of ten Conasauga logperch (*Percina jenkinsi*) and ten Roanoke logperch (*Percina rex*). Samples are for the purpose of studying mitochondrial DNA sequences to assess genetic variability and viability of four imperiled fish species whose ranges occur on National Forest Land in the southeast United States. The purposed activities will take place in the following states: Virginia, Tennessee, and Georgia.

*Applicant:* Melissa Brooks, Auburn University, Auburn, Alabama, TE042683–0

The applicant requests authorization to remove and reduce to possession two plants and fifty seeds from ten sites of *Trillium reliquum* (Relict Trillium) to determine the diversity of pollinators, the distance that pollinators travel, and the success of these pollinators versus hand pollination. The proposed activities will take place in Lee, Bullock, and Henry Counties, Alabama; Clay, Lee, Early, Talbot, and Columbia Counties, Georgia; and Aiken and Edgefield Counties, Kentucky.

*Applicant:* Arkansas Tech University, Chris Kellner, Russellville, Arkansas, TE042728–0

The applicant requests authorization to take (survey, capture, band nestlings, mark nests) Interior Least Tern (*Sterna antillarum athalassos*) to determine the distribution and abundance on the Arkansas River, describe the physical and habitat features of the colony sites, estimate the accuracy/reliability of aerial surveys, provide an estimate of the variability in abundance of potential colony sites over a two-year period, provide a precise estimate of reproductive success, identify important predators responsible for losses of eggs and chicks, and provide an estimate of the relative importance of natural and human influences on the abundance and distribution on the Arkansas River. The proposed activities will take place on the Arkansas River, from Pine Bluff to Fort Smith, in the following Arkansas counties: Jefferson, Lonoke, Pulaski, Conway, Johnson, Franklin, and Crawford.

Dated: May 22, 2001.

**H. Dale Hall,**

*Deputy Regional Director.*

[FR Doc. 01–13994 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Endangered and Threatened Species Permit Application

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of application.

The following applicant has applied for scientific research permits to conduct certain activities with endangered species pursuant to sections 10(a)(1)(A) and 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

**Permit Number TE838055–8**

*Applicant: Ecological Specialists, Inc., St. Peters, Missouri*

The applicant requests an amendment to existing endangered species take permit number TE838055–7 to increase the scope of covered activities to include projects in the State of Michigan. The existing permit authorizes the applicant to take endangered and threatened unionids throughout ten states. The scientific research is aimed at enhancement of survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who requests a copy from the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, *peter_fasbender@fws.gov*, telephone (612) 713–5343, or Fax (612) 713–5292.

Dated: May 25, 2001.

**T.J. Miller,**

*Acting, Assistant Regional Director,, Ecological Services, Region 3, Fort Snelling, Minnesota.*

[FR Doc. 01–14053 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Hanford Reach National Monument Federal Advisory Committee; Meeting Notice

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; FACA meeting.

**SUMMARY:** The Hanford Reach National Monument Federal Advisory Committee will conduct its first meeting on Wednesday, June 20, 2001 from 1 to 5:30 pm and Thursday, June 21, from 8 to 9:30 am in the Consolidated Information Center (CIC)/Library, rooms 120 and 120A on the Washington State University, Tri-Cities campus, 2770 University Dr., Richland, WA. The meeting is open to the public and press.

**DATES:** The meeting will take place Wednesday, June 20, 2001 from 1 to 5:30 pm and Thursday, June 21, from 8 to 9:30 am. Time will be made available for public comments to be heard during the meeting. Written comments received by June 21, 2001, 9:30 am, will be incorporated into the meeting notes. Written comments received after the deadline will be accepted, but will not be incorporated into the meeting notes.

**ADDRESSES:** Any member of the public wishing to submit written comments may submit them during the meeting or send them to Mr. Greg Hughes, Designated Federal Official for the Hanford Reach National Monument (HRNM) Federal Advisory Committee, Hanford Reach National Monument/ Saddle Mountain National Wildlife Refuge, 3250 Port of Benton Blvd., Richland, WA 99352; fax (509) 375–0196. Copies of the draft meeting agenda can be obtained from the Designated Federal Official.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing further information concerning the meeting should contact Mr. Greg Hughes, Designated Federal Official for the Hanford Reach National Monument (HRNM) FACA; phone (509) 371–1801, fax (509) 375–0196.

**SUPPLEMENTARY INFORMATION:** During this meeting, the Hanford Reach National Monument Federal Advisory Committee will hold introductions of Committee Members and Alternates, Facilitators, and the Designated Federal Official. Introductory statements will be made by U.S. Department of the Interior Fish and Wildlife Service and U.S. Department of Energy authorities. The Committee will hear informational presentations about Presidential Proclamation #7319, the Advisory Committee Charter, Department of Energy requirements, and National Wildlife Refuge System mandates and organization. Additionally, the Committee will discuss groundrules, selection of a Committee Chair and process design.

Dated: May 24, 2001.

**Greg Hughes,**

*Project Leader, Hanford Reach National Monument.*

[FR Doc. 01–13993 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[CA–670–5101–ER–B140/CACA–42662]**

### Proposed Plan Amendments and Environmental Impact Statement/ Environmental Impact Report for the North Baja Pipeline Project, California, in Accordance With 43 CFR 1610.5–5

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Intent to consider proposed amendments to the California Desert Conservation Area Plan and the Yuma District Resource Management Plan in conjunction with the North Baja Pipeline project.

**SUMMARY:** This notice supplements the notice published by the Federal Energy Regulatory Commission (FERC) in the **Federal Register** in the issue of May 22, 2001 at page 28160 (66 FR 28160). That notice requested comments on environmental issues related to the Bureau of Land Management's (BLM) consideration of amendments to the Yuma Resource Management Plan (RMP) and the California Desert Conservation Area (CDCA) Plan. The proposed North Baja Pipeline project extends from Ehrenberg, Arizona through Riverside and Imperial Counties south to the Mexican border. All federal lands affected by the proposed plan amendments are located in eastern Imperial County, California. FERC and the California State Lands Commission are jointly preparing an Environmental Impact Statement and an Environmental Impact Report (EIS/EIR) that will analyze the environmental impacts of the proposed project. An amendment to the CDCA Plan is required because part of the proposed project is not within a CDCA designated Utility Corridor. An amendment to the Yuma RMP is required because the proposed project would cross portions of the Milpitas Wash Natural Area, and that plan does not allow for new utilities within this area. BLM will attempt to use the EIS/EIR to consider the plan amendments. If the Plan(s) are not amended, BLM may authorize installation of the project within existing corridors only, or BLM may deny the project if the existing corridor option does not prove feasible. The currently identified environmental issues are listed in the notice previously published by FERC in the **Federal Register** in the issue dated December 18, 2000 at page 79097 (65 FR 79097).

**DATES:** Submit comments, concerning the scope of the proposed amendments, on or before July 5, 2001.

**ADDRESSES:** Written comments should be addressed by Lynda Kastoll, Project Manager, Bureau of Land Management, El Centro Field Office, 1661 So. 4th Street, El Centro, CA 92243.

**FOR FURTHER INFORMATION CONTACT:** Lynda Kastoll at the above address or at (760) 337–4421.

**SUPPLEMENTARY INFORMATION:** North Baja Pipeline Project's proposed action consists of the construction and operation of about 79.8 miles of pipeline, including 11.5 miles of 36-inch-diameter and 68.3 miles of 30-inch-diameter pipe, extending from an interconnection with El Paso Natural Gas Company in La Paz County, Arizona, through Riverside and Imperial Counties, California, to an interconnection at the international border between the United States and Mexico. It includes the construction of a new compressor station (with associated metering facilities) in Ehrenberg, Arizona, a meter station near the Ogilby Road-Interstate 8 interchange in Imperial County, CA and a pig launcher and receiver facility near Rannel's Drain and 18th Avenue in Riverside County, California. A pig is an internal tool used to inspect the pipeline for potential leaks or damage.

The nominal construction right-of-way (construction corridor) for the pipeline would be 80 feet wide, with 50 feed retained as permanent right-of-way. About 63 percent of the pipeline route would abut or overlap existing road or powerline rights-of-way.

The first 11.5 miles of the project are in or adjacent to agricultural lands in the Blythe and Palo Verde Valley areas. The alignment then parallels an electric transmission line and Stallard Road on the Palo Verde Mesa from Mile Post (MP) 11.5 to MP 28. From MP 28 to MP 39 it parallels Highway 78, then from MP 39 to MP 75 it parallels either an electric transmission line or public roadways for all but about 5.4 miles, across desert habitats. It crosses Interstate 8 at MP 75, then parallels the edge of sand dunes to its crossing of the All American Canal at MP 79.5 and its termination in Mexico at MP 79.6.

The combined United States and Mexico pipeline system is initially designed to carry 500 million cubic feet per day of natural gas. As designed, the new pipeline system will serve existing

and planned power plants in Mexico and in the United States that in turn serve electric power demand in northern Baja California, Mexico and western United States' markets.

The total project configuration, as proposed and including measures to avoid, minimize, or mitigate impacts on the environment, is being considered along with several alternatives, including building the pipeline entirely within existing corridors as designated in the California Desert Conservation Area Plan, and a ''No Action'' alternative.

Dated: May 22, 2001.

**MarLynn Spears,**

*Acting Chief, Branch of Lands (CA–931).*

[FR Doc. 01–14078 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–40–M

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Availability of the Final Maurice National Scenic and Recreational River Comprehensive Management Plan and Environmental Impact Statement

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of Availability of the Final Maurice National Scenic and Recreational River Comprehensive Management Plan and Environmental Impact Statement.

**SUMMARY:** The National Park Service has finalized the Comprehensive Management Plan and Environmental Impact Statement for the management, protection, and use of the Maurice National Scenic and Recreational River in New Jersey. Comments will be accepted for 30 days from the date of this notice. Please be advised that, if requested, the National Park Service is required to supply the names and addresses of individuals providing comments. For more information about this document, contact Mary Vavra, National Park Service Program Manager, by letter or telephone:

**FOR FURTHER INFORMATION CONTACT:** Mary Vavra, Program Manager, National Park Service, Philadelphia Support Office, 200 Chestnut Street, 3rd Floor, Philadelphia, PA 19106, (215) 597–9175.

Dated: March 25, 2001.

**Marie Rust,**

*Regional Director, Northeast Region, National Park Service.*

[FR Doc. 01–14066 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–70–M

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Boston Harbor Islands Advisory Council; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) that the Boston Harbor Islands Advisory Council will meet on Wednesday, June 20, 2001. The meeting will convene at 3 p.m. at the New England Aquarium Conference Center, Central Wharf, Boston, MA.

The Advisory Council was appointed by the Director of National Park Service pursuant to Public Law 104–333. The 28 members represent business, educational/cultural, community and environmental entities; municipalities surrounding Boston Harbor; Boston Harbor advocates; and Native American interests. The purpose of the Council is to advise and make recommendations to the Boston Harbor Islands Partnership with respect to the development and implementation of a management plan and the operation of the Boston Harbor Islands National Recreation Area.

The Agenda for this meeting is as follows:

1. Call to Order, Introductions of Advisory Council members present
2. Review and Approval of Minutes of March meeting
3. Update on Activites since the March Meeting
4. Presenation of GMP status by NPS
5. Report from the Co-chairs
6. Island Events this season
7. Public Comment
8. Next Meeting
9. Adjourn

The meeting is open to the public. Further information concerning Council meetings may be obtained from the Superintendent, Boston Harbor Islands. Interested persons may make oral/written presentations to the Council or file written statements. Such requests should be made at least seven days prior to the meeting to: Superintendent, Boston Harbor Islands NRA, 408 Atlantic Avenue, Boston, MA, 02110, telephone (617) 223–8667.

May 17, 2001.

**George E. Price, Jr.,**

*Superintendent, Boston Harbor Islands NRA.*

[FR Doc. 01–14069 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–70–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Announcement of Subsistence Resource Commission meeting

**AGENCY:** National Park Service, Interior.

**SUMMARY:** The Superintendent of Cape Krusenstern National Monument and Kobuk Valley National Park and the Chairpersons of the Subsistence Resource Commissions for Cape Krusenstern National Monument and Kobuk Valley National Park announce a forthcoming joint meeting of the Cape Krusenstern National Monument and Kobuk Valley National Park Subsistence Resource Commissions. The following agenda items will be discussed:

(1) SRC Chairs Welcome—Introduction of commission members and guests. Review and approve agenda.

(2) Review and approve minutes from last meeting.

(3) SRC review of regional issues.

(4) SRC review Subsistence Hunting Plan/and work session.

(5) Public and other agency comments.

(6) Identify agenda topics, set time and place of next SRC meeting.

(7) Adjournment.

**DATES:** The meeting will be held from 10:00 a.m. to 5:00 p.m. on Wednesday June 6 and 9:30 a.m. to 5:00 p.m. on Thursday, June 7. If needed, the Chairs may schedule evening sessions.

**LOCATION:** The meeting will be held at the U.S. Fish and Wildlife Service conference room in Kotzebue, Alaska. The U.S. Fish and Wildlife Service Office in Kotzebue is located at 160 2nd Street, Telephone (907) 442–3799.

**FOR FURTHER INFORMATION CONTACT:** David W. Spirtes, Superintendent, P.O. Box 1029, Kotzebue, Alaska 99752, Telephone (907) 442–3890 or Ken Adkisson at (800) 471–2352 or 443–2522.

**SUPPLEMENTARY INFORMATION:** The Subsistence Resource Commissions are authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487 and operate in accordance with the provisions of the Federal Advisory Committees Act.

**Robert L. Arnberger,**

*Regional Director.*

[FR Doc. 01–14067 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–70–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

### National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 19, 2001. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240. Written comments should be submitted by June 20, 2001.

**Patrick W. Andrus,**

*Acting Keeper of the National Register of Historic Places.*

**ILLINOIS**

**Cook County**

Oak Circle Historic District, 318–351 Oak Circle, Wilmette, 01000668

**Winnebago County**

Indian Hill Manor and Farm Historic District, 6901–7057 Kishwaukee Rd., Rockford, 01000667

**LOUISIANA**

**St. Martin Parish**

Katie Plantation House, (Louisiana's French Creole Architecture MPS), 1015 John D. Hebert Dr., Breaux Bridge, 01000669

**MASSACHUSETTS**

**Hampden County**

Agawam Center Historic District, 24–196 Elm St.; 551–1008 Main St., Agawam, 01000670

**NEW JERSEY**

**Atlantic County**

Weymouth Road Bridge, Weymouth Rd., Hamilton Township, 01000671

**NEW YORK**

**Columbia County**

Reformed Dutch Church of Claverack, (Claverack MPS), NY 9H, N of NY 23B, Claverack, 01000673

**Delaware County**

First Congregational Church and Society of Volney, (Freedom Trail, Abolitionism, and African American Life in Central New York MPS), NY 3, Volney, 01000675

**Wyoming County**

Java School No. 1, NY 78, Java Village, 01000672

**NORTH CAROLINA**

**Guilford County**

Guilford College Historic District (Boundary Decrease), 5800 Friendly Ave., Greensboro, 01000676

**NORTH DAKOTA**

**Wells County**

Vang Evangelical Lutheran Church, 200 W. LeGrand St., Manfred, 01000674

**OREGON**

**Deschutes County**

Old Town Historic District, Roughly bounded by Arizona Ave., Wall St., Broadway, Franklin Ave., and Division St., Bend, 01000681

**PENNSYLVANIA**

**Bedford County**

Schellsburg Historic District, Approx. centered on Pitt St., Market and Baltimore Sts., Schellsburg Borough, 01000677

**Greene County**

Cree, William, House, W side of PA 1011, 0.1 mi. N of PA 21, Jefferson Township, 01000678

**SOUTH CAROLINA**

**Charleston County**

Cook's Old Field Cemetery, 0.5 mi. N of Rifle Range Rd., Mt. Pleasant, 01000679

**SOUTH DAKOTA**

**Custer County**

Grace Coolidge Memorial Log Building, 644 Crook St., Custer, 01000680

[FR Doc. 01–14068 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–70–P

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## DEPARTMENT OF THE INTERIOR

### National Park Service

### Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of the U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, Santa Fe, NM

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the control of the U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, Santa Fe, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the University of Colorado Museum, Eastern New Mexico University, Maxwell Museum of Anthropology (University of New Mexico), New Mexico State University Museum, Museum of New Mexico, San Juan County Museum, and Bureau of Land Management professional staff in consultation with representatives of the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico, and Utah; Pueblo of Acoma, New Mexico; Pueblo of Jemez, New Mexico; the Pueblo of Isleta, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation.

In 1915, human remains representing five individuals were recovered from an undesignated archeological site in Gobernado Canyon, Rio Arriba County, NM, during legally authorized excavations and collections conducted by Earl Morris, University of Colorado-Boulder, and the American Museum of Natural History, New York, NY. These human remains are presently curated at the University of Colorado Museum, Boulder, CO. No known individuals were identified. No associated funerary objects are present.

Based on material culture, this Gobernador Canyon site has been identified as an Anasazi site occupied between C.E. 700 and 1100.

In 1975, human remains representing one individual were recovered from site LA 3686, San Juan County, NM, during legally authorized excavations and collections by the School of American Research, Santa Fe, NM. These human remains are presently curated at the Maxwell Museum of Anthropology at the University of New Mexico. No known individual was identified. No associated funerary objects are present.

Based on material culture and site organization, site LA 3686 has been identified as a small Anasazi pueblo occupied between C.E. 1100 and 1300.

In 1989, human remains representing one individual were recovered form site LA 16660, San Juan County, NM, during legally authorized excavations and collections by the Office of Contract Archeology, University of New Mexico. These human remains are presently curated at the Maxwell Museum of Anthropology, University of New Mexico. No known individuals was identified. No associated funerary objects were present.

Based on material culture, architecture, and site organization, site LA 16660 has been identified as a small

Anasazi pueblo occupied between C.E. 900 and 1300.

In 1979, human remains representing one individual were recovered from site LA 18800, San Juan County, NM, during legally authorized excavations conducted by the Division of Conservation Archeology, San Juan County Museum. No known individual was identified. The one associated funerary object is a pottery sherd.

Based on consultation evidence and material culture, architecture, and site organization, site LA 18800 has been identified as a small Anasazi pueblo occupied between C.E. 900 and 1100.

Based on the above-mentioned information, officials of the Bureau of Land Management, New Mexico State Office have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of eight individuals of Native American ancestry. Officials of the Bureau of Land Management, New Mexico State Office also have determined that, pursuant to 43 CFR 10.2 (d)(2), the one object listed above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Bureau of Land Management, New Mexico State Office have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary object and the Pueblo of Acoma, New Mexico; Hopi Tribe of Arizona; Pueblo of Jemez, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Taos, New Mexico; and Pueblo of Zia, New Mexico. This notice has been sent to officials of the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico, and Utah; Pueblo of Acoma, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Zia, New Mexico; Ysleta Del Sur Pueblo, Texas; and Zuni Tribe of the Zuni Reservation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary object should contact Stephen L. Fosberg, State Archeologist and NAGPRA Coordinator, New Mexico State Office, Bureau of Land Management, 1474 Rodeo Road, Santa Fe, NM 87502-0115, telephone (505) 438-7415, before July 5, 2001. Repatriation of the human remains and associated funerary object to the Pueblo of Acoma, New Mexico; Hopi Tribe of Arizona; Pueblo of Jemez, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Taos, New Mexico; and Pueblo of Zia, New Mexico may begin after that date if no additional claimants come forward.

Dated: May 17, 2001.

**John Robbins,**

*Assistant Director, Cultural Resources Stewardship and Partnerships.*

[FR Doc. 01–14075 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–70–F

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## DEPARTMENT OF THE INTERIOR

## National Park Service

## Notice of Intent to Repatriate Cultural Items from Adams County, IL, in the Possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a) (3), of the intent to repatriate cultural items in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA, that meet the definition of ''unassociated funerary objects'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The 24 cultural items include fragments of an animal skull, sandstone abraders, wood, iron fragments, and a copper or brass tinkling cone. These items were removed by Stephen D. Peet from the Ursa Mound Group (Larry Lewis Site, 11-A-24), Adams County, IL, in 1889. They were donated by Reverend Peet to the Peabody Museum of Archaeology and Ethnology in 1889.

Excavation records indicate that these items were found with a historic burial that intruded into a prehistoric mound. Museum documentation suggests that the human remains from this burial were sent to the museum, but cannot presently be isolated from human remains from other sites from Adams County, IL.

The cultural items from this burial, especially the sandstone abraders, iron fragments, and copper/brass tinkling cone, indicate that the burial dates to the late 17th to mid-18th centuries. The age and style of the cultural items, combined with historic records and oral tradition, suggest that the burial dates to a time when the Iliniwek (Peoria) and Ioway tribes occupied villages in the immediate vicinity of the site. The Iliniwek are represented by the Peoria Indian Tribe of Oklahoma. The Ioway are represented by the Iowa Tribe of Kansas and Nebraska and the Iowa Tribe of Oklahoma.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 43 CFR 10.2 (d) (2), the 24 cultural items listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite of ceremony and are believed, by a preponderance of evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Peabody Museum of Archaeology and Ethnology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these items and the Iowa Tribe of Kansas and Nebraska, Iowa Tribe of Oklahoma, and Peoria Indian Tribe of Oklahoma.

This notice has been sent to officials of the Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community of Wisconsin Potawatomi Indians, Wisconsin; Hannahville Indian Community, Michigan; Ho-Chunk Nation of Wisconsin; Huron Potawatomi, Inc., Michigan; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians of Michigan, Prairie Band of Potawatomi Indians, Kansas; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac and Fox Tribe of the Mississippi in Iowa; and Winnebago Tribe of Nebraska. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Barbara Isaac, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 495-2254, before July 5, 2001. Repatriation of these cultural items to the Iowa Tribe of Kansas and Nebraska, Iowa Tribe of

Oklahoma, and Peoria Indian Tribe of Oklahoma may begin after that date if no additional claimants come forward.

Dated: May 14, 2001.

**John Robbins,**

*Assistant Director, Cultural Resources Stewardship and Partnerships.*

[FR Doc. 01–14073 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–70–F

## DEPARTMENT OF THE INTERIOR

## National Park Service

### Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Phoebe A. Hearst Museum of Anthropology, University of California-Berkeley, Berkeley, CA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Phoebe A. Hearst Museum of Anthropology, University of California-Berkeley, Berkeley, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Phoebe A. Hearst Museum of Anthropology professional staff in consultation with representatives of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Prior to 1904, human remains representing at least six individuals (Cat. 12-36—12-41) were purchased from the Fred Harvey Company and donated to the Phoebe A. Hearst Museum of Anthropology by Phoebe A. Hearst in 1904. No known individuals were identified. No associated funerary objects are present.

Based on museum documentation, these individuals have been identified as Mandan from North Dakota. There is no existing information to contradict the museum documentation.

Based on the above-mentioned information, officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of six individuals of Native American ancestry. Officials of the Phoebe A. Hearst Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota. This notice has been sent to officials of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact C. Richard Hitchcock, Interim NAGPRA Coordinator, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA 94720, telephone (510) 643–7884, before July 5, 2001. Repatriation of the human remains to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota may begin after that date if no additional claimants come forward.

Dated: May 11, 2001.

**John Robbins,**

*Assistant Director, Cultural Resources Stewardship and Partnerships.*

[FR Doc. 01–14070 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–70–F

## DEPARTMENT OF THE INTERIOR

## National Park Service

### Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Phoebe A. Hearst Museum of Anthropology professional staff in consultation with representatives of Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; Pala Band of Luiseno Mission Indians of the Pala Reservation, California; Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California; Cahuilla Band of Mission Indians of the Cahuilla Reservation, California; Cabazon Band of Cahuilla Mission Indians of the Cabazon Reservation, California; Los Coyotes Band of the Cahuilla Mission Indians of the Los Coyotes Reservation, California; Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California; Ramona Band or Village of Cahuilla Mission Indians of California; Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California; Torres-Martinez Band of Cahuilla Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California.

During the 1930s, human remains representing a minimum of one individual (Cat.no. 12-11219) were recovered from site CA-SDi-NL-2, Borego Valley, San Diego County, CA, by Happy Sharp. In 1940, Mr. Sharp donated these human remains to the Phoebe A. Hearst Museum of Anthropology. No known individual was identified. The 73 associated funerary objects (Cat.no. 1-64357) are pottery sherds and shell fragments.

Based on manner of interment and the associated funerary objects, this individual has been identified as Native American. Based on strong geographical evidence, linguistic evidence, and manner of interment (cremation is generally a post-A.D. 1400 practice in this area), the preponderance of the evidence indicates cultural affiliation between these human remains and associated funerary objects and the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; Pala Band of Luiseno Mission Indians of the Pala Reservation, California; Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California; Cahuilla Band of Mission Indians of the Cahuilla Reservation, California; Cabazon Band of Cahuilla Mission Indians of the Cabazon Reservation, California; Los Coyotes Band of the Cahuilla Mission Indians of the Los Coyotes Reservation, California; Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California; Ramona Band or Village of Cahuilla Mission Indians of California; Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California; Torres-Martinez Band of Cahuilla Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California.

Based on the above-mentioned information, officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of one individual of Native American ancestry. Officials of the Phoebe A. Hearst Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 73 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Phoebe A. Hearst Museum have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; Pala Band of Luiseno Mission Indians of the Pala Reservation, California; Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California; Cahuilla Band of Mission Indians of the Cahuilla Reservation, California; Cabazon Band of Cahuilla Mission Indians of the Cabazon Reservation, California; Los Coyotes Band of the Cahuilla Mission Indians of the Los Coyotes Reservation, California; Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California; Ramona Band or Village of Cahuilla Mission Indians of California; Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California; Torres-Martinez Band of Cahuilla Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California. This notice has been sent to officials of the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; Pala Band of Luiseno Mission Indians of the Pala Reservation, California; Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California; Cahuilla Band of Mission Indians of the Cahuilla Reservation, California; Cabazon Band of Cahuilla Mission Indians of the Cabazon Reservation, California; Los Coyotes Band of the Cahuilla Mission Indians of the Los Coyotes Reservation, California; Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California; Ramona Band or Village of Cahuilla Mission Indians of California; Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California; Torres-Martinez Band of Cahuilla Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact C. Richard Hitchcock, Interim NAGPRA Coordinator, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA 94720, telephone (510) 643-7884, before July 5, 2001. Repatriation of the human remains and associated funerary objects to the culturally affiliated tribes may begin after that date if no additional claimants come forward.

Dated: May 17, 2001.

**John Robbins,**

*Assistant Director, Cultural Resources Stewardship and Partnerships.*

[FR Doc. 01–14074 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–70–F

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Phoebe A. Hearst Museum of Anthropology, University of California-Berkeley, Berkeley, CA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Phoebe A. Hearst Museum of Anthropology, University of California-Berkeley, Berkeley, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Phoebe A. Hearst Museum of Anthropology professional staff in consultation with representatives of the Karuk Tribe of California.

In 1939, human remains representing at least one individual (Cat. 12–5990) were recovered from site CA-Hum-NL-12, Humboldt County, CA, and were donated to the Phoebe A. Hearst Museum of Anthropology by W.E. Schenck and E.W. Gifford. No known individual was identified. No associated funerary objects are present.

Based on the condition of these human remains, this individual has been identified as Native American. Based on geographic and linguistic evidence, these human remains have been affiliated with the Karuk Tribe of California. Museum records indicate that these human remains were found near Chinach, an important Karuk ethnographic village site.

Based on the above-mentioned information, officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Phoebe A. Hearst Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Karuk Tribe of California. This notice has been sent to officials of the Karuk Tribe of California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact C. Richard Hitchcock, Interim NAGPRA Coordinator, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA 94720, telephone (510) 643-7884, before July 5, 2001. Repatriation of the human remains to the Karuk Tribe of California may begin after that date if no additional claimants come forward.

Dated: May 11, 2001.

**John Robbins,**

*Assistant Director, Cultural Resources Stewardship and Partnerships.*

[FR Doc. 01–14071 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–70–F

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of the Sioux City Public Museum, Sioux City, IA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the control of the Sioux City Public Museum, Sioux City, IA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2(c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Sioux City Public Museum professional staff in consultation with representatives of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota.

In 1965, human remains representing one individual were recovered from the Larson Village site (32BL9) on the bluff of the Missouri River, Burleigh County, near Bismark, ND, and donated to the Sioux City Public Museum by Mrs. J. Rodder. No known individual was identified. No associated funerary objects are present.

Excavation data show that the Larson Village site was a Mandan village occupied between C.E. 1600 and 1780.

Based on the above-mentioned information, officials of the Sioux City Public Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Sioux City Public Museum also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

On May 18, 1994, these human remains were repatriated to Sebastian (Bronco) LeBeau on behalf of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota. Questions or concerns related to the repatriation of the human remains described in this notice can be directed to Sebastian (Bronco) LeBeau, Cultural Preservation Officer, Cheyenne River Sioux Tribe, P.O. Box 590, Eagle Butte, SD 57625, telephone (605) 964–4155.This notice has been sent to officials of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Mr. Daniel Truckey, NAGPRA Representative, Sioux City Public Museum, 2901 Jackson Street, Sioux City, IA 51104-3697, telephone (712) 224-5001, before July 5, 2001.

Dated: May 11, 2001.

**John Robbins,**

*Assistant Director, Cultural Resources Stewardship and Partnerships.*

[FR Doc. 01–14072 Filed 6–4–01; 8:45 am]

BILLING CODE 4310–70–F

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. 01–3]**

### Penick Corp., Newark, New Jersey; Notice of Administrative Hearing, Summary of Comments and Objections; Notice of Hearing

This Notice of Administrative Hearing, Summary of Comments and Objections, regarding the application of Penick Corporation (Penick) for registration as an importer of the Schedule II controlled substances coca leaves, raw opium, poppy straw, and poppy straw concentrate is published pursuant to 21 CFR 1301.34(a). On August 18, 200, notice was published in the **Federal Register**, 65 FR 50568 (DEA 2000), stating that Penick has applied to be registered as an importer of coca leaves, raw opium, poppy straw, and poppy straw concentrate.

Both Noramco of Delaware, Inc. (Noramco), and Mallinckrodt, Inc. (Mallinckrodt), timely filed comments and objections to and requested a hearing on Penick's application. Organichem Corporation (Organichem) filed comments on Penick's application. Notice is hereby given that a hearing with respect to Penick's application to be registered as an importer of raw opium and of poppy straw concentrate will be conducted pursuant to the provisions of 21 U.S.C. 952(a) and 958 and 21 CFR 1301.34.

*Hearing Date*

The hearing will begin at 9:30 a.m. on July 9, 2001, and will be held at the Drug Enforcement Administration Headquarters, 600 Army Navy Drive, Hearing Room, Room E–2103, Arlington, Virginia. The hearing will be closed to any person not involved in the preparation or presentation of the case.

*Notice of Appearance*

Any person entitled to participate in this hearing pursuant to 21 CFR 1301.34, and desiring to do so, may participate by filing a notice of intention to participate, in triplicate, and in accordance with 21 CFR 1301.34, with the Hearing Clerk, Office of Administrative Law Judges, Drug Enforcement Administration, Washington, DC 20537, within 30 days of the date of publication of this notice in the **Federal Register**. Each notice of appearance must be in the form prescribed in 21 CFR 1316.48. Penick, Noramco, Mallinckrodt, and DEA Office of Chief Counsel need not file a notice of intention to participate.

**FOR FURTHER INFORMATION CONTACT:** Helen Farmer, Hearing Clerk, Drug Enforcement Administration, Office of Administrative Law Judges, Washington, DC 20537; Telephone (202) 307–8188.

**Summary of Comments and Objections**

*Mallinckrodt's Comments*

Mallinckrodt states that Penick has not manufactured controlled substances for the last ten years and is now owned by a company with no experience in controlled substance manufacturing or importation, that consequently Penick would likely be wasteful in manufacturing opiate based products, and that the ability of current registrants to provide and maintain an adequate and uninterrupted supply of controlled substances would be undermined. Mallinckrodt contends that it, unlike Penick, has taken significant efforts to maintain adequate and uninterrupted supplies of active pharmaceutical ingredients.

Mallinckrodt further asserts that the United States is obligated to limit the international shipment of narcotics to the minimum to meet medical and scientific needs, and that inasmuch as the current registrants can adequately supply those needs, it is inconsistent with the United States' treaty obligations under the Single Convention on Narcotic Drugs to register Penick to import raw opium and poppy straw concentrate.

Mallinckrodt also states that Penick has a history of ''marginal compliance'' with DEA regulations, and that if it resumes manufacturing controlled substances it will be unable to comply with Environmental Protection Agency and Food and Drug Administration requirements. Mallinckrodt contends that competition among domestic manufacturers is adequate, that registering Penick will not enhance competition, and that any difference between domestic and foreign prices of relevant substances reflects the regulations and policies faced by domestic producers. Finally, Mallinckrodt states that Penick's lack of adequate manufacturing facilities indicates that it is not capable of maintaining effective controls against diversion.

*Noramco's Comments*

Noramco asserts that because Penick has not produced significant quantities of bulk narcotic substances since 1991, it will be difficult for Penick to produce these materials as efficiently as existing registrants, thereby aggravating the long-term shortage of narcotics raw materials. Noramco also states that existing manufacturers of bulk narcotic substances are producing an adequate and uninterrupted supply under adequately competitive conditions, that Penick's troubled financial history raises concerns regarding its ability to manufacture narcotic substances in a manner consistent with the public interest, and that Penick will have to demonstrate that it can effectively control diversion. Additionally, Noramco asserts that Penick's management intends to fund the business with a sum that is inadequate to the task of starting and maintaining a viable narcotic raw material import and bulk manufacturing business.

*Organichem's Comments*

Organichem states that Penick's financial difficulties have prevented it from heretofore operating successfully, that it should be required to comply with current DEA security requirements, and that it should also be required to demonstrate that it can meet current Food and Drug Administration, environmental, and international standards.

Organichem further asserts that Penick should be required to demonstrate that it has the financial resources necessary to finance production and a business plan adequate to establish and maintain a profitable business.

Dated: May 29, 2001.

**Donnie R. Marshall,**

*Administrator, Drug Enforcement Administration.*

[FR Doc. 01–14114 Filed 6–4–01; 8:45 am]

BILLING CODE 4410–09–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### ETA–9016 Report on Alien Claimant Activity; Comment Request

**ACTION:** Notice; request for comments

**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 a provision of the Paperwork Reduction Act of 1995 at 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burdens (time

and financial resources) are minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed revision/extention for collection of the ETA–9016 Report on Alien Claimant Activity. A copy of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this notice.

**DATES:** Written comments must be submitted to the office listed in the addressee's section below on or before August 6, 2001.

**ADDRESSES:** Office of Workforce Security, Employment and Training Administration, U.S. Department of Labor, Attn: Bob Whiting, Room S–4522, 200 Constitution Avenue NW, Washington, DC 20210. Telephone number: (202) 693–3215 (this is not a toll-free number). Fax: (202) 693–3229. E-mail: rwhiting@doleta.gov.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The ETA–9016 Report is used by the Department of Labor to assess whether (and the extent to which) the requirements of the Immigration and Naturalization Service (INS), Systematic Alien Verification for Entitlement (SAVE) system are cost-effective and otherwise appropriate for the Unemployment Insurance (UI) program. In addition, data from the Alien Claims Activity report is being used to assist the Secretary of Labor in determining whether a State Employment Security Agency's administrative costs associated with the verification program are reasonable and reimbursable. There is no other report or system available for collecting this required information. The report allows the Department of Labor to determine the number of aliens filing for UI, the number of benefit issues detected, the denials of benefits to aliens, the extent to which State Agencies use the system, and the overall effectiveness and cost efficiency of the verification system. If SESAs are not required to submit the information on the Alien Claims Activity Report, the Department of Labor would not be able to fulfill its responsibilities to assess the SAVE system.

## II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

## III. Current Actions

In the year 2000, over 1.172 million UI claimants were identified by the SESAs as aliens, constituting almost eight percent of UI claims taken in the nation. Continued collection of the ETA–9016 data will provide for a comprehensive evaluation of alien claims activity. The data is collected quarterly, and an analysis of the data is made for each one-year period. The most recent analysis identified concerns with the consistency of the interpretation of the reporting instructions among the SESAs, each of whom must apply the instructions to claimstaking procedures that vary significantly. In order to encourage more consistency in the reporting by the SESAs, changes are being proposed that will simplify the reporting and decrease the burden.

Currently, seven items are reported on the ETA–9016 Report:

1. Initial claims where claimant is not a citizen.
2. Number of claimants verified through the INS designated automated system.
3. Number of secondary (mail) verifications through the INS.
4. Nonmonetary determinations resulting from the verification in items number 2 and/or 3.
5. Denials resulting from issues in item number 4.
6. Nonmonetary determinations on the alien issue not a result of verification through the INS designated automated system or secondary INS verification.
7. Denials resulting from issues in item number 6. ETA proposes to consolidate items 4–7 into two items as follows:

- Nonmonetary determinations on the alien issue.
- Denials resulting from the nonmonetary determinations on the alien issue.

The effectiveness of the SAVE verification process is well established. For the year 2000, it is estimated that over $24 million was realized by identifying and denying benefits to ineligible aliens through the SAVE process. The total savings for the past 10 years is estimated at over $100 million. Thus, it is no longer deemed necessary to justify use of the SAVE process on a national basis.

Consolidation of the reporting items on nonmonetary determinations will eliminate the distinction between issues detected through the SAVE process and issues detected through other means, as will consolidation of the reporting items on denials. The Department of Labor believes that this will simplify the reporting process by reducing the burden, with no corresponding loss of the Department of Labor's ability to evaluate the effectiveness and cost efficiency of the SAVE process in the individual SESAs.

*Type of Review:* Revision.

*Agency:* Employment and Training Administration.

*Title:* Alien Claims Activity Report.

*OMB Number:* 1205–0268.

*Agency Number:* ETA–9016.

*Affected Public:* State Governments.

*Total Respondents:* 53 State Agencies.

*Frequency:* Quarterly.

*Total Responses:* 212.

*Average Time per Response:* 1 hour.

*Estimated Total Burden Hours:* 212 hours.

*Total Burden Cost (capital/startup):* $10,200 which is a one time cost of reprogramming the State systems.

*Total Burden Cost (operating/maintaining):* $5300 which is allowable cost under the administrative grants awarded to States by the Federal government.

Comments submitted in response to this comment request 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 29, 2001.

**Cheryl Atkinson,**

*Director, Office of Income Support.*

[FR Doc. 01–14096 Filed 6–4–01; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

**1. Fork Creek Mining Company**

[Docket No. M–2001–026–C]

Fork Creek Mining Company, PO Box 24, Alum Creek, West Virginia 25003 has filed a petition to modify the application of 30 CFR 75.350 (belt haulage entries) to its Tiny Creek No. 2 Mine (I.D. No. 46–08835) located in Lincoln County, West Virginia. The petitioner proposes to use belt air to ventilate active working places. The petitioner proposes to install a carbon monoxide monitoring system as an early warning fire detection system in all belt entries used to carry intake air to a working place. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**2. Eighty-Four Mining Company**

[Docket No. M–2001–027–C]

Eighty-Four Mining Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.312(c) and (d) (main mine fan examinations and records) to its Mine 84 (I.D. No. 36–00958) located in Washington County, Pennsylvania. The petitioner proposes to test automatic closing doors and the automatic fan signal devices at least every 31 days without shutting down the fan and without removing miners from the mine to eliminate the hazards associated with shutting the fan down. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**3. DLR Mining, Inc.**

[Docket No. M–2001–028–C]

DLR Mining, Inc., 3065 Airport Road, Indiana, Pennsylvania 15701 has filed a petition to modify the application of 30 CFR 75.1100–2(e)(2) (quantity and location of firefighting equipment) to its Nolo Mine (I.D. No. 36–08850) located in Indiana County, Pennsylvania. The petitioner proposes to use two (2) fire extinguishers or one fire extinguisher of twice the required capacity at all temporary electrical installations instead of using 240 pounds of rock dust. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**4. Bowie Resources Limited**

[Docket No. M–2001–029–C]

Bowie Resources Limited, PO Box 483, Paonia, Colorado 81428 has filed a petition to modify the application of 30 CFR 75.1726(a) (performing work from a raised position; safeguards) to its Bowie No. 2 Mine (I.D. No. 05–04591) located in Delta County, Colorado. The petitioner requests a modification of the existing standard to permit the use of modified diesel powered L.H.D.'s or scoops as elevated mobile work platforms at the Bowie No. 2 Mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**5. Independence Coal Company, Inc.**

[Docket No. M–2001–030–C]

Independence Coal Company, HC 78 Box 1800, Madison, West Virginia 25130 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (plug and receptacle-type connectors) to its Allegiance Mine (I.D. No. 46–08735), Jacks Branch Buffalo Creek Mine (I.D. No. 46–08513), Justice #1 Mine (I.D. No. 46–07273), Twilight Chilton R Mine (I.D. No. 46–08513) located in Boone County, West Virginia; and Cedar Grove Mine (I.D. No. 46–08603), Shumate Powellton Mine (I.D. No. 46–08492), Shumate Upper Cedar Grove Mine (I.D. No. 46–08497), and Tunnel Mine (I.D. No. 46–08655) located in Raleigh County, West Virginia. The petitioner proposes to use a permanently installed spring-loaded device instead of a padlock on mobile battery-powered equipment to prevent unintentional loosening of battery plugs from battery receptacles. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**6. Aracoma Coal Company, Inc.**

[Docket No. M–2001–031–C]

Aracoma Coal Company, Inc., PO Box 470, Stollings, West Virginia 25646 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 18.41(f) (plug and receptacle-type connectors) to its Hernshaw Mine (I.D. No. 46–08802) located in Logan County, West Virginia. The petitioner proposes to use a threaded ring and a spring-loaded device instead of padlocks on mobile battery-powered machines to prevent the plug connector from accidently disengaging while under load. Warning tags stating ''Do Not Disengage Plugs Under Load'' will be placed on all battery connectors on the battery-powered equipment. The petitioner states that all persons who operate or maintain battery-powered machines will be instructed on the safe practices and provisions for compliance with this proposed alternative method. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**7. Aracoma Coal Company, Inc.**

[Docket No. M–2001–032–C]

Aracoma Coal Company, Inc., PO Box 470, Stollings, West Virginia 25646 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 18.41(f) (plug and receptacle-type connectors) to its Hernshaw Mine (I.D. No. 46–08802) located in Logan County, West Virginia. The petitioner proposes to use a threaded ring and a spring loaded device instead of padlocks on battery connectors on mobile battery-powered machines used inby the last open crosscut to prevent the plug connector from accidently disengaging while under load. Warning tags stating ''Do Not Disengage Plugs Under Load'' will be placed on all battery connectors on the battery-powered equipment. The petitioner states that all persons who operate or maintain battery-powered machines will be instructed on the safe practices and provisions for compliance with this proposed alternative method. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**8. American Energy Corporation**

[Docket No. M–2001–033–C]

American Energy Corporation, Post Office Box 5, Alledonia, Ohio 43902 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Century Mine (I.D. No. 33–01070) located in Belmont County, Ohio. The petitioner proposes to use air coursed through belt haulage entries to ventilate active working places. The petitioner

proposes to install a carbon monoxide monitoring system as an early warning fire detection system in all belt entries used to course intake air to a working place. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**9. Newtown Energy, Inc.**

[Docket No. M–2001–034–C]

Newtown Energy, Inc., 13905 MacCorkle Avenue, One Carbon Center, Suite 200, Chesapeake, West Virginia 25315 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (plug and receptacle-type connectors) to its Eagle Mine No. 1 (I.D. No. 46–08759) located in Kanawha County, West Virginia. The petitioner proposes to use permanently installed spring-loaded devices instead of padlocks on battery plugs on mobile battery-powered machines to prevent the threaded ring from unintentional loosening while under load. Warning tags stating ''Do Not Disengage Plugs Under Load'' will be placed on all battery connectors on the battery-powered equipment. The petitioner states that all persons who operate or maintain battery-powered machines will be instructed on the safe practices and provisions for compliance with this proposed alternative method. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**10. Twentymile Coal Company**

[Docket No. M–2001–035–C]

Twentymile Coal Company, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219 has filed a petition to modify the application of 30 CFR 75.901 (protection of low- and medium-voltage three-phase circuits used underground) to its Foidel Creek Mine (I.D. No. 05–03836) located in Routt County, Colorado. The petitioner requests that paragraph 1 and paragraph 12 of the Proposed Decision and Order be amended for its previously granted petition for modification, docket number M–1998–056–C. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**11. Twentymile Coal Company**

[Docket No. M–2001–036–C]

Twentymile Coal Company, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219 has filed a petition to modify the application of 30 CFR 75.701 (grounding metallic frames, casings, and other enclosures of electric equipment) to its Foidel Creek Mine (I.D. No. 05–03836) located in Routt County, Colorado. The petitioner requests a modification of the existing standard to permit an alternative method of compliance for grounding of its diesel generator to provide power to electric powered equipment used to travel through the mine and to haul equipment and supplies. The petitioner proposes to ground the portable generator to a low ground field and incorporate a ground fault system for the power circuits that would deenergize the mining equipment if a phase to frame fault occurs. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**12. Left Fork Mining Company, Inc.**

[Docket No. M–2001–037–C]

Left Fork Mining Company, Inc., P.O. Box 405, Arjay, Kentucky 40902 has filed a petition to modify the application of 30 CFR 75.380(i)(2) (escapeways; bituminous and lignite mines) to its Straight Creek #1 Mine (I.D. No. 15–12564) located in Bell County, Kentucky. The petitioner proposes to use a manually operated hoist as a mechanical means of escape in its secondary escapeway. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**13. Faith Coal Sales, Inc.**

[Docket No. M–2001–038–C]

Faith Coal Sales, Inc., P.O. Box 69, Regina, Kentucky 41559 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 18.41(f) (plug and receptacle-type connectors) to its White Star No. 1 Mine (I.D. No. 15–17224) located in Knott County, Kentucky. The petitioner proposes to use permanently installed, spring-loaded locking devices instead of padlocks on battery-powered machines to prevent unintentional loosening of battery plugs from battery receptacles to eliminate the hazards associated with difficult removal of padlocks during emergency situations. The petitioner asserts that application of the proposed alternative method would provide at least the same measure of protection as the existing standard.

**14. Black Beauty Coal Company**

[Docket No. M–2001–039–C]

Black Beauty Coal Company, 801 Laidley Tower, P.O. Box 1233, Charleston, West Virginia 25324–1233 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Riola #1 Mine (I.D. No. 11–02971) located in Vermilion County, Illinois. The petitioner requests that the proposed decision and order (PDO) for its previously granted petition M–2000–138–C be amended. The petitioner's request is to change paragraph 1 to paragraph 1a, and add paragraph 1b to read as follows: An onboard mounted 480-volt to 2,400-volt transformer may be used when the miner is trammed into, out of, or around the mine using specific procedures outlined in the petition; to add specific criteria to be met in paragraph 16b; to add language at the end of paragraph 25; to amend paragraph 28 to allow functional test to be conducted weekly instead of at the start of each production shift; to add language to paragraph 32; and add paragraph 34. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**15. Peabody Coal Company**

[Docket No. M–2001–040–C]

Peabody Coal Company, 801 Laidley Tower, P.O. Box 1233, Charleston, West Virginia 25324–1233 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Highland Mine (I.D. No. 15–02709) located in Union County, Kentucky. The petitioner proposes to use high-voltage (2,400) trailing cables at the working continuous miner section(s) and use a portable transformer to supply power to the 995-volt tramming motors on the continuous miner when the miner is trammed into, out of, or around the mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**16. Appalachian Eagle, Inc.**

[Docket No. M–2001–041–C]

Appalachian Eagle, Inc., 2971C East Dupont Avenue, Shrewsbury, West Virginia 25015 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Mine No. 1 (I.D. No. 46–05437) located in Kanawha County, West Virginia. The petitioner proposes to plug and mine through oil and gas wells. The petitioner

asserts that the proposed alternative method would provide at least the same measure of protection as would the existing standard.

**17. Branham & Baker Underground Corp.**

[Docket No. M–2001–0042–C]

Branham & Baker Underground Corp., P.O. Box 1409, Pikeville, Kentucky 41502 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) 18.41 (plug and receptacle-type connectors) to its Mine #2B (I.D. No. 15–17902), Mine #10 (I.D. No. 15–07763), Mine #15 (I.D. No. 15–17786), and Mine #22 (I.D. No. 15–18285) all located in Pike County, Kentucky. The petitioner proposes to use a permanently installed spring-loaded device instead of padlocks on battery-powered machines to prevent unintentional loosening of battery plugs from battery receptacles to eliminate the hazards associated with difficult removal of padlocks during emergency situations. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**18. West Ridge Resources, Inc.**

[Docket No. M–2001–043–C]

West Ridge Resources, Inc., P.O. Box 902, Price, Utah 84501 has filed a petition to modify the application of 30 CFR 75.804(a) (underground high-voltage cables) to its West Ridge Mine (I.D. No. 42–02233) located in Carbon County, Utah. The petitioner proposes to use high-voltage cables for longwall equipment, with an insulated internal ground check conductor smaller than a No. 10 (AWG), and a ground check conductor not smaller than a No. 16 (AWG). The high-voltage cables would be Cablec Anaconda brand 5KV 3/C type SHD+GC, Pirelli 5KV 3/C type SHD–CENTER–GC or Tiger Brand 5KV type SHC–CGC, MSHA accepted flame-resistant cable. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**19. Canyon Fuel Company, LLC**

[Docket No. M–2001–044–C]

Canyon Fuel Company, LLC, HC 35 Box 380, Helper, Utah 84526 has filed a petition to modify the application of 30 CFR 75.1002 (underground high-voltage cables) to its Skyline Mine #3 (I.D. No. 42–01566) located in Carbon County, Utah. The petitioner proposes to use high-voltage (4,160-volt) longwall equipment in by the last open crosscut at the working longwall sections. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the existing standard.

**20. Drummond Company, Inc.**

[Docket No. M–2001–045–C]

Drummond Company, Inc., P.O. Box 10246, Birmingham, Alabama 35202–0246 has filed a petition to modify the application of 30 CFR 75.1002 (underground high-voltage cables) to its Shoal Creek Mine (I.D. No. 01–02901) located in Jefferson County, Alabama. The petitioner proposes to use high-voltage (2,400-volts) cables on its continuous miner sections. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**21. Headache Coal Company, Inc.**

[Docket No. M–2001–046–C]

Headache Coal Company, Inc., 22 Mary Ann Drive, Gray, Kentucky 40734 has filed a petition to modify the application of 30 CFR 75.342 (methane monitors) to its Goodin Creek Mine (I.D. No. 15–18176) located in Knox County, Kentucky. The petitioner proposes to use hand-held continuous-duty methane and oxygen indicators on three-wheel tractors with drag bottom buckets instead of using machine mounted monitors. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**22. Headache Coal Company, Inc.**

[Docket No. M–2001–047–C]

Headache Coal Company, Inc., 22 Mary Ann Drive, Gray, Kentucky 40734 has filed a petition to modify the application of 30 CFR 75.380(f)(4)(i) (escapeways; bituminous and lignite mines) to its Goodin Creek Mine (I.D. No. 15–18176) located in Knox County, Kentucky. The petitioner proposes to use two ten-pound portable chemical fire extinguishers on each Mescher Jeep. The fire extinguishers will be readily accessible to the equipment operator. The petitioner proposes to instruct the equipment operator to inspect each fire extinguisher daily prior to entering the mine, replace all defective fire extinguishers before entering the mine, and maintain records of all inspections of the fire extinguishers. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**23. Appalachian Eagle, Inc.**

[Docket No. M–2001–048–C]

Appalachian Eagle, Inc., Box 282, Dawes, West Virginia 25054–0282 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (plug and receptacle-type connectors) to its Mine #1 (I.D. No. 46–05437) located in Kanawha County, West Virginia. The petitioner proposes to use a permanently installed spring-loaded device instead of padlocks on battery-powered machines to prevent unintentional loosening of battery plugs from battery receptacles to eliminate the hazards associated with difficult removal of padlocks during emergency situations. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**24. Coastal Coal West Virginia, LLC**

[Docket No. M–2001–049–C]

Coastal Coal West Virginia, LLC, R. 1, Box 294C, Newburg, West Virginia 26410 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Whitetail K-Mine (I.D. No. 46–08751) located in Preston County, West Virginia. The petitioner proposes to use belt haulage entries to ventilate active working places. The petitioner proposes to install a carbon monoxide monitoring system as an early warning fire detection system in all belt entries used to course intake air to a working place. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**25. Mingo Logan Coal Company**

[Docket No. M–2001–050–C]

Mingo Logan Coal Company, 1000 Mingo Logan Avenue, Wharncliffe, West Virginia 25651 has filed a petition to modify the application of 30 CFR 75.1700 (oil and wells) to its Mountaineer Alma-A Mine (I.D. No. 46–08730) located in Mingo County, West Virginia. The petitioner proposes to plug and mine through gas wells. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

**Request for Comments**

Persons interested in these petitions are encouraged to submit comments via e-mail to ''comments@msha.gov,'' or on

a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 5, 2001. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 29th day of May 2001.

**David L. Meyer,**

*Director, Office of Standards, Regulations, and Variances.*

[FR Doc. 01–14116 Filed 6–4–01; 8:45 am]

BILLING CODE 4510–43–U

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Arts; Leadership Initiatives Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Leadership Initiatives Advisory Panel, Literature Section, will be held by teleconference from 11:00 a.m.–11:30 a.m. on Monday, June 11, 2001 in Room 720 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of May 22, 2001, these sessions will be closed to the public pursuant to subsection (c)(4),(6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: May 30, 2001.

**Kathy Plowitz-Worden,**

*Panel Coordinator, Panel Operations, National Endowment for the Arts.*

[FR Doc. 01–14192 Filed 6–4–01; 8:45 am]

BILLING CODE 7537–01–P

## NATIONAL SCIENCE FOUNDATION

### Submission for OMB Review; Comment Request

**AGENCY:** National Science Foundation.

**ACTION:** Notice.

**SUMMARY:** The National Science Foundation (NSF) is announcing plans to request renewal of this collection, OMB control number 3145–0136, the EHR (Directorate for Education and Human Resources) Impact Database. We are requesting that the name of the collection be changed to EHR Program Information Generic Clearance to better reflect the nature and purpose of the collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have provided an opportunity for public comment on this action. Such a notice was published at 66 FR 8242, Tuesday, January 30, 2001. No comments were received.

The materials are now being sent to OMB for review. Send any written comments to Desk Officer, OMB, 3145–0136, OIRA, OMB, Washington, D.C. 20503. Comments should be received within 30 days of this notice.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; 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.

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.

#### Proposed Renewal Project

The EHR Impact Database was established in 1995 to integrate all available information pertaining to the NSF's Education and Training portfolio. Under a generic survey clearance (OMB 3145–0136) data from the NSF administrative database are incorporated and additional information is obtained through initiative-, divisional-, and program-specific data collections.

#### Use of the Information

This information is required for effective administrative, program monitoring and evaluation, and for measuring attainment of NSF's program goals, as required by the Government Performance and Results Act (GPRA).

#### Burden on the Public

The total estimate for this collection is 50,000 annual burden hours. This figure is based on the previous 3 years of collecting information under this clearance. The average annual reporting burden is between 2 and 50 hours per 'respondent' who may be an individual or a project site representing groups.

Dated: May 30, 2001.

**Teresa R. Pierce,**

*NSF Reports Clearance Officer.*

[FR Doc. 01–14088 Filed 6–4–01; 8:45 am]

BILLING CODE 7555–01–M

## NATIONAL TRANSPORTATION SAFETY BOARD

### Sunshine Act Meeting

**TIME AND PLACE:** 9:30 a.m., Tuesday, June 12, 2001.

**PLACE:** NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

**STATUS:** The one item is open to the public.

**MATTER TO BE CONSIDERED:** 7366 Pipeline Accident Report—Natural Gas Explosion and Fire in South Riding, Virginia, July 7, 1998 (CDA–98–MP–003).

**NEWS MEDIA CONTACT:** Telephone: (202) 314–6100. Individuals requesting specific accommodation should contact Ms. Carolyn Dargan at (202) 314–6305 by Friday, June 8, 2001.

**FOR MORE INFORMATION CONTACT:** Vicky D'Onofrio, (202) 314–6410.

Dated: June 1, 2001.

**Vicky D'Onofrio,**

*Federal Register Liaison Officer.*

[FR Doc. 01–14237 Filed 6–1–01 12:55 am]

BILLING CODE 7533–01–M

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–269, 50–270, and 50–287]**

## Duke Energy Corporation; Oconee Nuclear Station, Units 1, 2, and 3, Exemption

### 1.0 Background

Duke Energy Corporation (the licensee) is the holder of Facility Operating License Nos. DPR–38, DPR–47, and DPR–55, which authorize operation of the Oconee Nuclear Station, Units 1, 2, and 3. 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 three pressurized water reactors located in Seneca County in South Carolina.

### 2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR) § 55.59(a)(1) requires that each licensed operator successfully complete a requalification program developed by the licensee that has been approved by the Commission. This program is to be conducted for a continuous period not to exceed 24 months in duration and upon its conclusion must be promptly followed by a successive requalification program. In addition, pursuant to 10 CFR 55.59(a)(2), each licensed operator must also pass a comprehensive requalification written examination and an annual operating test.

By letter dated March 6, 2001, the licensee requested an exemption under 10 CFR 55.11 from the requirements of 10 CFR 55.59(a)(1) and (a)(2). The exemption requested will extend the current Oconee Nuclear Station requalification program from June 4, 2001, to July 13, 2001. The requested exemption would constitute a one-time extension of the requalification program duration.

### 3.0 Discussion

Pursuant to 10 CFR 55.11, the Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property and are otherwise in the public interest.

The Commission has determined that, pursuant to 10 CFR 55.11, granting an exemption to the licensee from the requirements in 10 CFR 55.59(a)(1) and (a)(2) is authorized by law, will not endanger life or property, and is in the public interest. To require the licensee's operators and staff to support the comprehensive examination and operating tests schedule during the 24-month requalification cycle could have a detrimental effect on the public interest because it would remove qualified operators from refueling operations and place them into the training program, which could interfere with the current Oconee Unit 2 refueling outage schedule. Further, this one-time exemption will provide additional operator support during plant shutdown conditions, which would provide a safety enhancement during plant shutdown operations and post-maintenance testing. The affected licensed operators will continue to demonstrate and possess the required levels of knowledge, skills, and abilities needed to safely operate the plant throughout the transitional period via continuation of the current satisfactory licensed operator requalification program.

### 4.0 Conclusion

Accordingly, the Commission hereby grants the licensee an exemption on a one-time only basis from the requirements of 10 CFR 55.59(a)(1) and (a)(2) to allow the current Oconee Nuclear Station requalification program to be extended beyond the 24 months, but not to exceed 26 months and to expire on July 13, 2001. Upon completion of the examinations on July 13, 2001, the follow-on cycle will end on March 8, 2003. Future annual requalification cycles will run from March to March.

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 29347).

This exemption is effective upon issuance and expires on March 8, 2003.

Dated at Rockville, Maryland, this 30th day of May 2001.

For the Nuclear Regulatory Commission.

**Bruce A. Boger,**

*Director, Division of Inspection Program Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 01–14094 Filed 6–4–01; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–389]**

## Florida Power and Light Company, et al. St. Lucie Plant, Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from 10 CFR 50.55a(f)(ii) and 50.55a(f)(5)(i) for Facility Operating License No. NPF–16, issued to Florida Power and Light Company, *et al.* (the licensee), for operation of the St. Lucie Unit 2, located in St. Lucie County, Florida.

### Environmental Assessment

*Identification of the Proposed Action*

The proposed action would revise the second and third 120-month Inservice Test (IST) intervals for St. Lucie Unit 2. Currently, St. Lucie Unit 2 is in its second IST interval, with an end date of August 7, 2003. The proposed action would shorten the second IST interval for St. Lucie Unit 2 by retroactively changing the end date to February 10, 1998, to coincide with the end date of the second IST interval for St. Lucie Unit 1. Thus, the third IST interval for both units would begin on February 11, 1998, and end on February 10, 2008.

The proposed action is in accordance with the licensee's application for exemption dated November 27, 2000.

*The Need for the Proposed Action*

The IST intervals for St. Lucie Units 1 and 2 are currently offset by approximately 5 years, primarily due to the initial licensing dates of the units. This requires maintaining distinct but similar programs, with the administrative burden of updating them approximately every 5 years. The proposed action provides a one-time schedule exemption, which would allow the licensee to implement a combined IST program consistent between units, requiring compliance with the same edition of the American Society of Mechanical Engineers Code and addenda, and allow both units to be tested using the same test requirements.

*Environmental Impacts of the Proposed Action*

The NRC has completed its evaluation of the proposed action and concludes that there are no significant environmental impacts associated with the proposed action.

The proposed action will not significantly increase the probability or consequences of accidents, no changes

are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

*Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

*Alternative Use of Resources*

This action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for St. Lucie Unit 2 (NUREG–0842).

*Agencies and Persons Consulted*

In accordance with its stated policy, on May 17, 2001, the staff consulted with the Florida State official, William Passetti, of the Bureau of Radiation Control, regarding the environmental impact of the proposed action. The State official had no comments.

**Finding of No Significant Impact**

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated November 27, 2000. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room).

Dated at Rockville, Maryland, this 30th day of May 2001.

For the Nuclear Regulatory Commission.

**Brendan T. Moroney,**

*Project Manager, Section 2, Project Directorate II Division of Licensing Project Management Office of Nuclear Reactor Regulation*

[FR Doc. 01–14093 Filed 6–4–01; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Nuclear Regulatory Commission.

**DATES:** Weeks of June 4, 11, 18, 25, July 2, 9, 2001.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**MATTERS TO BE CONSIDERED:**

*Week of June 4, 2001*

Tuesday, June 5, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)

2:00 p.m.—Discussion of Management Issues (Closed-Ex. 2)

*Wednesday, June 6, 2001*

10:30 a.m.—All Employees Meeting (Public Meeting)

1:30 p.m.—All Employees Meeting (Public Meeting)

*Week of June 11, 2001—Tentative*

Thursday, June 14, 2001

9:55 a.m.—Affirmation Session (Public Meeting) (If needed)

10:00 a.m.—Meeting with Nuclear Waste Technical Review Board (Public Meeting)

1:30 p.m.—Briefing on License Renewal Program (Public Meeting) (Contact: David Solorio, 301–415–1973)

*Week of June 18, 2001—Tentative*

There are no meetings scheduled for the Week of June 18, 2001.

*Week of June 25, 2001—Tentative*

Wednesday, June 27, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (If needed)

*Week of July 2, 2001—Tentative*

There are no meetings scheduled for the Week of July 2, 2001.

*Week of July 9, 2001—Tentative*

Monday, July 9, 2001

1:25 p.m.—Affirmative Session (Public Meeting) (If needed)

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni, (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/SECY/smj/schedule.htm*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, D.C. 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: May 31, 2001.

**David Louis Gamberoni,**

*Technical Coordinator, Office of the Secretary.*

[FR Doc. 01–14257 Filed 6–1–01; 2:03 pm]

BILLING CODE 7590–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 35–27409]**

### Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

May 29, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 22, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declaration(s) at the address(es) specified below. Proof of service (by

affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After June 22, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

**Emera Incorporated, et al. (70–9787)**

Emera Incorporated (''Emera''), a holding company formed under the laws of the Province of Nova Scotia Canada; Nova Scotia Power Inc. (''NSPI''), Emera's wholly owned electric utility subsidiary company, both located at P.O. Box 910, Halifax, Nova Scotia, Canada B3J2W5; Bangor Hydro-Electric Company (''BHE''), a Maine electric public utility company and a holding company currently exempt by order under section 3(a)(1) of the Act; and Bangor Var Co., Inc. (''Bangor Var''), a wholly owned subsidiary of BHE, both located at 33 State Street, P.O. Box 1599, Bangor, Maine 04402–0932 (''Applicants'') have filed an application-declaration (''Application'') under sections 2(a)(7), 2(a)(8), 3(a)(1), 6, 7, 9, 10, 11, 12, 13(b), 32, and 33 and rules 45, 52, 53, 54, and 80–92 under the Act.

*I. Summary of Proposal*

Emera proposes to acquire the outstanding common stock of BHE and its public utility subsidiary companies (''Merger''). In connection with the proposed Merger, Emera has undertaken that NSPI will qualify for an exemption as a foreign utility company (''FUCO'') within the meaning of section 33 of the Act. Emera will register as a holding company under the Act after completion of the Merger as will the to-be formed intermediate holding companies US HoldCo and Acquisition Co. No.1 (''Acq. Co 1'' (collectively, ''Intermediate HCs''). BHE and Bangor Var request an exemption from registration under section 3(a)(1). In addition, Applicants request authority for financing, creation of a service company, associate company transactions, and other intrasystem authorizations. For purposes of identifying what entities in this application are requesting authority, the term ''Subsidiaries'' includes all companies of which Emera holds 10% or more of the voting securities, but specifically excludes NSPI, and the term ''Nonutility Subsidiaries'' refers to all Subsidiaries other than BHE, MEPCO, Chester SVC Partnership (''Chester SVC'' and Bangor Var Emera, the Subsidiaries, and NSPI are referred to as the Emera system (''Emera System'').

*II. The Applicants*

A. Emera

Emera is a corporation that was formed under the laws of the Province of Nova Scotia, Canada in 1998. Emera's common stock is listed and traded on the Toronto Exchange (''TSE''). Emera is subject to TSE's rules and regulations and files public disclosures in SEDAR, TSE's version of the Commission's EDGAR system. The securities commissions of each of the provinces of Canada regulate securities issuances by Emera.

Emera is the parent of NSPI, a Canadian electric utility company that owns and operates a vertically integrated electric utility system in Nova Scotia. NSPI serves 440,000 customers in Nova Scotia with 2, 183 MW of generating capacity, approximately 5,200 km of transmission lines, 24,000 km of distribution lines, associated substations, and other facilities. NSPI has no retail gas distribution facilities. NSPI's electric generation, transmission and distribution facilities are located exclusively within Nova Scotia.

NSPI is subject to regulation by the Nova Scotia Utility and Review Board (''UARB''). The UARB has supervisory powers over NSPI's operations and expenditures. The UARB also regulates NSPI's electricity rates and capital structure.

NSPI's transmission assets are used primarily to transmit power within Nova Scotia and, on a limited basis, to transmit power for sale to customers in New Brunswick and beyond. In 2000, NSPI generated 11,432 GWh of electricity and sold 10,656 GWh of electricity. Of the amount sold, 10,475 GWh was consumed in the province of Nova Scotia and 181 GWh was exported using the international lines of New Brunswick Power Corporation (''NB Power''). NB Power's principal interconnection with the U.S. is with the transmission facilities of Maine Electric Power Company, Inc. (''MEPCO''), in which BHE, then to be acquired domestic utility, has a minority interest of 14.2%. Currently, NSPI is not authorized to transmit power and energy within the U.S., and all purchasers of energy from NSPI purchase the energy within Canada for export by the purchaser across the international border for transmission via ISO-New England facilities.

Emera requests that the Commission find that all of Emera's nonutility subsidiaries, directly or indirectly held, are retainable interests under section 11(b)(1) and include the following: NS Power Services Ltd. (''NS Power''), which is inactive, but provided energy services, and owns 50% of NSP Trigen Inc. that is also inactive; Enercom Inc. (''Enercom''), which is a holding company that wholly owns Emera Fuels Inc. that is engaged in the supply of furnace and fuel oil, lubricants, diesel, and gasoline products; Stellarton Basin Coal Gas Inc. (''Stellarton''), which participates in a joint venture to explore and develop methane gas reserves in Nova Scotia; Strait Energy Inc. (''Strait Energy''), which sells steam energy in Nova Scotia; 510845 N.B. Inc. (''510845 NB''), which engages in the supply and maintenance of electric transformers and wholly owns Cablecom Ltd. that wholly owns Fibretek Inc. (both are engaged in the design, engineering, project management, construction, structured cabling, maintenance and installation of fiber optic and wireless communications applications); 1447585 Ontario Ltd. (''1447585''), which was formed for the merger, will not be used, and is currently inactive; 3054167 Nova Scotia Ltd. (''3054167''), which holds the Sable Offshore Energy Project; NSP Pipeline Management Ltd. (''NSP Management''), which owns a 12.5% interest in Maritimes and Northeast Pipeline Management Ltd (''M&N Management)''[1] NSP Pipeline Inc. (''NSP Pipeline''), which owns a 12.375% interest in M&N Limited Partnership;[2] and NSP US Holdings Inc. (''NSP US Holdings''),[3] which indirectly owns a 12.5% interest in Maritimes and Northeast Pipeline L.L.C. (''M&N L.L.C.''), which owns the U.S. portion of the Maritimes and Northeast Pipeline through these holding companies: Scotia Holdings Inc.; Nova Power Holdings Inc., and Scotia Power U.S. Ltd. Emera wholly owns these direct Nonutility Subsidiaries: NS Power, Enercom, Stellarton, Strait Energy,

[1] M&N Management is 12.5% owned by NSP Management and the remainder is owned by nonaffiliates. M&N Management is also the general partner of and owns a 1.25% interest in Maritimes and Northeast Pipeline Limited Partnership (''M&N Limited Partnership''). M&N Management operates and manages the Canadian portion of the Maritimes and Northeast Pipeline, a natural gas pipeline with its origin in Nova Scotia and its terminus near Boston.

[2] M&N Limited Partnership is 12.375% owned by NSP Pipeline and 1.25% owned by M&N Management. Nonaffiliates own the remainder. M&N Limited Partnership owns the Canadian portion of the Maritimes and Northeast Pipeline.

[3] NSP US Holdings wholly owns a financing subsidiary, NSP Investments Inc., which was established to acquire the interest in M&N L.L.C. M&N L.L.C is 12.5% owned by Scotia Power U.S. Ltd. and the remainder is owned by nonaffiliates.

510845 NB, 1447585, 3054167, NSP Management, NSP Pipeline, and NSP US Holdings.

On February 6, 2001, Emera offered to purchase 8.4% of the Sable Offshore Energy Project (''SOEP'') infrastructure assets for approximately $60.6 million. The offer is subject to certain rights of first refusal, and other approvals. The SOEP infrastructure assets comprise a gas processing plant at Goldboro, Nova Scotia; a natural gas liquids fractionation plant at Point Tupper, Nova Scotia; a natural gas liquids line connecting the Goldboro and Point Tupper operations; and offshore production platforms and sub-sea gathering pipelines. Applicants request Commission authorization to acquire the SOEP assets, if they have not been acquired prior to Emera's registrtion under the Act, and to retain the SOEP assets if they have already been acquired when Emera registers.

For the twelve months ending December 31, 2000, Emera had revenues of approximately $604.4 million and NSPI had operating revenues of approximately $548.2 million. As of December 31, 2000, Emera and NSPI had assets approximately $1,989.0 million and $1,913.3 million, respectively.

B. BHE

BHE is a public utility and holding company currently exempt by order dated October 25, 1999 (HCAR No. 27094) under section 3(a)(1) of the Act. BHE provides the transmission and distribution system for the delivery of electricity to approximately 123,000 Maine customers. The Maine Public Utility Commission (''MPUC'' regulates BHE. Under Maine's electric restructuring laws, BHE exited the power supply aspect of traditional utility function as of March 1, 2000.

BHE holds a 14.2% equity interest in MEPCO, a Maine utility that owns and operates electric transmission facilities from Wiscasset, Maine to the Maine-New Brunswick border. MEPCO is owned jointly by Central Maine Power Company (''CMP'') (78.3%), BHE (14.2) and Maine Public Service Company (7.5%). In addition, BHE owns a 50% general partnership interest in Chester SVC through BHE's wholly-owned subsidiary Bangor Var. Chester SVC is a single-purpose financing entity formed to own a static var compensator, electrical equipment that supports the New England Power Pool (NEPOOL)/ Hydro Quebec Phase II transmission line.

BHE requests that the Commission find that all of BHE's nonutility subsidiaries, directly or indirectly held, are retainable interests under section 11(b)(1) and include the following: Bangor Energy Resale, Inc. (''BE Energy Resale''), which permits BHE to use a power sales agreement as collateral for a bank loan; CareTaker, Inc. (''Care Taker''), which provides security alarm services; East Branch Improvement Company (''EBIC''), which BHE owns 60% of the common stock and holds the inactive subsidiaries, Godfrey's Falls Dam Company and The Sawtelle Brook Dam & Improvement Company; The Sebois Dam Company (''Sebois''), which is an inactive subsidiary; The Pleasant River Gulf Improvement Company (''Pleasant River''), which is an inactive subsidiary; Bangor Fiber Company, Inc. (''Bangor Fiber''), which owns and leases fiber optic communications cable; and Bangor Line Company (''Bangor Line''), which constructs and maintains transmission and distribution lines and provides engineering services. BHE wholly owns BE Energy Resale, Care Taker, Sebois, Pleasant River, Bangor Fiber, and Bangor Line.

BHE also holds 7% of the outstanding common stock of Maine Yankee Atomic Power Company (''Maine Yankee''), a company that owns and, prior to its permanent closure in 1997, operated an 880 MW nuclear generating plant in Wiscasset, Maine. Maine Yankee is being decommissioned.

BHE is obligated to negotiate in good faith to acquire a 50% interest in a joint venture to develop a second 345 kV transmission line to New Brunswick, Canada, under a Memorandum of Understanding with Penobscot Hydro, LLC. The transmission line would connect with BHE's existing transmission facilities. BHE's investment in the joint venture has not been determined at this time but could be approximately $25 million. In addition, Applicants request that the Commission reserve jurisdiction over the acquisition of an interest in a joint venture until the record is complete.

For the twelve months ending December 31, 2000, BHE had $212 million of utility operating revenues. As of December 31, 2000, BHE has approximately $532 million in utility assets.

*III. The Proposed Merger and Financing the Merger*

A. The Proposed Merger

Under the terms of the merger agreement entered into on June 29, 2000 (''Merger Agreement'' ), Merger Sub, a to-be-formed Emera subsidiary incorporated in the U.S., will merge with and into BHE, with BHE surviving (the ''Surviving Corporation''). Under the terms of the Merger Agreement: (1) Each outstanding share of common stock of Merger Sub will be converted into one share of common stock of the Surviving Corporation; (2) each outstanding share of preferred stock of BHE (''BHE Preferred Stock'') will remain outstanding as one share of preferred stock of the Surviving Corporation; and (3) each outstanding share of common stock of BHE (''BHE Common Stock'') other than Dissenting Shares (as defined in the Merger Agreement) or shares owned by BHE as treasury shares, or by Emera, if any, will be converted into the right to receive $26.50 in cash (''Per Share Amount''),[4] the amount may be adjusted in accordance with the Merger Agreement (the ''Merger Consideration''). Holders of BHE's warrants outstanding at the effective time of the Merger will be entitled to receive, upon exercise of each warrant, the Merger Consideration less the exercise price.

The total value of consideration that BHE shareholders will receive in the Merger, based on the number of BHE shares of BHE common stock outstanding on September 15, 2000 (7,363,424), is approximately $195 million. If the closing of the Merger does not occur on or prior to June 29, 2001, then the Per Share Amount shall be increased by an amount equal to $0.003 for each day after June 29, 2001 up to and including the day which is one day prior to the closing of the Merger.

To effect the Merger, Emera will hold its ownership interest in BHE through one or more Intermediate HCs. The Intermediate HC will be wholly owned, directly or indirectly, by Emera and will have no public or private institutional equity or debt holders. The Intermediate HC will be capitalized with equity and/ or debt, all of which will be held either by Emera or an Intermediate HC. The only utility holdings of the Intermediate HCs will be direct or indirect interests in BHE and its utility subsidiaries. Applicants further request that the Commission authorize Emera to reorganize the Intermediate HC structure without seeking prior Commission approval subject to the following conditions: (1) The companies in the intermediate structure would be wholly owned directly or indirectly by Emera; (2) the companies in the intermediate structure would not issue debt or equity to any company outside the Emera System and would not borrow from BHE or its subsidiaries; (3) the changes will not have a material

[4] The closing price of BHE's common stock on June 29, 2000, the day prior to the Merger announcement, was $15.13 per share.

impact on the financial condition or operations of BHE or its subsidiaries or a material adverse effect on Emera; and (4) the companies in the intermediate structure would be organized in the U.S., Canada, or a country in Europe.

Following the Merger, BHE will be operated as a subsidiary of Emera. BHE will retain its name and continue to serve its customers under the terms of its existing contracts and state and federal requirements. Emera expects that the President and CEO of BHE will be a resident of Maine and a member of BHE's board. The Merger Agreement requires that when the Merger is consummated the Board of BHE post-merger must have at least nine members, with at least four carry-over from the prior BHE Board of Directors. the merger Agreement provider that BHE's corporate headquarters will be located in Maine for not less than ten years following the Merger. BHE will also retain local facilities for customer service, maintenance and field work operations.

B. Financing the Merger

Emera expects to use a combination of its available cash deposits and credit facility entered into with one or more banks in the amount of up to $225 million to fund the Merger consideration. The credit facility will have a non-revolving term of 364 days and at the borrower's option an interest rate of (1) the greater of (a) the Agent's Base Rate Canada, and (b) the Federal Funds Effective Rate for overnight funds (as published by the Federal Reserve in the U.S.) plus 50 basis points per annum, or (2) the London Interbank Offered Rate (''LIBOR'') plus 75 to 90 basis points. Emera expects that this credit facility will be replaced or refinanced with longer-term debt, equity or preferred securities in the future. Also, Emera intends to use a wholly owned special purpose financing entity (''ULC'') to provide debt and non-voting preferred financing to Acq. Co. 1 for the purpose of partially funding the Merger consideration. Applicant's request for financing authorization incorporates the debt that will be issued to fund and refinance the Merger.

*IV. Post Merger Financing Request*

Applicants seek Commission authorization of the financing activities of the Emera System for the period through June 30, 2004 (''Authorization Period''). Applicants propose that the following general terms and conditions (''Financing Parameters'') would apply, where appropriate, to the requested financing authorizations:

*Investment Grade Credit Rating*—Emera commits that all long-term debt issued by Emera to unaffiliated parties under the authority requested in the Application will, when issued, be rated investment grade by a nationally recognized statistical rating organization.

*Minimum Capitalization Ratio*—Emera, on a consolidated basis, and BHE, individually, will maintain common stock equity as a percentage of total capitalization of at least 30%.

*Effective Cost of Money on Borrowings*—The effective cost of money on debt financings by Emera under the authorizations requested in the Application will not exceed the competitive market rates available at the time of issuance to companies with comparable credit ratings with respect to debt having similar maturities. The effective cost of money on BHE's short-term debt will not at the time of issuance exceed 300 basis points over the comparable term LIBOR.

*Maturity of Debt*—The maturity of debt will not exceed 50 years.

*Effective Cost of Preferred Stock*—The dividend rate on preferred stock or other types of preferred or equity-linked securities will not exceed at the time of issuance the rate generally obtainable for preferred securities having the same or reasonably similar terms and conditions issued by utility holding companies of reasonably comparable credit quality, as determined by competitive capital markets.

*Issuance Expenses*—The underwriting fees, commissions and other similar remuneration paid in connection with the non-competitive issue, sale or distribution of a security pursuant to this Application would not exceed an amount or percentage of the principal or total amount of the security being issued that would be charged to or paid by other companies with a similar credit rating and credit profile in a comparable arm's-length credit or financing transaction with an unaffiliated person.

*Emera's ''aggregate investment'' as defined in rule 53(a)(1)(i)*—investment in exempt wholesale generators (''EWG'') and FUCOs will not exceed $3.0 billion.

A. Emera's External Financing

Emera proposes to issue long-term equity and debt securities aggregating not more than $3 billion at any one time outstanding during the Authorization Period, which includes the Merger related financing. Securities could include, but would not necessarily be limited to, common stock, preferred stock, options, warrants, long- and short-term debt (including commercial paper), convertible securities, subordinated debt, bank borrowings and securities with call or put options. Emera may also issue guarantees and enter into interest rate swaps and hedges.

1. *Common Stock.* During the Authorization Period, Emera requests authorization to issue and sell from time to time common stock, either: (a) Through underwritten public offerings; (b) in private placements; (c) under its dividend reinvestment, stock-based management incentive and employee benefit plans; (d) in exchange for securities or assets being acquired from other companies; and (e) in connection with redemptions of the Series C and Series D shares. Emera also proposes to issue and sell common stock or options, warrants, or other stock purchase rights. Emera may also buy back shares of common stock during the Authorization Period in accordance with rule 42 under the Act. Common stock and securities convertible into common stock will not exceed $2 billion. Common stock sales will be at rates or prices and under conditions negotiated or based upon, or otherwise determined by, competitive capital markets.

Emera may seek to acquire securities of companies engaged in energy-related businesses as described in rule 58 under the Act (''Rule 58 Companies''), exempt telecommunications companies (''ETCs''), EWGs and FUCOs. These acquisitions may involve the exchange of Emera stock for securities of the company being acquired. The Emera common stock to be exchanged may be purchased on the open market under rule 42, or may be original issue. Original issue stock may be registered or qualified under applicable securities laws or unregistered and subject to resale restrictions. Emera does not intend to engage in any transaction where original issue stock is not registered or qualified while a public offering is being made, other than a public offering under a compensation, dividend or stock purchase plan, or a public offering of debt.

For purposes of calculating compliance with the $3 billion external financing limit, Emera's common stock would be valued at market value based upon the closing price on the day before closing of the sale or based upon average high and low prices for a period of 20 days prior to the closing of the sale.

2. *Preferred Stock.* Emera may issue preferred stock from time to time during the Authorization Period, which will not to exceed $500 million. Preferred stock or other types of preferred or equity-linked securities may be issued

in one or more series with such rights, preferences, and priorities as may be designated in the instrument creating the series, as determined by Emera's Board of Directors. All such securities will be redeemed no later than 50 years after the issuance. The dividend rate on any series of preferred stock or other preferred securities will not exceed at the time of issuance the rate generally obtainable for preferred securities having the same or reasonably similar terms and conditions issued by utility holding companies of reasonably comparable credit quality, as determined by competitive capital markets. Dividends or distributions on preferred stock or other preferred securities will be made periodically and to the extent funds are legally available for such purpose, but may be made subject to terms that allow the issuer to defer dividend payments for specified periods. Preferred stock or other preferred securities may be convertible or exchangeable into shares of common stock.

3. *Long-Term Debt.* Emera proposes to issue long-term unsecured debt in accordance with the conditions described in the overall financing terms and not to exceed $1.5 billion. Any long-term debt security will have the maturity, interest rates or methods of determining the same, terms of payment of interest, redemption provisions, sinking fund terms and other terms and conditions as Emera may determine at the time of issuance. Prior to issuing debt, preferred securities or equity, Emera will evaluate the relevant financial implications of the issuance, including without limit, the cost of capital, and select the security that provides the most efficient capital structure consistent with sound financial practices and the capital markets.

4. *Short-Term Debt.* Emera requests authorization to issue short-term debt including, but not limited to, institutional borrowings, commercial paper and bid notes; all in accordance with the conditions described in the overall financing terms. Short-term debt will not exceed $1.5 billion. Proceeds of any short-term debt issuance may be used to refund pre-Merger short-term debt and Merger-related debt, and to provide financing for general corporate purposes, working capital requirements and Subsidiary capital expenditures until long-term financing can be obtained.

Emera may sell commercial paper, from time to time, in established domestic U.S. or European commercial paper markets. The commercial paper will be sold to dealers at the discount rate or the coupon rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturities sold to commercial paper dealers generally. It is expected that the dealers acquiring commercial paper from Emera will reoffer the paper at a discount to corporate, institutional and, with respect to European commercial paper, individual investors. Institutional investors are expected to include commercial banks, insurance companies, pension funds, investment trusts, foundations, colleges and universities and finance companies.

Emera also proposes to establish bank liens of credit, directly or indirectly through one or more financing subsidiaries. Loans under these liens will have maturities of less than one year from the date of each borrowing. Emera may engage in other types of short-term financing generally available to borrowers with comparable credit ratings as it may deem appropriate in light of its needs and market conditions at the time of issuance.

5. *Hedges and Interest Rate Risk Management.* Emera requests authority to enter into, perform, purchase and sell financial instruments intended to manage the volatility of interest rates, including but not limited to interest rate swaps, caps, floors, collars and forward agreements or any other similar agreements (''Hedging Instruments''). Emera would employ Hedging Instruments as a means of managing the risk associated with any of its outstanding debt issued under the authority requested in this application or an applicable exemption by, in effect, synthetically (a) converting variable rate debt to fixed rate debt, (b) converting fixed rate debt to variable rate debt, (c) limiting the impact of changes in interest rates resulting from variable rate debt and (d) providing an option to enter into interest rate swap transactions in future periods for planned issuances of debt securities. Emera, states it will not engage in ''leveraged'' or ''speculative'' transactions. Off-exchange Hedging Instruments will be entered into only with counterparties whose senior debt ratings are investment grade (''Approved Counterparties'').

In addition, Emera requests authorization to enter into Hedging Instruments with respect to anticipated debt offerings (''Anticipatory Hedges''), subject to certain limitations and restrictions. Anticipatory Hedges will only be entered into with Approved Counterparties, and will be used to fix and/or limit the interest rate risk associated with any new issuance through (a) a forward sale of exchange-traded U.S. or Canadian Treasury futures contracts, U.S. or Canadian Treasury obligations and/or a forward swap (''Forward Sale''), (b) the purchase of put options on U.S. or Canadian Treasury obligations (''Put Options Purchase''), (c) a Put Options Purchase in combination with the sale of call options on U.S. or Canadian Treasury obligations (''Zero Cost Collar''), (d) transactions involving the purchase or sale, including short sales, of U.S. or Canadian Treasury obligations, or (e) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to structured notes, caps and collars, appropriate for the Anticipatory Hedges.

Hedging Instruments may be executed on-exchange (''On-Exchange Trades'') with brokers through the opening of futures and/or options positions traded on the Chicago Board of Trade, the opening of over-the-counter positions with one or more counterparties (''Off Exchange Trades''), or a combination of On-Exchange Trades and Off-Exchange Trades. Emera will determine the optimal structure of each Hedging Instrument transaction at the time of execution. No gain or loss on hedging transaction entered into by Emera or Emera's subsidiaries (except BHE and BHE's subsidiaries) will be allocated to BHE or BHE's subsidiaries, regardless of the accounting treatment accorded to the transaction.

To the extent such securities are not exempt under rule 52(a), BHE requests authorization to enter into Hedges on the same terms as applicable to Emera.

6. *Guarantees.* Emera requests authorization to enter into guarantees, obtain letters of credit, enter into expense agreements or otherwise provide credit support (''Guarantees'') with respect to the obligations of Emera's subsidiaries in an aggregate principal amount not to exceed $500 million outstanding at any one time and not taking into account obligations exempt under rule 45. All debt guaranteed will comply with the Financing Parameters. Included in this amount are Guarantees entered into by Emera that were previously issued in favor of Emera's subsidiaries. The limit on Guarantees is separate from the limit on Emera's external financing. Emera proposes to charge each Subsidiary a fee for each Guarantee provided on its behalf that is not greater than the cost, if any, of obtaining the liquidity necessary to perform the guarantee.

B. Subsidiary, Nonutility Subsidiary, and Intermediate HCs Financing

Emera requests authorization to lend funds to its Nonutility Subsidiaries at a mark up to Emera's cost of funds at any time during the Authorization Period without prior Commission authorization. The authorization request would not apply to BHE or any of BHE's subsidiaries or to NSPI. Applicants state this is desirable as a risk management measure and it avoids cross subsidization of higher risk Subsidiaries from lower risk subsidiaries. The Nonutility Subsidiaries that will be financed in this manner will not pass any increased costs on to BHE or BHE's subsidiaries because they will not sell goods or services or lend funds to BHE or BHE's subsidiaries.

Emera intends to finance BHE's capital needs at the lowest practical cost. BHE will either finance its capital needs through short, medium, and long-term borrowings authorized by the MPUC and exempt under rule 52(a) or through borrowings from Emera, directly or indirectly, through the Intermediate HC. BHE may also borrow funds from NSPI,[5] if NSPI has surplus funds and the interest rate on the loan would result in a lower cost of borrowing for BHE. All borrowings by BHE from an associate company would be at the lower of Emera's effective cost of capital, NSPI's effective cost of capital (if NSPI is the lender) or BHE's effective cost of capital incurred in a direct borrowing at that time from nonassociates for a comparable term loan. In addition, borrowings by BHE from an associate company would be unsecured (*i.e.,* not backed by the pledge of specific BHE assets as collateral).

BHE requests Commission authorization to issue and sell securities with maturities of less than one year.[6] The short-term debt will not exceed an aggregate amount of $60 million outstanding at any time during the Authorization Period. BHE also requests authorization to guarantee the obligations of BHE's subsidiaries in an aggregate amount not to exceed $30 million. BHE may charge each of BHE's subsidiaries a fee for each guarantee provided on its behalf that is not greater than the cost, if any, of obtaining the liquidity necessary to perform the guarantee.

Each of the Intermediate HC's requests authorization to issue and sell securities to the other Intermediate HC's and Emera, and to acquire securities from their respective Intermediate HC subsidiaries and BHE. Each of the Intermediate HCs also seeks authority to issue guarantees and other forms of credit support to direct and indirect Intermediate HCs and BHE. In no case would the Intermediate HC borrow, or receive any extension of credit or indemnity from any of their respective direct or indirect subsidiary companies. Each of the Intermediate HCs intends to function as a financial conduit to facilitate Emera's U.S. investments. The terms and conditions of any Intermediate HC's financings will be on arm's length basis, as noted for financings by BHE. The Intermediate HC's proposed financings would be used to finance capital requirements of BHE and any exempt or subsequently authorized activity that is acquired in the future. The Intermediate HC financing will not be used by the Intermediate HCs to carry on business or investment activities within the Intermediate HCs.

C. Use of Proceeds

The proceeds from the financings authorized by the Commission under this Application will be used for general corporate purposes, including (1) refinancing the Merger-related debt, (2) financing, in part, investments by and capital expenditures of Emera and its Subsidiaries, (3) funding future investments in EWGs, FUCOs and Rule 58 Companies, (4) repaying, redeeming, refunding or purchasing any securities issued by Emera or any Subsidiary, and (5) financing the working capital requirements of Emera and its Subsidiaries.

Applicants represent that no financing proceeds will be used to acquire the equity securities of any company unless such acquisition has been approved by the Commission in this proceeding, in a separate proceeding, or in accordance with an available exemption under the Act or rules, including sections 32 and 33 and rule 58. The proceeds of financing and guarantees used to fund investments in Rule 58 Companies will be subject to the limitations of rule 58 under the Act.

D. Other Intrasystem Transactions

1. *Changes in Capital Stock of wholly Owned Subsidiaries.* The portion of an individual Subsidiary's aggregate financing to be effected through the sale of stock to Emera or other immediate parent company during the Authorization Period pursuant to rule 52 and/or an order issued in this file is unknown at this time. The proposed sale of capital securities (*i.e.,* common stock or preferred stock) may in some cases exceed the then authorized capital stock of the Subsidiary. In addition, the Subsidiary may choose to use capital stock with no par value. As needed to accommodate the proposed transactions and to provide for future issues, Applicants request authority to change the terms of any wholly owned Subsidiary's authorized capital stock capitalization by an amount deemed appropriate by Emera or other intermediate parent company.

The requested authorization is limited to Emera's wholly owned Subsidiaries and will not affect the aggregate limits or other conditions noted. A Subsidiary would be able to change the par value, or change between par value and no-par stock, without additional Commission approval. Any action by BHE or any other public utility company will be subject to and will only be taken upon the receipt of any necessary approvals by the MPUC or other public utility commission with jurisdiction over the transaction. BHE will maintain, during the Authorization Period, a common equity capitalization of at least 30%.

2. *Payment of Dividends Out of Capital or Unearned Surplus.* To allow BHE to pay dividends after the Merger, BHE requests authorization to pay dividends out of additional paid-in-capital and to redeem its common stock held by its associate company parent in lieu of the payment of dividends to the extent permitted by state law, provided that in each case, BHE maintains the required minimum 30% common equity capitalization. In no case will dividends be paid if BHE's common stock equity as a percentage of its total capitalization is below 30%. Applicants anticipate that BHE's cash flow from operations after the Merger will improve, because BHE's future earnings projections include amortization of ''legacy'' assets associated with its restructuring into a pure ''wires'' company. Applicants explain that when BHE collects the revenue associated with these ''legacy'' assets, cash flows from operations improve, generating operating cash in excess of earnings. Applicants further state, the legacy revenues produce cash that is free and available for dividend payments because it is derived from BHE's former role as a provider of generation. BHE states that because it no longer is in the generation business, it does not need to reinvest these revenues in generation activities to continue to provide adequate services to customers.

[5] Applicants note that as a FUCO, NSPI's financing would be exempt under section 33 and because NSPI can offer creditors a direct claim on its assets rather than the indirect claim that Emera's creditors are offered, NSPI generally finances its capital needs independently of Emera.

[6] The MPUC exercises jurisdiction over the securities issued by BHE with maturities of one year or longer.

Applicants predict that without removal of the cash in the form of a dividend, BHE's common equity component of its capital structure will grow. Therefore, Applicants request that they merely use dividends or common stock redemptions to maintain BHE's equity level in the 30% to 40%[7] total capitalization band.

3. *Financing Entities.* Emera and the Subsidiaries seek authorization to organize new corporations, trusts, partnerships or other entities that will facilitate financings by issuing income preferred securities or other securities to third parties. To the extent not exempt under rule 52, the financing entities also request authorization to issue the securities to third parties. In connection with this method of financing, Emera and the Subsidiaries may: (a) Issue debentures or other evidences of indebtedness to a financing entity in return for the proceeds of the financing; (b) acquire voting interests or equity securities issued by the financing entity to establish ownership of the financing entity (the equity portion of the entity generally being created through a capital contribution or the purchase of equity securities, ranging from one to three percent of the capitalization of the financing entity); and (c) guarantee a financing entity's obligations in connection with a financing transaction. Emera and the Subsidiaries also request authorization to enter into expense agreements with financing entities to pay the expenses of any such entity. Applicants represent that any amounts issued by a financing entity to a third party under this authorization will be included in a overall external financing limitation authorized for the immediate parent of the financing entity; however, the underlying intra-system mirror debt and parent guarantee shall not be included.

4. *Tax Allocation Agreement.* Applicant ask the Commission to approve an agreement among certain Emera System companies to file a consolidated tax return (''Tax Allocation Agreement''). Applicants state the Intermediate HCs are seeking to retain the benefit of tax losses that have been generated by it in connection with Merger-related debt only. Applicants state the Tax Allocation Agreement will not give rise to the types of problems (*e.g.*, upstream loans) that the Act was intended to address.

5. *Direct Stock Purchase and Dividend Reinvestment Plan, Incentive Compensation Plans and Other Employee Benefit Plans.* Emera proposes, from time to time during the Authorization Period to issue and/or acquire in open market transactions or by some other method that complies with applicable law and Commission interpretations, then in effect, up to 5 million shares of Emera common stock under Emera's dividend reinvestment plan, certain incentive compensation plans and certain other employee benefit plans currently existing or that may be adopted in the future. Emera currently maintains the flowing stock based benefit plans for employees: (a) Emera Senior Management Stock Option Plan, which currently has 1,706,109 treasury shares reserved; (b) Emera Common Share Purchase Plan, which currently has 2,000,000 treasury shares reserved; and (c) Emera Dividend Reinvestment Plan. The plans will remain in effect following consummation of the Merger.

*V. Intra-System Service Arrangements*

Emera requests authorization to form a service company, Emera Services, to provide a variety of services to the companies in the Emera System. The individual system companies will continue to perform certain functions independently that are most efficiently and effectively provided internally by each company. Emera Services will offer system-wide coordination and strategy services, oversight services and other services where economies can be captured by centralization of personnel, equipment, practice and procedures in one organization. Emera Services will also ensure adequate oversight and realize economies of scale by consolidating certain administrative and service functions for the Emera System.

Applicants anticipate that the following services may be offered by Emera Services to system companies: Rates and regulatory services; internal auditing; strategic planning; external relations; transmission and distribution system management; legal services and general legal oversight, as well as corporate secretarial functions; marketing; financial services; information systems and technology; executive services such as formulating and executing general plans and policies, including operations, issuances of securities, appointment of executive personnel, budgets and financing plans, expansion of services, acquisitions and dispositions of property, and public relationships; investor relations; customer services; employee services; engineering; business support; power procurement; purchasing; and facilities management.

In accordance with the services agreement, services provided by Emera Services will be directly assigned if possible or allocated as necessary by activity, project, program, work order or other appropriate basis. It is anticipated that Emera Services will be staffed primarily by transferring personnel from Emera and, to a certain extent, with personnel transferred from NSPI and BHE. Emera Services' accounting and cost allocation methods and procedures would be structured to comply with the Commission's standards for service companies in a registered holding company system.[8]

As compensation for services, the services agreement will provide for client companies to pay to Emera Services the cost of such services, computed in accordance with the applicable rules and regulations (including, but not limited to rules 90 and 91) under the Act and appropriate accounting standards. Where more than one company is involved in or has received benefits from a service performed, the services agreement will provide that client companies will pay their fairly allocated *pro rata* share in accordance with the methods set out in a schedule to the services agreement. Charges for all services provided by Emera Services to associate utility companies, Nonutility Subsidiaries, and Emera will be on an ''at cost'' basis as determined under rules 90 and 91 of the Act.

Emera proposes that, for a limited period of time ending on March 31, 2002 (''Transition Period''), Emera will continue to provide services and sell goods to Emera System companies. Emera will comply with the provisions of rule 90 with respect to the performance of services or construction for associate companies on the basis of cost and with the provisions of rule 92 with respect to the sale of goods produced by the seller. Applicants state the Transition Period will allow the Emera holding company system to implement the transition to Emera Services as the principal provider of services to the Emera System.

*VI. Request for Authority To Reorganize the Nonutility Subsidiaries*

Applicants propose to restructure Nonutility Subsidiaries. To do this, Emera requests authorization to acquire, directly or indirectly, the equity securities of one or more intermediate subsidiaries (''Intermediate

[7] The MPUC, which regulates BHE, has prescribed a target common equity component not exceeding 40% of total capitalization.

[8] Applicants represent that the regulatory agency, Nova Scotia Utility and Review Board UARB, will not regulate the conduct of business by Emera Services.

Subsidiaries'') organized exclusively for the purpose of acquiring, financing, and holding the securities of one or more existing or future Nonutility Subsidiaries. The Intermediate Subsidiaries would be organized for the purpose of acquiring, holding and/or financing the acquisition of the securities of or other interest in one or more EWGs, FUCOs, and Rule 58 Companies. Intermediate Subsidiaries may also provide management, administrative, project development, and operating services to Nonutility Subsidiaries.

Intermediate Subsidiaries may engage in development activities (''Development Activities'') and administrative activities (''Administrative Activities'') relating to the permitted businesses of the Nonutility Subsidiaries. Development Activities will be limited to due diligence and design review; market studies; preliminary engineering; site inspection; preparation of bid proposals, including, in connection with, posting of bid bonds; application for required permits and/or regulatory approvals; acquisition of site options and options on other necessary rights; negotiation and execution of contractual commitments with owners of existing facilities, equipment vendors, construction firms, power purchasers, thermal ''hosts,'' fuel suppliers and other project contractors; negotiation of financing commitments with lenders and other third-party investors; and such other preliminary activities as may be required in connection with the purchase, acquisition, financing or construction of facilities or the acquisition of securities of or interests in new businesses. Administrative Activities will include ongoing personnel, accounting, engineering, legal, financial, and other support activities necessary to manage Emera's investments in Nonutility Subsidiaries.

Applicants state restructuring could also involve the acquisition of one or more new special-purpose subsidiaries (''SPSs''). The SPS would acquire and hold direct or indirect interests in any or all of the Emera System's existing or future authorized nonutility businesses.

Applicants may transfer existing Subsidiaries, or portions of existing businesses, among the Emera associates and/or the reincorporation of existing Subsidiaries in a different jurisdiction.

Emera does not seek authorization to acquire an interest in any nonassociate company as part of the authority requested and states that the reorganization will not result in the entry by the Emera System into a new, unauthorized line of business.

*VII. Request To Invest in Rule 58 Companies After the Merger*

Applicants state Emera's post-merger investment in Canadian energy-related and gas related companies will be aggregated with its post-merger investment in Rule 58 Companies for purposes of calculating the 15% limit of consolidated capitalization limit under rule 58(a)(1)(ii).[9]

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–14025 Filed 6–4–01; 8:45 am]

**BILLING CODE 8010–01–M**

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## SECURITIES AND EXCHANGE COMMISSION

**[Rel. No. IC–24995; File No. 812–12226]**

## Sun Life Assurance Company of Canada (U.S.), et al.

May 30, 2001.

**AGENCY:** Securities and Exchange Commission (the ''Commission'').

**ACTION:** Notice of application for an order pursuant to section 11(a) of the Investment Company Act of 1940 (the ''Act'') approving the terms of an offer of exchange and for an order pursuant to section 6(c) of the Act granting exemptions from sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder to permit the recapture of certain bonus credits.

*Applicants:* Sun Life Assurance Company of Canada (U.S.)(''Sun Life''), Sun Life Assurance Company of Canada (U.S.) Variable Account F (''Variable Account''), and Clarendon Insurance Agency, Inc. (''Clarendon'').

*Summary of Application:* Applicants seek an order approving the terms of a proposed offer of exchange of MFS Regatta Choice, a new variable annuity contract issued by Sun Life and made available through the Variable Account (the ''New Contract''), for MFS Regatta Gold, an outstanding annuity contract issued by Sun Life and made available through the Variable Account (the ''Old Contract,'' collectively with the New Contract, the ''Contracts''). Applicants also seek an order to permit the recapture, from any New Contract returned to Sun Life during the free look period, of a 2% bonus payment credited on amounts transferred to the New Contract under the proposed offer of exchange.

*Filing Date:* The application was filed on August 16, 2000, and Amendment No. 1 was filed on May 30, 2001.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on June 25, 2001, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants: Sun Life Assurance Company of Canada (U.S.), One Copley Place, Boston, Massachusetts 02116.

**FOR FURTHER INFORMATION CONTACT:** Kenneth C. Fang, Attorney, or Keith E. Carpenter, Branch Chief, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. (202) 942–8090).

### Applicants' Representations

*Applicants*

1. Sun Life is a stock life insurance company incorporated under the laws of Delaware on January 12, 1970. Sun Life does business in 49 states of the United States, the District of Columbia and Puerto Rico. Sun Life is an indirect wholly-owned subsidiary of Sun Life Assurance Company of Canada (''Sun Life (Canada)''). Sun Life (Canada) completed its demutualization on March 22, 2000. As a result of the demutualization, a new holding company, Sun Life Financial Services of Canada Inc. (''Sun Life Financial''), is now the ultimate parent of Sun Life (Canada) and Sun Life. Sun Life Financial, a corporation organized in Canada, is a reporting company under the Securities Exchange Act of 1934 with common shares listed on the

[9] Emera conducts various businesses in Canada that would qualify as ''energy-related'' or ''gas-related'' companies under rule 58, but for the fact that the revenues from these companies are from Canada. Emera requests that investment in these companies be excluded from the investment limit under rule 58 of the Act.

Toronto, New York, London and Manila stock exchanges.

The Variable Account is the separate account in which Sun Life sets aside and invests assets attributable to the Contracts. The Variable Account is organized and registered under the Act as a unit investment trust (File No. 811–05846).

3. Clarendon is registered with the Commission as a broker-dealer and is a member of the National Association of Securities Dealers, Inc. Clarendon is the principal underwriter for the Contracts and acts as general distributor of certain other of Sun Life's variable insurance products. Clarendon is a wholly-owned subsidiary of Sun Life.

*Reasons for Exchange Offer*

4. Applicants assert that, during recent years, the variable annuity marketplace has become increasingly competitive. Many of the purchasers of variable annuity contracts in the 1980s and early 1990s are at, or close to, the expiration of their deferred sales charge period, and the contract values of many contracts are no longer subject to a deferred sales charge. Holders of such contracts have become ''prime targets'' for competitors' variable annuity sales efforts. In response to these forces, the market has seen the continuous introduction of innovative products with attractive features to catch the eye of existing and prospective variable annuity purchasers. Sun Life has experienced the effects of its competitors' offers, which often include ''bonus offers,'' through the loss of a substantial portion of its Old Contract business.

5. Applicants state that Sun Life's competitors are permitted to make attractive offers to Sun Life's Old Contract owners because, among other reasons, offers of exchange to contract owners of unaffiliated insurance companies are not prohibited by Section 11 of the Act (nor subject to the requirements of Rule 11a–2 thereunder) by virtue of a Commission staff no-action position granted to *Alexander Hamilton Funds* (pub. avail. July 20, 1994). Applicants state that the *Alexander Hamilton* letter stands for the proposition that, except for limited exceptions, exchange offers between unaffiliated investment companies are not prohibited under Section 11. Consistent with Section 11(a), therefore, a fund may impose a contingent deferred sales charge on shares purchased by investors with proceeds of shares exchanged from an unaffiliated fund.

6. Applicants assert that, but for the affiliated nature of the exchange, Sun Life would be able to offer a bonus program to its existing Old Contract owners that is similar to its competitors' programs. However, unlike its competitors who may make bonus offers to Old Contract owners, Sun Life is constrained from making a similar offer without first obtaining Commission approval of the terms of the exchange.

7. Applicants state that, in response to this competitive situation, Sun Life has developed an attractive offer (''Exchange Offer'') that would give eligible owners of the Old Contract the opportunity to exchange their contracts for a New Contract. On the day the exchange is effected (the ''Exchange Date''), eligible owners would also receive a 2% bonus based on the total accumulation value (''Account Value'') of each Old Contract surrendered in exchange for a New Contract (''2% Bonus''). Withdrawals made after the free look period under the New Contract has expired would be governed by the terms of the New Contract, including application of the withdrawal charge (referred to in this application as the ''contingent deferred sales charge'' or ''CDSC''). If a Contract owner exercises his or her right to cancel the New Contract during the free look period, the 2% Bonus will be returned to Sun Life and the Old Contract will be reinstated with an Account Value that reflects the investment experience while the New Contract was held. Applicants state that the terms of the Exchange Offer, which will be communicated to eligible Contract owners in a notification of the Exchange Offer (the ''Offering Letter''), are designed to respond to the business practicalities of Sun Life's competitive situation and to assure that persisting Contract owners who accept the Exchange Offer receive an immediate and enduring economic benefit.

*The New Contract*

8. The MFS Regatta Choice Contract is offered pursuant to a registration statement under the Securities Act of 1933 (the ''1933 Act'') filed on February 22, 2000, and last amended on April 23, 2001 (File No. 333–30844). Applicants state that the MFS Regatta Choice Contract was designed to enhance the MFS Regatta Gold Contract, adding four new optional enhanced death benefit features incorporated in 10 optional riders and other enhancements. The MFS Regatta Choice Contract is offered as individual and group flexible payment variable annuity contracts for use in connection with retirement and deferred compensation plans. It permits Account Value to be accumulated on a variable, fixed, or combination of variable and fixed basis. It requires a minimum initial purchase payment of $10,000.

9. Account Values of the New contract currently may be allocated to sub-accounts of the Variable Account that each invest in one of 29 different investment company portfolios (''Underlying Funds'')—29 mutual funds sponsored by MFS/Sun Life Series Trust.

10. Values may also be accumulated on a guaranteed basis by allocation to Sun Life's general account (the ''Fixed Account''). Contract owners may select one or more ''Guarantee Periods'' from those available guaranteed interest rates for the duration of the particular Guarantee Period(s) selected by the Contract owner. Sun Life guarantees that it will credit interest at a minimum rate of 3% per year, compounded annually, to amounts allocated to the Fixed Account. Sun Life may credit interest at a rate in excess of the minimum rate; however, it is not obligated to do so. The Guarantee Periods are offered pursuant to a registration statement under the 1933 Act filed on June 12, 2000 (File No. 333–39034).

11. All cash withdrawals of any guarantee amount from the Fixed Account, except those effective within 30 days prior to the expiration date of the Applicable guarantee Period or the withdrawal of interest credited during the current Contract year, are subject to a market value adjustment (''MVA''). The MVA reflects the relationship between the current rate for the guarantee amount being withdrawn and the guaranteed interest rate applicable to the amount being withdrawn. It also reflects the time remaining in the applicable Guarantee Period. Generally, if the guaranteed interest rate is lower than the applicable current rate, then application of the MVA will result in a lower payment upon withdrawal. Conversely, if the guaranteed interest rate is higher than the applicable current rate, the application of the MVA will result in a higher payment upon withdrawal.

12. Account Value may be transferred among the sub-accounts of the Variable Account without charge, although Sun Life reserves the right to limit the number of transfers to 12 in a Contract year and to charge up to $15 per transfer. Transfers to and from the Fixed Account are permitted, subject to certain restrictions described in the prospectus for the New Contract.

13. Contract owners may enroll in an optional Dollar Cost Averaging program (the ''DCA Program'') by allocating a minimum of $1,000 of their purchase payment into the DCA Program and pre-

authorizing transfers to any of the sub-accounts at regular time intervals.

14. Contract owners may also enroll in one of three asset allocation models, each of which represents a combination of sub-accounts with a different level of risk. Contract owners who elect an asset allocation model will have their investment options automatically reallocated on a quarterly basis, or as determined by the terms of the asset allocation program. The former MFS asset allocation model, which was available under the Old Contract but discontinued in May 1998, will be made available under New Contracts to owners of Old Contracts who are currently participating in that model.

15. Contract owners with an Account Value of $10,000 or more may participate in the Systematic Withdrawal Program. Under the Systematic Withdrawal Program, a Contract owner may elect to receive automatic withdrawals from his or her Account Value, the amount and frequency of which is determined by the Contract owner. An MVA may apply to withdrawals under the Systematic Withdrawal Program.

16. Contract owners may enroll in the Portfolio Rebalancing Program, whereby funds are transferred among the sub-accounts in order to maintain the percentage allocation the Contract owner has selected. The transfers may occur on a quarterly, semi-annual or annual basis.

17. Contract owners may enroll in the Secured Future Program, under which purchase payments are divided between the Fixed Account and the sub-accounts. For the Fixed Account portion, a portion of the purchase payment is allocated to a Guarantee Period of the Contract owner's choosing, so that at the end of the Guarantee Period, the Fixed Account allocation (including interest) will equal the entire amount of the original purchase payment. The remainder of the original purchase payment will be invested in the sub-accounts of the Contract owner's choosing. At the end of the Guarantee Period, the Contract owner will be guaranteed the amount of the original purchase payment, in addition to the investment performance of the subaccounts.

18. Account Value under the New Contract may be accessed at any time prior to the annuity commencement date by means of partial surrenders or full surrender. The annual withdrawal amount, which is not subject to the CDSC, is referred to herein as the ''free withdrawal amount.'' During the first Contract year, the New Contract permits a free withdrawal amount of up to 15% of purchase payments made during that Contract year. After the first Contract anniversary, the free withdrawal amount is equal to the amount of all purchase payments made before the last seven years that have not been withdrawn, plus the greater of: (a) All earnings minus any previous withdrawals taken during the life of the Contract, or (b) 15% of the amount of all purchase payments made during the last seven years, including the current Contract year, minus any free withdrawals taken during the current Account year. Any unused ''free withdrawal amount'' is not cumulative if it was based upon 15% of all purchase payments made during the last seven Contract years, but is cumulative if it was based on all earnings minus previous withdrawals.

19. The New Contract provides for a basic death benefit and 10 optional death benefit riders, each of which provides an enhanced death benefit. An optional death benefit election must be made, if at all, before the date Sun Life accepted the Contract owner's first purchase payment (the ''Contract Date'') and the Contract owner's 80th birthday and may not be changed after the New Contract is issued. Contract owners pay an additional charge during the accumulation phase for each optional death benefit rider elected. The ''Maximum Anniversary Account Value (''MAV'') Rider'' enhances the death benefit by providing the greater of (a) any of the basic death benefits, or (b) the highest Account Value on any Account anniversary before the Contract owner's 81st birthday, adjusted for subsequent purchase payments, partial withdrawals and charges between that Account anniversary and the death benefit date. The ''5% Premium Roll-Up (''5% Roll-Up'') Rider'' enhances the death benefit by providing the greater of (a) any of the basic death benefits, or (b) total purchase payments plus interest accruals, adjusted for partial withdrawals. The ''Earnings Enhancement (''EEB'') Rider'' enhances the death benefit in one of two ways depending on the Contract owner's age on the Contract Date. If the Contract owner was 69 or younger on the Contract Date, the enhanced death benefit is (a) the greatest of any of the basic death benefit amounts, plus (b) 40% of the difference between Account Value and net purchase payments, capped at 40% of net purchase payments made prior to death, calculated as of the death benefit date. If the Contract owner was between 70 and 79 on the Contract Date, the enhanced death benefit is (a) the greatest of any of the basic death benefit amounts, plus (b) 25% of the difference between Account Value and net purchase payments, capped at 25% of net purchase payments made prior to death, calculated as of the death benefit date. Net purchase payments under the EEB Rider will be adjusted for all partial withdrawals. The ''Earnings Enhancement Plus (''EEB Plus'') Rider'' enhances the death benefit in one of two ways depending on the Contract owner's age on the Contract Date. If the Contract owner was 69 or younger on the Contract Date, the enhanced death benefit is (a) the greatest of any of the basic death benefit amounts, plus (b) 40% of the difference between Account Value and net purchase payments, up to a cap of 100% of net purchase payments made prior to death, calculated as of the death benefit date. After the 7th Contract year, the cap is 100% of the difference between net purchase payments and any purchase payments made within the 12 months prior to death. If the Contract owner was between 70 and 79 on the Contract Date, the enhanced death benefit is (a) the greatest of any of the basic death benefit amounts, plus (b) 25% of the difference between Account Value and net purchase payments, up to a cap of 40% of net purchase payments made prior to death, calculated as of the death benefit date. After the 7th Contract year, the cap is 40% of the difference between net purchase payments and any purchase payments made within the 12 months prior to death. The MAV Rider, the 5% Roll-Up Rider and the EEB Rider may be combined. The EEB Plus, EEB Plus MAV and EEB Plus 5% Roll-Up Riders are designed to be ''comprehensive'' riders and may not be combined with each other or with any of the other death benefit riders. The New Contract prospectus describes how the death benefit will be calculated if a Contract owner elects more than one optional death benefit rider.

20. The New Contract contains four annuity payment options. Annuity options are available on a fixed or variable basis, or a combination thereof.

21. The New Contract assesses a CDSC against partial or full surrenders in excess of the free withdrawal amount. The length of time from receipt of a purchase payment to the time of surrender determines the percentage of the CDSC. During the first seven years from each purchase payment, a CDSC will be assessed against the surrender of purchase payments that is a percentage of the amount surrendered (not to exceed the aggregate amount of the purchase payments made). The CDSC

ranges from 7% in year 1 to 0% in year 7 and after.

22. In certain states, the New Contract provides for a waiver of the CDSC if the Contract owner is confined to an eligible nursing home and has been there for at least the preceding 180 days, or shorter period in some states, and at least one year has passed since the Contract Date. Additionally, Sun Life does not impose the CDSC on amounts applied to provide an annuity, amounts Sun Life pays as a death benefit, except under the cash surrender method, or amounts transferred among the sub-accounts, between the sub-accounts and the Fixed Account, or within the Fixed Account.

23. During the life of the New Contract, Sun Life deducts a mortality and expense risk charge from the value of the assets of the Variable Account at an effective annual rate of 1.00% (if initial purchase payment was less than $1 million) and 0.85% (if initial purchase payment was $1 million or more). If a Contract owner annuitizes his New Contract prior to the eighth Contract year, Sun Life will deduct an additional 0.25% during the income phase.

24. During the accumulation phase, Sun Life deducts an account fee on each Contract anniversary. During Contract years one through five, the account fee is $35. After Contract year five, Sun Life may change the account fee each year, but it will never exceed $50. Sun Life deducts the account fee pro rata from each sub-account and each Guarantee Period based on the allocation of Account Value on a Contract owner's Contract anniversary. Sun Life will not charge the account fee if a Contract owner's Account Value has been allocated only to the Fixed Account during the applicable Contract year or if Account Value is $75,000 or more on a Contract anniversary. During the income phase, Sun Life deducts an annual account fee of $35 in equal amounts from each variable annuity payment made during the year. No fee is deducted from fixed annuity payments.

25. Sun Life deducts from the assets of the Variable Account an administrative expense charge at an annual effective rate equal to 0.15% during both the accumulation phase and the income phase.

26. Charges for the optional death benefit riders under the New Contract will vary based on the particular death benefit rider elected. The charge (as a percentage of daily Account Value) for various death benefit riders are as follows: 0.15% for the MAV, 5% Roll-Up and EEB Riders; 0.25% for the EEB Plus Rider and the combination EEB and MAV, EEB and 5% Roll-Up, and MAV and 5% Roll-Up Riders; and 0.40% for the combination EEB and MAV and 5% Roll-Up, EEB Plus MAV, and EEB Plus 5% Roll-Up Riders.

27. Charges are deducted from purchase payments under the New Contract for premium tax, if applicable, imposed by a state or other governmental entity. Certain states impose a premium tax, currently ranging up to 3.5%. Sun Life pays premium taxes at the time imposed under applicable state law and recovers premium taxes upon full surrender, when a death benefit is paid or at annuitization.

*The Old Contract*

28. The MFS Regatta Gold Contract is offered pursuant to a registration statement under the 1933 Act (File No. 33–41628). The Old Contract is offered as a flexible payment group and individual tax-deferred variable annuity contract. It permits Account Value to be accumulated on a variable, fixed or combination variable and fixed basis. The minimum initial purchase payment is $5,000 ($10,000 in California, Texas and Maryland since October 1999).

29. Account Values of the New Contract currently may be allocated to the same 29 sub-accounts of the Variable Account available under the New Contract, each of which invests in an Underlying Fund of the MFS/Sun Life Series Trust.

30. Contract owners may participate in the DCA Program, Asset Allocation Program, Systematic Withdrawal Program, Interest Out Program, Portfolio Rebalancing Program and Secured Future Program. Under the Interest Out Program, the Contract owner may opt to be paid or reinvest the interest credited to all Guarantee Periods that the Contract owner has chosen. The withdrawals under both the Systematic Withdrawal Program and the Interest Out Program are subject to surrender charges.

31. Account Values may also be allocated to the one or more Fixed Account Guarantee Periods made available from time to time. Sun Life may change the guaranteed interest rates it offers from time to time, but no guaranteed interest rate will ever be less than 3% per year (4% per year for Contracts issued before November 1993), compounded annually. Early withdrawals from an allocation to a Guarantee Period, including cash withdrawals, transfers, and commencement of an annuity, may be subject to an MVA, which could increase or decrease Account Value. Guarantee Periods under the Old Contract are offered pursuant to a registration statement under the 1933 Act filed on April 26, 1999 (File No. 333–77041) and will be carried forward upon exchange to the New Contract.

32. Account Value of an Old Contract may be accessed by means of partial surrenders or full surrender. The CDSC is not applied to the annual free withdrawal amount equal to 10% of purchase payments made during the last seven Contract years, including the current Contract year, plus all purchase payments made before the last seven Contract years that have not been previously withdrawn. For Old Contracts issued after November 1994, the annual withdrawal allowance may be carried forward and available for use in future years on a cumulative basis.

33. The Old Contract offers a basic death benefit determined as of the death benefit date. The Old Contract offers a choice of five annuity options. Each annuity option is available on a variable or fixed basis or combination thereof.

34. For maintenance of the Old Contract, an account fee equal to the lesser of $30 or 2% of the value of the Old Contract is deducted from the Account Value of each Old Contract annually for the first five years of a Contract. After the fifth year, Sun Life may change this fee annually, but it will never exceed the lesser of $50 or 2% of Account Value.

35. A mortality and expense risk charge at an annual rate of 1.25% of daily sub-account value and an administrative expense charge at an annual rate of 0.15% of daily sub-account value are deducted from Account Value.

36. Currently, no fee is imposed on the twelve transfers allowed per Contract year; however, Sun Life reserves the right to impose a transfer fee of up to $15 per transfer. In addition, an MVA may be calculated on amounts transferred from or within the Fixed Account.

37. Charges for premium taxes, if any, imposed by a state or other governmental entity are deducted from purchase payments under the Old Contract. Certain states impose a premium tax, currently ranging up to 3.5%. Sun Life pays premium taxes at the time imposed under applicable state law and recovers the premium taxes upon full surrender, death or annuitization.

38. Applicants represent that the features and benefits of the New Contract will be no less favorable than under the Old Contract, except for differences in the annuitization options, free withdrawal amount and the Fixed Account Interest Out Program. Applicants also represent that the fees

and charges of the New Contract will be no higher than those of the Old Contract, with the exception of the annual account fee and the CDSC.

**Terms of the Exchange Offer**

39. Applicants propose to offer eligible owners of Old Contracts the opportunity to exchange their Old Contract for a New Contract by means of the Exchange Offer. Eligible MFS Regatta Gold Contract owners will be permitted to exchange their entire MFS Regatta Gold Contract for an MFS Regatta Choice Contract. To be eligible for the Exchange offer, Contract owners must (a) Have completed seven or more Contract years under their Old Contract, (b) not have made total purchase payments during the most recent five Contract years that are greater than 25% of the purchase payments made prior to the most recent seven Contract years, and (c) meet eligibility requirements of MFS Regatta Choice.

40. Sun Life, from its general account, will provide a 2% Bonus to each owner of an Old Contract who accepts the offer, which is based on the Account Value of each Old Contract surrendered in exchange for a New Contract. The Exchange Offer will provide that, upon acceptance of the offer, a New Contract will be issued with an Account Value equal to 2% greater than the Account Value of the Old Contract surrendered in the exchange. The Account Value of an Old contract (''Exchange Value''), together with the 2% Bonus and any additional purchase payments submitted with an Internal Exchange Application Form for the New Contact, will be applied to the New Contract as of the Exchange Date. No CDSC will be deducted upon the surrender of an Old Contract if received in connection with the Exchange Offer.

41. If a Contract owner exercises his or her right to cancel the New Contract during the free look period, the 2% Bonus will be returned to Sun Life and the Old Contract (including amounts allocated to Guarantee Periods) will be reinstated with an Account Value that reflects the investment experience while the New Contract was held. After expiration of the New Contract's free look period, withdrawals will be governed by the terms of the New Contract for purposes of calculating any CDSC. If a Contract owner surrenders his New Contract prior to the completion of the CDSC period, Sun Life will apply the applicable CDSC according to the New Contract's seven-year schedule. The Exchange Date will be the issue date of the New Contract for purposes of determining Contract years and anniversaries after the Exchange Date.

42. Sun Life will send the Offering Letter to eligible Contract owners and their brokers that will explain the terms of the Exchange Offer and instruct eligible owners of Old Contracts to contact their brokers for assistance with completing the offer. Contract owners will be provided with a prospectus for the New Contract, the Offering Letter that compares the applicable Contracts and an Internal Exchange Application Form.

43. The Offering Letter will advise owners of an Old Contract that the Exchange Offer is specifically designed for those Contract owners who intend to continue to hold their Contracts as long-term investment vehicles. The Offering Letter will state that the offer is not intended for all Contract owners, and that it is especially not appropriate for any Contract owner who anticipates surrendering all or a significant part (*i.e.,* more than the ''free withdrawal amount'' on an annual basis) of his or her Contract before seven years. The Offering Letter will also state that Contract owners with amounts allocated to Old Contract Guarantee Periods will experience no change in Guarantee Period upon acceptance of the Exchange Offer. The Offering Letter will encourage Contract owners to carefully evaluate their personal financial situation when deciding whether to accept or reject the Exchange Offer. In addition, the Offering Letter will explain how an owner of an Old Contract contemplating an exchange may avoid the applicable CDSC on the New Contract if no more than the annual ''free withdrawal amount'' is surrendered and any subsequent deposits are held until expiration of the CDSC period. In this regard, the Offering Letter will state in concise, plain English that if the New Contract is surrendered during the initial CDSC period, (a) the 2% Bonus may be more than offset by the CDSC, and (b) a Contract owner may be worse off then if he or she had rejected the Exchange Offer.

44. The Internal Exchange Application Form, which will accompany the Offering Letter, will include an owner acknowledgment section with check-off boxes setting forth specific questions designed, among other things, to determine a Contract owner's suitability for the Exchange Offer. In particular, the form will seek affirmative confirmation that an owner does not anticipate a need to withdraw more than 15% per year (plus earnings) from the New Contract during the CDSC period. Other questions on the form seek owner acknowledgment that the Exchange Offer is suitable only for a Contract owner if he or she expects to hold the New Contract as a long-term investment and the Contract owner may be better off rejecting the Exchange Offer if he or she plans to surrender the New Contract during the CDSC period. All boxes on the form must be checked off with affirmative responses before Sun Life will process the exchange. After making a suitability determination, broker-dealers will be required to forward completed forms to Sun Life for processing. In the event Sun Life receives an incomplete form (*i.e.,* a form with one or more acknowledgment boxes not checked off), Sun Life will not process the exchange, treating the transaction as ''not in good order.'' Sun Life intends to contact any broker-dealer who submits a form not in good order, however, in no event will Sun Life process exchange transactions based on incomplete forms.

45. The Account Value of an Old Contract (''Exchange Value'') together with the 2% Bonus and any additional purchase payments submitted with an Internal Exchange Application Form for the New Contract will be applied to the New Contract as of the Exchange Date. No CDSC will be deducted upon the surrender of an Old Contract if received in connection with the Exchange Offer. If a Contract owner surrenders his New Contract after the free look period but prior to the completion of the CDSC period, Sun Life will apply the CDSC based on the number of Contract years payment has been in a New Contract: 7% for Contract years 0–1, 7% for Contract years 1–2, 6% for Contract years 2–3, 6% for Contract years 3–4, 5% for Contract years 4–5, 4% for Contract years 5–6, 3% for Contract years 6–7, and 0% for Contract years 7 or more. If a Contract owner exercises his or her right to cancel the New Contract during the free look period, the 2% Bonus will be returned to Sun Life and the Old Contract (including amounts allocated to Guarantee Periods) will be reinstated with an Account Value that reflects the investment experience while the New Contract was held. The Exchange Date will be the issue date of the New Contract for purposes of determining Contract years and anniversaries after the Exchange Date.

46. To accept the Exchange Offer, an owner of an Old Contract must complete an Internal Exchange Application Form. Account Values will be allocated to the same Vairable Account investment options and the same Guarantee Periods under the New Contract on the Exchange Date. Account Values may

subsequently be reallocated under the new Contract (including to new Guarantee Periods of the Fixed Account) pursuant to Contract owner instructions. Payments submitted with the Internal Exchange Application Form will be assumed to be payments under the New Contract as of the date of issue of the New Contract. Applicants state that no adverse tax consequences will be incurred by those Contract owners who accept the Exchange Offer. As to non-qualified Contracts, the exchanges will constitute tax-free exchanges pursuant to Section 1035 of the Internal Revenue Code. Any exchange with respect to IRA Contracts will be a direct transfer and not taxable distributions to Contract owners.

47. Applicants state that the Exchange Offer is meant to encourage existing Contract owners to remain with Sun Life rather than surrender their Contracts in exchange for a competitor's product offering a similar bonus. If the New Contract CDSC is not permitted on the Exchange Value, Applicants believe that some Contract owners might exchange their New Contract intending to take advantage of the 2% Bonus and then surrender the New Contract intending to take advantage of the 2% Bonus and then surrender the New Contract without a CDSC. Without the CDSC, Sun Life would have no assurance that a Contract owner who accepted the Exchange Offer would persist for long enough for the 2% Bonus and payments to registered representatives to be recouped through standard fees from the ongoing operation of the New Contract. Applicants state that registered representatives will be paid commissions for soliciting exchanges that are less than they normally are paid for soliciting sales of the New Contract. Applicants state that compensating registered representatives for these exchanges is necessary in order to provide sufficient incentive for them to compete with competitors' registered representatives.

**Applicants' Conditions**

Applicants agree to the following conditions:

1. The Offering Letter will contain concise, plain English statements that (a) The Exchange Offer is suitable only for Contract owners who expect to hold their Contracts as long-term investments and (b) if the New Contract is surrendered during the initial CDSC period, the 2% Bonus may be more than offset by the CDSC and a Contract owner may be worse off than if he or she had rejected the Exchange Offer.

2. The Offering Letter will disclose in concise, plain English each aspect of the New Contract that will be less favorable than the Old Contract.

3. Sun Life will send the Offering Letter directly to eligible contract owners. A Contract owner choosing to exchange will then complete and sign an Internal Exchange Application Form, which will prominently restate in concise, plain English the statements required in Condition No. 1, and return it to Sun Life. If the Internal Exchange Application Form is more than two pages long, Sun Life will use a separate document to obtain Contract owner acknowledgment of the statements required in Condition No. 1.

4. Sun Life will maintain the following separately identifiable records in an easily accessible place for the time periods specified below in this Condition No. 4, for review by the Commission upon request: (a) Records showing the level of exchange activity and how it relates to the total number of Contract owners eligible to exchange (quarterly as a percentage of the number eligible); (b) copies of any form of Offering Letter and other written materials or scripts for presentations by representatives regarding the Exchange Offer that Sun Life prepares or approves, including the dates that such materials were used; (c) records containing information about each exchange transaction that occurs, including the name of the Contract owner; Old and New Contract numbers; the amount of the CDSC waived on surrender of the Old Contract; Guarantee Periods carried forward; optional death benefits selected; Bonus paid; the name and C.R.D. number of the registered representative soliciting the exchange, firm affiliation, branch office address, telephone number, and name of the registered representative's broker-dealer; commission paid; the Internal Exchange Application Form (and separate document, if any, used to obtain the Contract owner's acknowledgment of the statements required in Condition No. 1) showing the name, date of birth, address and telephone number of the Contract owner, and the date the Internal Exchange Application Form (or separate document) was signed; amount of Account Value exchanged; and persistency information relating to the New Contract including the date of any subsequent surrender and the amount of CDSC paid on surrender; and (d) logs showing a record of any Contract owner complaint about the exchange; state insurance department inquiries about the exchange; or litigation, arbitration or other proceedings regarding any exchange. The logs will include the date of complaint or commencement of proceeding; name and address of the person making the complaint or commencing the proceeding; nature of the complaint or proceeding; and persons named or involved in the complaint or proceeding. Applicants will retain records specified in (a) and (d) for six years after the date the records are created, records specified in (b) for a period of six years after the date of last issue, and records specified in (c) for a period of two years after the date that the initial CDSC period of the New Contract ends.

**Applicants' Legal Analysis**

*Section 11*

1. Section 11(a) of the Act makes it unlawful for any registered open-end company, or any principal underwriter for such a company, to make or cause to be made an offer to the holder of a security of such company, or of any other open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities, unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with Commission rules adopted under section 11.

2. Section 11(c) of the Act, in pertinent part, requires, in effect, that any offer of exchange of the securities of a registered unit investment trust for the securities of any other investment company be approved by the Commission or satisfy applicable rules adopted under section 11, regardless of the basis of the exchange.

3. The purpose of section 11 of the Act is to prevent ''switching,'' the practice of inducing security holders of one investment company to exchange their securities for those of a different investment company, ''solely for the purpose of exacting additional selling charges.'' That type of practice was found by Congress to be widespread in the 1930s prior to adoption of the Act.

4. Section 11(c) of the Act requires Commission approval (by order or by rule) of any exchange, regardless of its basis, involving securities issued by a unit investment trust, because investors in unit investment trusts were found by Congress to be particularly vulnerable to switching operations.

5. Applicants assert that the potential for harm to investors perceived in switching was its use to extract additional sales charges from those investors.

6. Applicants assert that the terms of the proposed Exchange Offer do not present the abuses against which section 11 was intended to protect. The Exchange Offer was designed to allow Sun Life to compete on a level playing field with its competitors who are making bonus offers to its Contract owners. No addition sales load or other fee will be imposed at the time of exercise of the Exchange Offer.

7. Rule 11a–2, by its express terms, provides Commission approval of certain types of offers of exchange of one variable annuity contract for another. Applicants assert that other than the relative net asset value requirement (which is not satisfied solely because Contract owners accepting the offer will be a given a 2% Bonus) the only part of Rule 11a–2 that would not be satisfied by the proposed Exchange Offer is the requirement that payments under the exchanged contract (the Old Contract) be treated as if they had been made under the acquired contract (the New Contract) on the dates actually made. This provision of Rule 11a–2 is often referred to as a ''tacking'' requirement because it has the effect of ''tacking together'' the CFSC expiration periods of the exchanged and acquired contracts.

8. Applicants assert that the absence of tacking does not mean that an exchange offer cannot be very attractive and beneficial to investors. Applicants state that the proposed Exchange Offer would assure an immediate and enduring economic benefit to investors. The 2% Bonus would be applied immediately and the fact that asset-based charges would be decreased by the exchange (except for those who select two or three additional optional death benefit riders) would assure that the benefit would endure. An owner of an Old Contract who intends to continue to hold the Contract as a long-term retirement planning vehicle will be significantly advantaged by the Exchange Offer because this 2% Bonus will automatically be added to his or her Account Value upon receipt of an enhanced New Contract. No sales charge will ever be paid on the amounts rolled over in the exchange unless the New Contract is surrendered before expiration of the New Contract's CDSC period.

9. Applicants assert that tacking should be viewed as a useful way to avoid the need to scrutinize the terms of an offer of exchange to make sure that there is not abuse. Tacking is not a requirement of Section 11. Rather, it is a creation of a rule designed to approve the terms of offers of exchange ''sight unseen.'' Tacking focuses on the closest thing to multiple deduction of sales loads that is possible in a CDSC context—multiple exposure to sales loads upon surrender or redemption. If tacking and other safeguards of Rule 11a–2 are present, there is no need for the Commission or its staff to evaluate the terms of the offer. The absence of tacking in this fully scrutinized Section 11 application will have no impact on offers made pursuant to the rule on a ''sight unseen'' basis.

10. Applicants assert that the terms of the Exchange Offer are better than those of its competitors. No tacking is required when Sun Life's competitors offer than variable annuity contracts to owners of Old Contracts or when Sun Life makes such an offer to competitor's contract owners. In those exchanges, unlike the ones proposed here, the exchanging Contract owners actually must pay any remaining CDSC on the exchanged Contract at the time of the exchange.

11. To the extent there are differences in the Contracts, those differences relate to enhanced contractual features and charges that are fully described in prospectuses for the New Contracts. Furthermore, the Offering Letter will contain concise, plain English statements that (a) the Exchange Offer is suitable only for Contract owners who expect to hold their Contracts as long-term investments and (b) if the New Contract is surrendered during the initial CDSC period, the 2% Bonus may be more than offset by the CDSC and a Contract owner may be worse off than if or she had rejected the Exchange Offer. Applicants assert that Contract owners should have the opportunity to decide, on the basis of full and fair disclosure, whether the enhancements of the New Contracts and the 2% Bonus justify accepting the offer.

Sections 2(a)(32), 22(c), 27(i)(2)(A) and Rule 22c–1

12. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the Act and the rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants seek exemption pursuant to section 6(c) from sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder to the extent deemed necessary to permit Sun Life to issue New Contracts that provide for a 2% Bonus upon exchange and to recapture the 2% Bonus when a Contract owner returns a New Contract to Sun Life for a refund during the free look period.

13. Applicants assert that with respect to refunds paid upon the return of the New Contract within the free look period, the amount payable by Sun Life must be reduced by the 2% Bonus amount. Otherwise, purchasers could apply for the New Contract for the sole purpose of exercising the free look provision and making a quick profit. Applicants represent that it is not administratively feasible to track the 2% Bonus amount in the Variable Account after the 2% Bonus is applied. Accordingly, the asset-based charges applicable to the Variable Account will be assessed against the entire amounts held in the Variable Account, including the 2% Bonus amount, during the free look period. As a result, during such period, the aggregate asset-based charges assessed against a Contract owner's Account Value will be higher than those that would be charged if the Contract owner's Account Value did not include the 2% Bonus.

14. Subsection (i) of Section 27 of the Act provides that Section 27 does not apply to any registered separate account funding variable insurance contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of the subsection. Paragraph (2) provides that it shall be unlawful for such a separate account or sponsoring insurance company to sell a contract funded by the registered separate account unless such contract is a redeemable security. Section 2(a)(32) defines ''redeemable security'' as any security, other than short-term paper, under the terms of the which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

15. Applicants submit that the recapture of the 2% Bonus upon return of a New Contract during the free look period would not deprive the owner of his or her proportionate share of the issuer's current net assets. Applicants assert that a Contract owner's interest in the 2% Bonus allocated to his or her Account Value upon exchange is not vested until the applicable free look period has expired without return of the Contract. Until the right to recapture has expired and 2% Bonus is vested. Applicants assert that Sun Life retains the right and interest in the 2% Bonus, although not in the earnings attributable to that amount. Applicants assert that when Sun Life recaptures the 2% Bonus, it is merely retrieving its own

assets, and the Contract owner has not been deprived of a proportionate share of the Variable Account's assets because his or her interest in the Bonus amount has not vested.

16. In addition, Applicants assert that permitting a Contract owner to retain a 2% Bonus under a New Contract upon the exercise of the right to cancel during the free look period would not only be unfair, but would also encourage individuals to exchange into a New Contract with no intention of keeping it and returning it for a quick profit. The amounts recaptured equal the 2% Bonus provided by Sun Life from its general account assets, and any gain would remain a part of the Contract owner's Account Value. In addition, the amount the Contract owner receives in the circumstances where the 2% Bonus is recaptured will always equal or exceed the surrender value of the New Contract.

17. Applicants submit that the provisions for recapture of the 2% Bonus under the New Contract does not violate sections 2(a)(32) and 27(i)(2)(A) of the Act. However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from sections 2(a)(32) and 27(i)(2)(A), to the extent deemed necessary, to permit the recapture of the 2% Bonus under the circumstance described in the Application with respect to the New Contract, without the loss of relief from section 27 provided by section 27(i).

18. Section 22(c) of the Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company to accomplish the same purposes as contemplated by section 22(a). Rule 22c–1 thereunder prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

19. Sun Life's recapture of the 2% Bonus might arguably be viewed as resulting in the redemption of redeemable securities for a price other than one based on the current net asset value of the Account. Applicants contend, however, that the recapture of the Bonus does not violate section 22(c) and Rule 22c–1. Applicants argue that the recapture of the 2% Bonus does not involve either of the evils that Rule 22c–1 was intended to eliminate or reduce as far as reasonably practicable, namely: (a) The dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or repurchase at a price above it, and (b) other unfair results, including speculative trading practices. The proposed recapture of the 2% Bonus does not pose such a threat of dilution. To effect a recapture of the 2% Bonus, Sun Life will redeem interests in a Contract owner's Contract at a price determined on the basis of the current net asset value of that Contract. The amount recaptured will equal the amount of the 2% Bonus that Sun Life paid out of its general account assets. Although the Contract owner will be entitled to retain any investment gain attributable to the 2% Bonus, the amount of that gain will be determined on the basis of the current net asset value of the Contract. Thus, Applicants state that no dilution will occur upon the recapture of the 2% Bonus. Applicants also submit that the second harm that Rule 22c–1 was designed to address, namely speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the 2% Bonus.

20. Applicants argue that Section 22(c) and Rule 22c–1 should not apply because neither of the harms that Rule 22c–1 was meant to address are found in the recapture of the 2% Bonus. However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from the provisions of Section 22(c) and Rule 22c–1 to the extent deemed necessary to permit them to recapture the 2% Bonus under the New Contract.

## Conclusion

For the reasons summarized above, Applicants submit that the Exchange Offer is consistent with the protections provided by Section 11 of the Act and that approval of the terms of the Exchange Offer is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants further submit that their request for exemptions from Sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder meet the standards set out in Section 6(c) of the Act. Applicants submit that the requested order should therefore be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–14076 Filed 6–4–01; 8:45 am]

BILLING CODE 8010–01–M

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–443553; File No. SR–CBOE–2001–18]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Exempt Certain Deep-in-the-Money Options Transactions From the Exchange Marketing Fee

May 25, 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 April 10, 2001, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to make a change to its marketing fee to exempt call/put ''combo'' transactions from the fee. The text of the proposed rule change is available at the CBOE and at the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Last year CBOE imposed a $.40 per contract marketing fee to collect funds that the appropriate Designated Primary Market Maker (''DPM'') may use for marketing its services and attracting order flow to the CBOE.[3] Initially, this fee was applicable to all market-maker to market-maker options transactions. Thereafter, the Exchange determined that the fee was making it unprofitable for market makers to do reversal and conversion transactions, in which a market maker trades a given amount of an underlying security against an equivalent number of call/put ''combos'' through buying the call and selling the put (or vice versa) in equal quantities with the same strike price in the same expiration month. The Exchange therefore amended its marketing fee to waive the fee in the case of call/put combo transactions used in reversals and conversions.[4]

The Exchange is now filing this rule change proposal to exempt certain ''spreads''[5] as well as ''by write'' and ''synthetic'' transactions[6] involving ''deep in the money''[7] options. In the CBOE's view, these transactions, like reversals and conversions, enable popular trading strategies that contribute to market liquidity, but they usually have smaller profit margins than other types of trades. The CBOE believes that, when the $.40 marketing fee is imposed upon the call/put combo transactions, the trades may become unprofitable.

Consequently, the Exchange has decided to exempt from the marketing fee all buy-write and synthetic transactions involving at least 200 deep-in-the-money options contracts for a particular class, as well as spread transaction involving a total of at least 400 deep-in-the-money option contracts for a particular class. The Exchange will use trade data to determine qualifying transactions, and may require market makers to submit documentation showing that specific trades qualify for the exemption.

2. Statutory Basis

The CBOE believes the proposed rule change is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(4)[9] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other changes among CBOE members.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The CBOE neither solicited nor received written comments with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[10] and subparagraph (f)(2) of Rule 19b–4 thereunder[11] because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to file number SR–CBOE–2001–18 and should be submitted by June 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–14026 Filed 6–4–01; 8:45 am]

BILLING CODE 8010–01–M

[3] *See* Securities Exchange Act Release No. 43112 (August 3, 2000), 65 FR 49040 (August 10, 2000) (SR–CBOE–2000–28).

[4] *See* Securities Exchange Act Release No. 44095 (March 23, 2001), 66 FR 17459 (March 30, 2001) (SR–CBOE–2001–09).

[5] For purposes of this filing, the term ''spread''means an options transaction involving the simultaneous purchase and/or sale of one or more contracts of at least two different series of the same class of options (*i.e.,* options covering the same underlying security), which transaction is executed at limit or market prices on the floor of the Exchange. E-mail from Chris Hill, Attorney, CBOE, to Cyndi Nguyen, Attorney, SEC, dated May 18, 2001.

[6] In a ''buy write,'' a market maker buys stock and sells calls of a given series in a 1-to-1 ratio, creating the equivalent of a sale of puts of the same series. A ''synthetic'' is the opposite: The market maker sells stock and buys calls in a 1-to-1 ratio, creating the equivalent of a purchase of puts of the same series.

[7] For purposes of marketing fee waivers, the CBOE defines ''deep in the money'' options as options that are ''in the money'' by a minimum of both $10 and 20% of the closing value of the underlying security on either the trade date or the date immediately prior to the trade date.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44365; File No. SR–NASD–2001–35]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to the Elimination of the Interval Delay Between Executions in the Nasdaq National Market Execution System and the Effect of Odd-Lot Orders on Market Makers' Displayed Quotations in the Nasdaq National Market Execution System

May 29, 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 May 10, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On May 24, 2001, the NASD, through Nasdaq, filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Nasdaq proposes to amend NASD Rule 4710, ''Participant Obligations in NNMS,'' to: (1) Eliminate the interval delay between executions against the same market maker at the same price level in the Nasdaq National Market Execution System (''NNMS'' or ''SuperSOES''),[4] and (2) establish rules governing the decrementation of market makers' displayed quotations by odd-lot orders in the NNMS.

Proposed new language is *italicized*; proposed deletions are in brackets.

* * * * *

**4710. Participant Obligations in NNMS**

(a) No Change

(b) Market Makers

(1) An NNMS Market Maker in an NNM[S] [S]security[5] shall be subject to the following requirements.

(A) No change.

(B) No change.

(C) *(i)* The size of the displayed quotation will be decremented upon the execution of an NNMS order in an amount equal to or greater than one normal unit of trading[; provided, however that the execution of an NNMS order that is a mixed lot (i.e., an order that is for more than a normal unit of trading but not a multiple thereof) will only decrement a displayed quotation's size] by the member of shares represented by the number of round lots contained in the [mixed lot] order.

*(ii) The size of the displayed quotation will also be decremented by the number of shares represented by one normal unit of trading when the number of shares executed against a displayed quotation as the result of:*

*a. orders in an amount less than a round lot, and*

*b. the portion of an order for a mixed lot (i.e., an order that is for more than a normal unit of trading but not a multiple thereof) that is in excess of the number of shares represented by the number of round lots contained in such mixed-lot order, equals one normal unit of trading.*

(D) [(1) Except as provided in subparagraphs (2) and (3) below, after the NNMS system has executed an order against a market maker's displayed quote and reserve size (if applicable), that market maker shall not be required to execute another order at its bid or offer in the same security until 5 seconds has elapsed from the time the order was executed, as measured by the time of execution in the Nasdaq system.]

[(2) For securities included in the Nasdaq 100 Index, after the NNMS system has executed an order against a market maker's displayed quote and reserve size (if applicable), that market maker shall not be required to execute another order at its bid or offer in the same security until 2 seconds has elapsed from the time the order was executed, as measured by the time of execution in the Nasdaq system.]

[(3) For both the first day of trading of the securities of initial public offerings and the first day of trading of the securities of secondary offerings,[6] a]*A*fter the NNMS system has executed an order against a market maker's displayed quote and reserve size (if applicable), that market maker shall be required to execute another order at its posted bid or offer in that same security as soon as the NNMS system delivers another order to that market maker's quote. [After the first day of trading, subsequent multiple executions against the same market maker's quote at the same price level in such securities shall be processed pursuant to subparagraph (D)(2) of this rule if the security is included in the Nasdaq 100 Index, or if not included in that index, multiple executions against the same market maker's quote at the same price level in such securities shall be processed pursuant to subparagraph (D)(1) of this rule.]

* * * * *

(c) Through (e)—No Change

* * * * *

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for 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. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

*Elimination of Interval Delays.* Currently, the rules governing the Nasdaq Small Order Execution System establish a delay of 17 seconds (15 seconds for quote management and two seconds for system processing) between executions against the same market maker in the same security at the same price level. It was originally anticipated that with the launch of SuperSOES[7] this delay would be reduced to five seconds (plus two seconds system processing time) for the vast majority of NNM securities. Nasdaq market participants, however, raised concerns that significant order flow could potentially produce queuing within the system, especially for Nasdaq 100 securities and securities that have recently been the subject of initial public offerings or secondary offerings. Accordingly, Nasdaq filed proposals with the Commission to: (i) Reduce the interval delay between executions in Nasdaq 100 securities to two seconds,[8] and (ii) reduce the interval delay between round-lot executions for the first day of trading of all SuperSOES-eligible initial public offerings and

[3] *See* Letter from John M. Yetter, Assistant General Counsel, Nasdaq, to Katherine A. England, Division of Market Regulation, Commission, dated May 22, 2001 (''Amendment No. 1). In Amendment No. 1, the Nasdaq made a minor technical correction to the rule text of NASD Rule 4710(b)(1). *See infra* note 5.

[4] The Commission approved the NNMS, a new platform for trading Nasdaq National Market (''NNM'') securities, on January 14, 2000. *See* Securities Exchange Act Release No. 42344 (January 14, 2000), 65 FR 3897 (January 25, 2000), (order approving File No. SR–NASD–99–11).

[5] Nasdaq revised the rule text of NASD Rule 4710(b)(1) to replace the phrase ''NNM security'' with the phrase ''NNMS Security.'' *See* Amendment No. 1, *supra* note 3.

[6] In order to obtain immediate processing of executions in secondary offerings, the lead underwriter of the secondary offering shall communicate its request in writing to the Nasdaq Market Operations Department no later than the business day immediately prior to the start of the trading in the secondary offering. Failure to do so may result in the secondary offering being processed pursuant to the interval delay time frames applicable to the currently trading shares of the issuer.]

[7] The implementation of SuperSOES is currently scheduled for July 9, 2001.

[8] *See* Securities Exchange Act Release No. 43720 (December 13, 2000), 65 FR 79909 (December 20, 2000) (notice of filing and immediate effectiveness of File No. SR–NASD–00–67).

secondary offerings to zero seconds (plus system processing time).[9]

Nasdaq has now determined that it is technically feasible to reduce the interval delay to zero seconds (plus system processing time) for all transactions on SuperSOES. This would mean that a market maker would be available for executions as quickly as the system an transmit instructions between the execution and quote-update engines, an operation that generally requires from one to one an one-half seconds. Nasdaq market participants have indicated to Nasdaq that they would support elimination of the interval delay for all transactions on SuperSOES because this would further minimize the risk of queuing within the system. Accordingly, the proposed rule change would provide that market makers will be required to execute orders against their displayed quotes whenever the SuperSOES system delivers such orders.

*Decrementation of Market Makers' Quotations.* The rules governing the NNMS currently provide that an NNMS market maker's displayed quotation will be decremented upon the execution of an NNMS order in an amount equal to or greater than a round lot, and that in the event of the execution of an NNMS order for a mixed lot (*i.e.,* an order that is for more than a round lot but not a multiple thereof), the displayed quotation size will be decremented only by the number of shares represented by the number of round lots contained in the mixed-lot order.

The proposed rule change would establish a mechanism for decrementing the displayed quotation size to take account of odd-lot orders and the portion of mixed-lot orders that is not covered by the current rule. Nasdaq has determined that it is technically feasible for SuperSOES to track the number of shares executed against a displayed quotation as the result of: (i) Orders in an amount less than a round lot, and (ii) the portion of an order for a mixed lot that is in excess of the number of shares represented by the number of round lots contained in the mixed-lot order. When the total quantity of such shares equals a round lot, the size of the displayed quotation would then be decremented accordingly. Nasdaq market participants have indicated that they would support this change because it will guard against the possibility that a market participant could execute multiple odd-lot orders against a market maker's quote without the size of the displayed quotation being decremented.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with Section 15A(b)(6)[10] of the Act, in that the proposed rule change is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in processing information with respect to and facilitating transactions in securities, as well as to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

Nasdaq believes that eliminating the interval delay between executions on the NNMS will ensure that customer orders are processed in the most expeditious manner possible. Similarly, providing a mechanism for decrementing market makers' displayed quotations for all orders executed against such quotations will allow the NNMS to provide more up-to-date information about the size of displayed quotations. In turn, these improvements in order processing and display will improve market function and aid in the crucial price discovery process.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve 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, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2001–35 and should be submitted by June 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–14029 Filed 6–4–01; 8:45 am]

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[9] *See* Securities Exchange Act Release No. 44142 (April 2, 2001), 66 FR 18331 (April 6, 2001) (order approving File No. SR–NASD–01–03.)

[10] 15 U.S.C. 78*o*–3(b)(6).

[11] 17 CFR 200.30–30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44363; File No. SR–NASD–2001–32]**

## Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Level 1 Market Data Fees

May 29, 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 May 4, 2001, the Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule changes as described in Items I and II

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

below, which Items have been prepared by Nasdaq.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Nasdaq filed a proposed rule change to amend NASD Rule 7010 of the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''). Under the proposal, Nasdaq will retroactively establish as permanent the fees currently assessed for Level 1 market data delivered to non-professional users on a monthly or per query basis.[4] Nasdaq will make the proposed rule change effective immediately upon approval.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Nasdaq has prepared summaries, set forth 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

Nasdaq states that it has consistently supported the broadest, most effective dissemination of market information to public investors. Towards that end, in April of 1999, Nasdaq implemented a one-year pilot program that reduced by 50% the user fees for Level 1 market data delivered to non-professional users on a monthly basis (from $4 to $2), and also for Level 1 market data delivered to non-professional users on a per query basis (from $.01 to $.005).[5]

In April of 2000, Nasdaq further reduced by 50% the user fees for Level 1 market data delivered to non-professional users on a monthly basis, but maintained the current fees for Level 1 market data delivered to non-professional users on a per query basis. Under the current pilot, the non-professional per user fee was reduced from $2 to $1 per month (equating to a 75% reduction in fees in two years), and the per query fee was maintained at $.005 per query.

Nasdaq believes that reducing market data fees helps meet the demand for realtime market data by non-professional market participants. In addition, Nasdaq believes that reduced Nasdaq rates lessen the costs to NASD member firms of supplying real-time market data to their customers through automated means and encourages current delayed-data vendors to offer increased access to real-time Level 1 data to their subscribers.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5)[6] of the Act in that the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq does not believe that the proposed rule change will result in any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Nasdaq has neither solicited nor received written comments on the proposed rule change.

**III. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2001–32 and should be submitted by June 26, 2001.

**IV. Commission's Findings and Order Grating Accelerated Approval of the Proposed Rule Change**

The Commission finds that the proposed rule change is consistent with the requirements of the Act[7] and the rules and regulations thereunder applicable to a national securities association. Specifically, the proposed rule change is consistent with Section 15A(b)(5)[8] in that the proposal should provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the Association operates or controls. In addition, the proposed rule change may further the national market system's goal in Section 11A(a)(1)(C)(iii) of assuring the availability to investors of market information.[9]

Technological developments over the last few years have allowed vendors to provide their customers with more efficient and cost effective methods of executing securities transactions. The Commission expects that reduced market data fees will further benefit the investor by reducing the costs of executing transactions. For the investor to make sound financial decisions, efficient and inexpensive access to real-time market data information is vital. Thus, the Commission believes that a retroactive application of a permanent reduction in the non-professional market data fees should enhance investor access, and may encourage increased investor participation in the securities markets.

Pursuant to section 19(b)(2),[10] the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date

[3] The current proposal replaces File No. SR–NASD–2001–24, which Nasdaq filed on March 30, 2001, and withdrew on April 23, 2001. *See* letter from Jeffrey S. Davis, Assistant General Counsel, Nasdaq, to Katherine England, Assistant Director, Division of Market Regulation (''Division''), Commission dated April 20, 2001.

[4] The pilot program expired on April 2, 2001. *See* Securities Exchange Act Release No. 42715 (April 24, 2000), 65 FR 52460 (May 1, 2000). In the current proposal, Nasdaq requests that the permanent adoption of the current pilot fees be made retroactive to the expiration of the pilot.

[5] *See* Securities Exchange Act Release No. 41499 (June 9, 1999), 64 FR 32910 (June 19, 1999).

[6] 15 U.S.C. 78o–3(b)(5).

[7] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f),

[8] 15 U.S.C. 78o–3(b)(5).

[9] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[10] 15 U.S.C. 78s(b)(2)

of publication of notice of the filing in the **Federal Register.** The Commission believes that granting accelerated approval of the proposal will allow Nasdaq to expenditiously implement the permanent reduction in market data fees, on a retroactive basis, without any unnecessary delay and should confer a benefit upon those firms that provide real-time data to their customers and subscribers. The Commission also notes that it did not receive any comments on the pilot program. Accordingly, the Commission does not believe that the current filing raises any regulatory issues not raised by the previous filing.

*It is therefore ordered,* pursuant to Section 19(b)(2) [11] of the Act, that the proposed rule change, as amended, (SR–NASD–2001–32) is approved on an accelerated basis.

For the Commission, by the Division of market Regulation, pursuant to delegated authority.[12]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–14030 Filed 6–4–01; 8:45 am]

**BILLING CODE 8010–01–M**

[11] *Id.*

[12] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44352; File No. SR–NYSE–2001–08]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc. Amending Its Rules To Provide for the Trading of Exchange-Traded Funds on an Unlisted Trading Privileges Basis

May 25, 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 April 25, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule changes is described in Items I, II, and III below, which Items have been prepared by the Exchange. On May 22, 2001, the NYSE filed Amendment No. 1 to the proposed rule change.[3] 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 Exchange proposes to amend the following NYSE rules and policies to accommodate the trading of certain exchange-trade funds (''ETFs'') on an unlisted trading privileges (''UTP'') basis: NYSE Rule 98, NYSE Rule 36, paragraph (1) of the Guidelines to NYSE Rule 105, NYSE Rule 111, NYSE Rule 13, NYSE Rules 104.20 and 104.21, and the NYSE's Market-On-Close/Limit-At-The-Close and Pre-Opening Price Indications Policies.

The text of the proposed rule change is available upon request from the Office of the Secretary, the NYSE or the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis, for the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for 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 placed specified in Item IV below. The Exchange 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

As part of its overall business strategy, the Exchange believes that it appropriate to trade ETFs on the NYSE Floor. In December 2000, the Exchange began trading an ETF on the S&P Global 100 (symbol IOO).[4] The Exchange intends to trade additional ETFs listed by other ETF sponsors, on a UTP basis, that are currently listed and trading on other markets. These ETFs may include the NASDAQ 100 Trust (symbol QQQ), Standard and Poor's Depositary Receipts (symbol SPY) and the Dow Industries DIAMONDS (symbol DIA). It should be noted the UTP ETFs will trade at a post separate from any other type of security trading on the Exchange.

*Summary of Proposed Rule and Policy Changes*

*NYSE Rule 98*

Exchange Rule 98 provides that affiliates of a specialist organization can receive an exemption from certain rules applicable to specialists (principally impacting proprietary trading and investment banking), providing that they establish a system of information barriers between themselves and the affiliated specialist. One of the conditions for the NYSE Rule 98 exemption is that the specialist organization be capitalized separately and apart from any affiliate. The Exchange is proposing to delete this requirement in the case of a specialist organization that is registered solely in ETFs. The Exchange believes that the question of adequacy of capital can be appropriately addressed by the special allocation committee [5] in allocating the ETF. However, a specialist organization that is registered only in ETF's will remain subject to the minimum capital requirements specified in NYSE Rule 104.20.

*NYSE Rule 105*

Currently, Guideline (1) to NYSE Rule 105 prohibits affiliates of specialist units from acting as a primary market maker in the option on a specialty security. The NYSE proposes to permit an affiliate of a NYSE ETF specialist to act in any market making capacity with respect to options on an ETF as long as NYSE rule 98 information barriers are established.[6] the Exchange believes that, because ETFs are derivatively priced, the conflicts of interest with respect to market making in both the underlying security and its corresponding option are not present. The Exchange also proposes to permit an affiliate of the EFT specialist to act in a market making capacity (but not as a specialist) in the EFT itself on another market center so long as NYSE Rule 98 information barriers are established.

*NYSE Rules 36.30 and 111*

NYSE Rule 36.30 governs the establishment of telephone or electronic communications between the Exchange's trading floor and any other location.[7] The Exchange proposes to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Nancy Sanow, Assistant Director Division of Market Regulation, Commission, dated May 21, 2001 (''Amendment No. 1''). In Amendment No. 1, the NYSE amended the proposed rule text to reflect the correct wording of current NYSE Rule 36,

[4] *See* Securities Exchange Act Release No. 43658 (December 1, 2000), 65 FR 77408 (December 11, 2000).

[5] *See* Securities Exchange Act Release No. 44272 (May 5, 2001).

[6] As discussed above, the NYSE has proposed to eliminate the separate capital requirement with respect to ETF specialists. *See also* Securities Exchange Act Release No. 44175 (April 11, 2001), 66 FR 19825 (April 17, 2001).

[7] Currently, NYSE Rule 36.30 allows specialists to have telephone lines to the floor of an options or futures exchange for the purpose of entering hedging orders.

permit ETF specialists to use communication devices at the Post to enter proprietary orders in the ETF, or in component securities of the ETF and would permit the ETF specialist to obtain market information with respect to ETFs, options, futures, and component securities.

The Exchange proposes to amend NYSE Rule 111 to permit the NYSE ETF specialist to initiate an order at the post in component stocks of the ETF for hedging purposes. The Exchange believes this will put Exchange ETF specialists on an equal footing with market makers in ETFs on other market centers.

*NYSE Rule 13*

NYSE Rule 13 currently provides that stop and stop limit orders in an ETF can be elected by a bid (in the case of an order to buy) or an offer (in the case of an order to sell), provided that the specialist obtains the prior approval of a Floor Governor or two Floor Officials. The Exchange proposes to delete this prior approval requirement, because it believes that such a requirement may prove cumbersome and impractical in markets in which bids and offers are changing to reflect the relationship between ETFs and their component securities, and stop orders, which can only be elected by transactions, may receive inferior prices.

*NYSE Rules 104.20 and 104.21—Capital Requirement*

NYSE Rules 104.20 and 104.21 are proposed to be amended to provide a capital requirement of $500,000 per ETF. A specialist registered only in an ETF would be subject to the $1,000,000 minimum capital requirement of NYSE Rule 104.20. The Exchange believes at the present time that these requirements are reasonable but reserves the right to revisit these requirements in terms of actual experience.

*NYSE'S Market-On-Close/Limit-At-The-Close Policy*

The Exchange proposes that orders in ETFs will not be subject to the Exchange's Market-On-Close (''MOC'')/ Limit-At-The-Close (''LOC'') policy concerning order entry limitations, cancellation of orders during a regulatory halt, imbalance publications, and any other limitations or procedures with respect to MOC/LOC procedures. A MOC/LOC order in an ETF would be permitted to be entered at any time without regard to the limitations of the Exchange's MOC/LOC policies. In addition, the closing price of an ETF will not be subject to publication of imbalances under the Exchange's MOC/LOC policy. Furthermore, ETFs will trade until 4:15 p.m.

Similarly, the Exchange proposes that its policies regarding mandatory dissemination of pre-opening price indications (other than ITS pre-opening notifications) in the case of significant order imbalances and potentially large price dislocation from the prior close will not apply to ETFs. Both the MOC/LOC procedures and the mandatory pre-opening price indications policy are intended to solicit offsetting contra side interest to minimize price dislocation. This rationale does not apply in the case of ETFs, which will be priced in relation to the values of the underlying component securities, regardless of the extent of an order imbalance.

The Exchange will inform its members and member organizations of these proposed changes to its policies by publication of an Information Memo.

2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent with Section 6(b) of the Act [8] in general, and furthers the objectives of Section 6(b)(5) of the Act [9] in particular, because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

More specifically, the Exchange believes that trading ETFs on a UTP basis will provide investors with increased flexibility in satisfying their investment needs because they will be able to purchase and sell a security that replicates the performance of a broad portfolio of stocks at negotiated prices throughout the business day.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in the 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 has neither solicited nor received written comments on the proposed rule change.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

**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, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–2001–08 and should be submitted June 20, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–14027 Filed 6–4–01; 8:45 am]

BILLING CODE 8010–01–M

[10] 17 CFR 200.30–2(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44366; File No. SR–Phlx–2001–36]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Philadelphia Stock Exchange, Inc. To Revise the Fine Schedule for Options Floor Procedure Advices

May 29, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on May 17, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Phlx amended the proposal on May 29, 2001.[3] 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 Exchange proposes to amend the fine schedule applicable to Option Floor Procedure Advices (''Advices'') such that there would be two fine schedules: a minor fine schedule and a major fine schedule.[4] The minor fine schedule is proposed to be:

1st Occurrence—$250.00
2nd Occurence—$500.00
3rd Occurrence—$1,000.00
4th Occurrrence and Thereafter—Sanction is discretionary with Business Conduct Committee

For purposes of determining which fine schedule applies, the following Advices and portions of Advices are considered to be minor:

- A–1, Responsibility of Displaying Best Bids and Offers
- A–2, Types of Orders to be Accepted onto the Specialist's Book
- A–6, Cancel/Replacement Process
- A–7, Responsibility to Cancel
- A–12, Opening Rotations and SORT Procedures

A–13, paragraph (b), Failure to Receive Approval to Disengage Auto-X

- A–14, Equity and Index Option Opening Parameters
- B–2, Crowd Courtesy
- B–3, Trading Requirements
- B–8, Use of Floor Brokers by an ROT While on the Floor
- B–12, PHLX ROTs and Specialists Entering Orders for Execution on Other Exchanges in Multiply Traded Options
- C–1, Ascertaining the Presence of ROTs in a Trading Crowd
- C–8, Option Specialist Evaluations
- F–1, Use of Identification Letters and Numbers
- F–3, Members' Requests for Sold Sale Designation
- F–4, Orders Executed as Spreads, Straddles, Combinations or Synthetics and Other Order Ticket Marking Requirements
- F–6, Option Quote Parameters
- F–15(b)(i), Minor Infractions of Position/Exercise Limits and Hedge Exemptions
- F–23, Clerks in the Crowd
- F–24(c)(iii), Signing-on/off the Wheel
- F–25, Fingerprinting Floor Personnel
- G–1, Index Option Exercise Advice Forms

The major fine schedule is proposed to be:

1st Occurrence—$500.00
2nd Occurence—$1,000.00
3rd Occurrence—$2,000.00
4th Occurrrence and Thereafter—Sanction is discretionary with Business Conduct Committee

For purposes of determining which fine schedule applies, the following Advices or portions of the Advices are considered to be major:

- A–13, paragraph (a), Auto Execution Engagement/Disengagement Responsibility
- B–1, Responsibility to Make Markets
- B–4, Phlx ROTs Entering Orders From On-Floor and Off-Floor for Execution on the Exchange
- B–5, Agency-Principal Restrictions
- B–6, Section B, Priority Of Options Orders for Equity and Index Options by Account Type
- C–2, Clocking Tickets for Time of Entry on the Floor
- C–3, Handling Orders of Phlx ROTs and Other Registered Options Market Makers
- C–4, Floor Brokers Handling Orders for Same Firm
- C–5, ROTs Acting as Floor Brokers
- C–7(b), Responsibility to Represent Orders to the Trading Crowd
- E–1, Required Staffing of Options Floor
- F–5, Changes or Corrections to Material Terms of a Matched Trade
- F–8, Failure to Comply with an Exchange Inquiry
- F–9, Dual Affiliations
- F–11, Splitting Orders
- F–12, Responsibility for Assigning Participation
- F–13, Supervisory Procedures Relating to ITSFEA
- F–15(a) and (b)(ii), Minor Infractions of Position/Exercise Limits and Hedge Exemptions
- F–19, Clearing Agents' Responsibility for Carrying Positions in Market Maker Accounts
- F–30, Options Trading Floor Training.

The Exchange proposes that violations of Advice C–9, Floor Brokers and Clerks Trading in their Customer Accounts, be immediately referred to the Business Conduct Committee to determine the appropriate sanction.

The Exchange also proposes to change all the fine schedules that currently operate on a one-year calendar basis to a two-year calendar basis.[5] For example, a second violation of the same Advice that occurs within a 24-month period would be considered a second occurrence.

The text of the proposed rule change is available at the principal office of the Exchange and at the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* May 25, 2001 letter from Louise Corso, Vice President Director of Enforcement, Phlx, to Joseph P. Morra, Special Counsel, Division of Market Regulation, Commission (''Amendment No. 1''). In Amendment No. 1, the Phlx added language to the proposal regarding Advice B–12, PHLX ROTs and Specialists Entering Orders for Execution on Other Exchanges in Multiply Traded Options, which was inadvertently omitted in the original filing.

[4] The Phlx does not propose to make changes to advices A–11; B–6, Sections C and D; and F–2. Changes to those Advices will be made in separate rule filings. No changes have been proposed for the Advices that relate to foreign currency options: B–7, F–16, F–17, F–18, F–20, and F–21. Finally, no change is proposed for Advice F–27 because the Phlx considers it to be more akin to a fee than a fine.

[5] The following Advices are affected by the proposed change to a two-year calendar basis: A–1, A–7, A–12, A–13, A–14, B–2, B–3, B–5, B–6, C–1, C–2, C–5, C–7, C–8, E–1, F–1, F–3, F–4, F–6, F–11, F–12, F–15, F–24(c)(iii), F–25, and G–1.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Phlx proposes to amend the fine schedule applicable to Advices such that there would be two fine schedules: a minor fine schedule and a major fine schedule. The fine schedules associated with these Advices are administered pursuant to Phlx Rule 970, which codifies the Exchange's minor rule violation enforcement and reporting plan (''Plan'').[6]

This proposal would increase the fines above their current levels, delete ''warnings'' as a sanction for the first occurrence, and ease the burden of floor officials in administering fines by having only two fine schedules. For example, Advice B–6, Priority of Options Orders for Equity Options and Index Options by Account Type, misrepresenting a broker-dealer order in order to receive priority over a customer, the first violation of section B of this Advice currently only receives a warning. Under the proposal, the first violation would be subject to a fine of $500. The Phlx believes that the Advices designated as major are particularly important to the maintenance of fair and orderly markets in options on the Exchange as well as for the protection of investors and the public interest. For example, the Phlx proposes that violations of Advice B–1, Responsibility to Make Markets, be considered a major violation because the ability of customers to receive certain execution guarantees may be compromised where floor traders fail to provide the liquidity required under Advice B–1.

In addition, certain fine schedules have not been updated for a long time, or at all. For example, Advice A–1, Responsibility of Displaying Best Bids and Offers, still applies the original fine schedule from when it was first adopted.[7] The Exchange believes that the fine schedules should be updated to better reflect the severity of the violations.

Certain Advices currently do not have a fine schedule because they do not contain a finable offense.[8] These appear in the Advice handbook for ease of reference on the trading floor or merely contain explanatory (as opposed to obligatory) language. Certain other Advices require referral to the Business Conduct Committee for sanctions due to the severity of the violation.[9] For these two types of Advices, the Phlx does not propose any modifications at this time.

The Exchange also proposes to increase the time period for relating back to prior violations for all fine schedules, such that those on a one-year running calendar basis shall be increased to a two-year running calendar basis.[10] Some fine schedules operate on a three-year running calendar basis.[11] This proposed increase in the time period would subject violators to greater sanctions. The Phlx believes that imposing higher penalties for violations of an Advice which occur more than once during a two-year period is consistent with the existing framework of graduated fines and should increase the Exchange's ability to deter repeat offenders.

2. Statutory Basis

The Phlx believes the proposed rule change is consistent with Section 6 of the Act [12] in general, and furthers the objectives of Section 6(b)(5) [13] in particular, in that it is designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest because it should provide an appropriate form of deterrence for violation of certain Advices. In addition, the Phlx believes that the proposed rule change is consistent with Section 6(b)(6) of the Act [14] which requires that rules of the Exchange provide that its members be appropriately disciplined for violations of the Act as well as the rules and regulations thereunder; specifically, the proposal provides prompt, appropriate, and effective discipline for repeat violations of Advices.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Phlx does not believe that the proposed rule change would impose any inappropriate burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

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 20529–0609. 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 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

[6] Securities Exchange Act Rule 19d–1(c)(1), 17 CFR 19d–1(c)(1), requires any self-regulatory organization for which the Commission is the appropriate regulatory agency that takes any final disciplinary action with respect to any person to promptly file a notice thereof with the Commission. However, minor rule violations not exceeding $2,500 are not deemed final and therefore not subject to the same reporting requirements.

[7] *See* Securities Exchange Act Release No. 23296 (June 4, 1986) 51 FR 21430 (June 12, 1986) (SR–Phlx–86–11). *See also* Securities Exchange Act Release No. 43126 (Aug. 7, 2000), 65 FR 49621 (Aug. 14, 2000) (SR–Phlx–00–34).

[8] *See* Advices A–3, A–4, B–9, B–10, D–1, D–2, F–7, F–10, and F–22.

[9] *See* Advices A–5, A–9, A–10, B–3(b), B–11, C–7(a), C–9, F–14, F–24 (except (c)(iii)), F–28, and G–2.

[10] A ''two-year running calendar basis'' means that a violation of an Advice that occurs within two years of the first violation of that Advice will be treated as a second occurrence, and any violation of an Advice within two years of the previous violation of that Advice will be subject to the next highest fine specified in the Advice. *See* Securities exchange Act Release No. 41201 (March 22, 1999), 64 FR 15391 (March 31, 1999) (SR–Phlx–99–06). The terms ''running'' and ''rolling'' calendar basis are often used interchangeably. *See, e.g.,* Securities Exchange Act Release No. 33130 (November 2, 1993), 58 FR 59502 (November 9, 1993) (SR–Phlx–93–28).

[11] *See* Advices A–2, B–1, B–4, B–8, C–4, F–2, F–5, F–8, F–9, F–13, F–19, F–23, and F–30.

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(6).

the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–36 and should be submitted by June 26, 2001.

For the Commission, By the Division of Market Regulation, pursuant to delegated authority.[15]

**Jonathan G. Kaz,**

*Secretary.*

[FR Doc. 01–14028 Filed 6–4–01; 8:45 am]

BILLING CODE 8010–01–M

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3341, Amdt. #1]**

### State of Minnesota

In accordance with a notice received from the Federal Emergency Management Agency, dated May 29, 2001, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on March 23, 2001 and continuing through May 29, 2001. The above-numbered Declaration is also amended to include Aitkin, Big Stone, Carlton, Clay, Dakota, Kanabec, Lac qui Parle, Mille Lacs, Morrison, Mower, Norman, Olmstead, Otter Trail, Pine, Polk, Ramsey, Redwood, Renville, Rice, Sibley, Stearns, Swift, Todd, Traverse, Wilkin and Wright Counties in the State of Minnesota as disaster areas caused by flooding and severe winter storms, flooding and tornadoes occurring between March 23, 2001 and May 29, 2001.

In addition, applications for economic injury loans from small businesses located in Becker, Brown, Carver, Cass, Clearwater, Cottonwood, Crow Wing, Hennepin, Isanti, LeSueur, Mahnomen, Marshall, McLeod, Meeker, Murray, Nicollet, Pennington, Red Lake, Scott and Wadena Counties in the State of Minnesota; Mitchell and Howard Counties in the State of Iowa; Cass, Grand Forks, Richland and Traill Counties in the State of North Dakota; and Grant and Roberts Counties in the State of South Dakota may be filed until the specified date at the previously designated location. Any counties contiguous to the above named primary counties and not listed here have been previously declared.

The number assigned for economic injury in the State of North Dakota is 9L7700.

All other information remains the same, *i.e.,* the deadline for filing applications for physical damage is July 15, 2001 and for economic injury the deadline is February 15, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 30, 2001.

**James E. Rivera,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 01–14111 Filed 6–4–01; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

### National Small Business Development Center Advisory Board, Public Meeting

The U.S. Small Business Administration National Small Business Development Center Advisory Board will hold a public meeting on Sunday, June 17, 2001, from 9:00 a.m. to 5:00 p.m. PST. at the Doubletree Hotel Seattle Airport, Seattle, Washington, Cascade Room 1 to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration or others present. Anyone wishing to make an oral presentation to the Board must contact Ellen Thrasher, in writing by letter or fax no later than June 6, 2001 in order to be included on the agenda. For further information, please write or call Ellen Thrasher, Designated Federal Officer U. S. Small Business Administration, 409 Third Street, SW, Fourth Floor, Washington, DC 20416. Telephone number (202) 205–6817, FAX (202) 205–7727.

**Nancyellen Gentile,**

*Committee Management Officer.*

[FR Doc. 01–14095 Filed 6–4–01; 8:45 am]

BILLING CODE 8025–01–U

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Aviation Proceedings, Agreements Filed During the Week Ending May 25, 2001

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

*Docket Number:* OST–2001–9725.

*Date Filed:* May 21, 2001.

*Parties:* Members of the International Air Transport Association.

*Subject:* PTC31 SOUTH 0106 dated May 18, 2001. Expedited South Pacific Resolutions r1–r4. Intended effective date: August 1, 2001.

**Andrea M. Jenkins,**

*Federal Register Liaison.*

[FR Doc. 01–14100 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–62–P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending May 25, 2001

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart B (formerly subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* OST–2001–9737.

*Date Filed:* May 22, 2001.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* June 12, 2001.

*Description:* Application of Vensecar Internacional C.A. pursuant to 49 U.S.C. 41302 and 14 CFR Parts 211 and 302 (subpart B), requesting a foreign air carrier permit, authorizing it to engage in scheduled foreign air transportation of property and mail between a point or points in Venezuela, on the one hand, and Miami, Florida, on the other hand, via the Netherlands West Indies, Jamaica and Cuba, as permitted by the U.S.-Venezuela Bilateral Air Transport Services Agreement.

**Andrea M. Jenkins,**

*Federal Register Liaison.*

[FR Doc. 01–14099 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–62–P

[15] 17 CFR 200.30–3(a)(12).

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2001–42]**

### Petitions for Exemption; Summary of Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**FOR FURTHER INFORMATION CONTACT:** Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on May 31, 2001.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

### Dispositions of Petitions

*Docket No.:* FAA–2001–8805.

*Petitioner:* Executive Jet Sales, Inc.

*Section of 14 CFR Affected:* 14 CFR 145.45(f).

*Description of Relief Sought/Disposition:* To permit EJS to place and maintain its inspection procedures manual (IPM) in a number of fixed locations within its repair station facility rather than giving a copy of its IPM to each of its supervisory and inspection personnel. *Grant, 05/04/2001, Exemption No. 7530.*

*Docket No.:* FAA–2001–8811 (previously Docket No. 28884).

*Petitioner:* Aero Sky.

*Section of 14 CFR Affected:* 14 CFR 145.37(b).

*Description of Relief Sought/Disposition:* To permit Aero Sky to continue to hold an FAA repair station certificate (certificate No. KQ7R556N) without having suitable permanent housing facilities for at least one of the heaviest aircraft within the weight class of the rating it holds. *Grant, 05/10/2001, Exemption No. 6673B.*

*Docket No.:* FAA–2001–8750 (previously Docket No. 27429).

*Petitioner:* Community College of the Air Force.

*Section of 14 CFR Affected:* 14 CFR 147.31(c)(2)(iii).

*Description of Relief Sought/Disposition:* To permit U.S. Air Force aviation maintenance technicians who have completed military aviation maintenance training courses to be evaluated using the same criteria that is used for the civilian sector. *Grant, 05/03/2001, Exemption No. 6094C.*

[FR Doc. 01–14110 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Aviation Rulemaking Advisory Committee; Airport Certification Issues Meeting

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice announces a public meeting of the Federal Aviation Administration's Aviation Rulemaking Advisory Committee to discuss Airport Certification issues.

**DATES:** The meeting will be held on June 21, 2001, from 1 p.m. to 5 p.m. Arrange for presentations by June 13, 2001.

**ADDRESSES:** The meeting will be held at the Federal Aviation Administration, 800 Independence Ave. SW., room 833, Washington, DC 20591.

**FOR FURTHER INFORMATION CONTACT:** Marisa Mullen, FAA, Office of Rulemaking (ARM–205), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–7653, fax (202) 267–5075.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on June 21, 2001, from 1 p.m. to 5 p.m. at the Federal Aviation Administration, 800 Independence Ave. SW., room 813, Washington, DC 20591. The agenda will include:

1. Opening Remarks
2. Committee Administration
3. ARAC Process Briefing
4. Friction Measurement and Signing Working Group Report and ARAC Decision
5. New Task—Rescue and Firefighting Requirements Working Group
6. Future Meetings

Attendance is open to the interested public but will be limited to the space available. The FAA will arrange teleconference capability for individuals wishing to participate by teleconference if we receive notification before June 13, 2001. Arrangements to participate by teleconference can be made by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Callers outside the Washington Metropolitan area will be responsible for paying long distance charges.

The public must make arrangements by June 13, 2001, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director, or by bringing the copies to the meeting. Public statements will only be considered if time permits. In addition, sign and oral interpretation, as well as an assistive listening device, can be made available, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on May 30, 2001.

**Ben Castellano,**

*Assistant Executive Director for Airport Certification Issues, Aviation Rulemaking Advisory Committee.*

[FR Doc. 01–14108 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent to rule on Application (01–14–C–00–CHO) To Use the Revenue From A Passenger Facility Charge (PFC) at Charlottesville-Albemarle Airport, Charlottesville, Virginia

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Intent to Rule on Application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a passenger facility charge (PFC) at Charlottesville-Albemarle Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the

Federal Aviation Regulations (14 CFR part 158).

**DATES:** Comments must be received on or before July 5, 2001.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Arthur Winder, Project Manager, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 22016.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Bryan O. Elliott, Director of Aviation, of the Charlottesville-Albemarle Airport Authority at the following address: Charlottesville-Albemarle Airport, 201 Bowen Loop, Charlottesville, Virginia 22901.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Charlottesville-Albemarle Airport Authority under § 158.23 of part 158.

**FOR FURTHER INFORMATION CONTACT:** Arthur Winder, Program Manager, Wahington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 22016, (703) 661–1363. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Charlottesville-Albemarle Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 10, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by Charlottesville-Albemarle Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 15, 2001.

The following is a brief overview of the application.

*PFC Application No.:* 01–14–C–00–CHO.

*Level of the proposed PFC:* $3.00.

*Proposed charge effective date:* July 1, 2004.

*Proposed charge expiration date:* January 1, 2005.

*Total estimated PFC revenue:* $220,000.

*Brief description of proposed project(s):*

Extend Runway 3 Safety Area, Phase III (Impose & Use)

PFC Project Administration Fees (Impose & Use)

Air Carrier Terminal Refurbishment (Design) Phase II (Impose & Use)

Acquire Snow Removal Equipment Carrier Vehicle (Impose & Use)

*Class or classes of air carriers which the public agency has requested not be required to collect PFCs:* Air Taxi/Commercial Operators filing FAA Form 1800–31 and foreign air carriers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports Office located at: Federal Aviation Administration, Airports Division, AEA–610, 1 Aviation Plaza, Jamaica, NY 11434–4809.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Charlottesville-Albemarle Airport.

Issued in Dulles, Va. 22016, May 24, 2001.

**Terry J. Page,**

*Manager, Washington Airports District Office.*

[FR Doc. 01–14109 Filed 6–4–01; 8:45 am]

**BILLING CODE 4910–13–M**

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

### Environmental Impact Statement on the Central Corridor Project Located Between Minneapolis and St. Paul, Minnesota

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of Intent to prepare an environmental impact statement.

**SUMMARY:** The Federal Transit Administration (FTA) is issuing this notice to advise interested agencies and the public that, in accordance with the National Environmental Policy Act, an Environmental Impact Statement (EIS) is being prepared for the Central Corridor Transit Project located between Minneapolis and St. Paul, Minnesota.

**DATES:** One Interagency Scoping Meeting and two Public Scoping Meetings will be held on the following dates and times at the locations indicated.

*Interagency Scoping Meeting*

Tuesday, June 26, 2001, from 2:00 p.m. to 4:00 p.m., Sheraton Midway, 400 North Hamline Avenue, St. Paul, Minnesota 55104,

*Public Scoping Meetings*

Tuesday, June 26, 2001, 8:00 a.m. to 9:30 a.m., Sheraton Midway, 400 North Hamline Avenue, St. Paul, Minnesota 55104

Tuesday, June 26, 2001, 5:00 p.m. to 8:00 p.m., Lifetrack Resources Job Search Center, 709 University Avenue West, St. Paul, Minnesota 55104

Wednesday, June 27, 2001, 5:00 p.m. to 8:00 p.m., Radisson Metrodome, 615 Washington Avenue SE., Minneapolis, Minnesota 55414

**ADDRESSES:** Written comments on the scope of the analysis and impacts to be considered should be sent by July 20, 2001 to: Mr. Steve Morris, Project Manager, Ramsey County Regional Railroad Authority (RCRRA), 50 West Kellogg Boulevard, Suite 665, St. Paul, Minnesota 55102, Telephone: (651) 266–2784, Fax: (651) 266–2761, E-mail: steve.morris@co.ramsey.mn.us, TDD: 1 800 627–3529.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joel P. Ettinger, Regional Administrator, Federal Transit Administration (FTA), Region V, 200 West Adams Street, Suite 2410, Chicago, Illinois 60606, Telephone: (312) 353–2789.

**SUPPLEMENTARY INFORMATION:** The FTA (the federal lead agency for this action) in cooperation with the Ramsey County Regional Railroad Authority (RCRRA), the local lead agency, will prepare an Environmental Impact Statement (EIS) for the Central Corridor Transit Project.

### I. Scoping

The FTA and the RCRRA invite interested individuals, organizations and federal, state and local agencies to participate in: defining the options to be evaluated in the EIS; in identifying the social, economic and environmental impacts to be evaluated; and suggesting alternative options that are less costly or have fewer environmental impacts while achieving similar transportation objectives. An information packet, referred to as the Scoping Booklet is being circulated to all federal, state and local agencies having jurisdiction in the project, and all interested parties currently on the RCRRA mailing list. Other interested parties may request this Scoping Booklet by contacting Steve Morris at the address indicated above.

Three Public Scoping Meetings will be held in the study area. The first will be held from 8:00 to 9:30 a.m. on Tuesday, June 26, 2001, at the Sheraton Midway, 400 North Hamline Avenue, St. Paul, Minnesota. The second will be held from 5:00 p.m. to 8:00 p.m. on Tuesday, June 26, 2001, at the Lifetrack Resources Job Search Center, 709 University Avenue West, St. Paul, Minnesota. The third Public Scoping Meeting will be held from 5:00 p.m. to 8:00 p.m. on Wednesday, June 27, 2001,

at the Radisson Metrodome, 615 Washington Avenue Southeast, Minneapolis, Minnesota. One Interagency Scoping Meeting will be held from 2:00 p.m. to 4:00 p.m. on Tuesday, June 26, 2001, at the Sheraton Midway, 400 North Hamline Avenue, St. Paul, Minnesota. People with special needs should call Steve Morris at (651) 266–2784. The buildings are accessible to persons with disabilities.

Scoping comments may be made orally at the Public Scoping Meetings or in writing by July 20, 2001. Comments or questions should be directed to Mr. Steve Morris at the address indicated above.

## II. Description of the Study Area and Transportation Needs

The Central Corridor study area is described as the 11-mile corridor extending between Minneapolis and Saint Paul, Minnesota on the west and east, and bounded by the Burlington Northern-Santa Fe (BNSF) Northern Mainline on the north and the Canadian Pacific Railroad (CP Railway) Shortline Railroad on the south. The proposed Central Corridor would connect the central business districts of Minneapolis and St. Paul, and the University of Minnesota, and would serve the transit-dependent population located within the study area.

Throughout the last two decades, the Central Corridor has been the focus of several studies regarding the feasibility of various mass transit modes. Each of these studies has identified the Central Corridor as the region's priority corridor for mass transit investment. The current 2020 Long-Range Transportation Plan and the State Transportation Improvement Program (STIP) both include funding commitments for the Central Corridor Project.

In February 2000, the RCRRA initiated the Central Corridor Transit Study to identify the mass transit options for the Central Corridor. Preliminary phases of the study identified the purpose and need for transportation improvements in the corridor and identified and screened potential mass transit options that would meet the purpose and need. The purpose and need for transportation improvements in the study area were focused on three principal areas: economic opportunity and investment; communities and environment; and transportation and mobility. Following a multiple-phase screening process, it was determined that the potential mass transit options that would address the purpose and need for the Central Corridor included: Light Rail Transit (LRT); Busway/ Bus Rapid Transit (BRT), and Commuter Rail.

Although two commuter rail options were being considered during the preliminary phases of the Central Corridor Transit Study, the evaluation of the commuter rail options will be deferred to a separate environmental document based on regional commuter rail connections and system planning, funding and operating agency responsibility.

A public involvement program has been developed and initiated with a website, newsletters, informational meetings, and public hearings.

## III. Alternatives

The transit modes initially considered for the Central Corridor included: Bus Transit, Busway/Bus Rapid Transit, Light Rail Transit, Commuter Rail, Streetcar, Heavy Rail Transit, Monorail, Automated Guideway Transit, Personal Rapid Transit, and Magnetic Levitation. The seven route alignments initially studied were the Burlington Northern Santa Fe Northern Mainline, the Burlington Northern Santa Fe Southern Mainline, the Pierce Butler Route, University Avenue, I–94, the Canadian Pacific Rail, and the Canadian Pacific Rail West.

The transportation alternatives currently proposed for consideration for the Central Corridor Draft EIS include:

1. *No-Build Alternative*—No change to transportation services or facilities in the Central Corridor beyond already committed projects. This includes only those roadway and transit improvements defined in the appropriate agencies' Long Range Transportation Plans and Transit Development Plans for which funding has been committed.

2. *Transportation System Management (TSM) Alternative*—Low cost transportation infrastructure and bus transit improvements for the Central Corridor. Intelligent Transportation Systems (ITS), Travel Demand Management (TDM), bus operations and other TSM improvements will be included in this alternative.

3. *Busway/Bus Rapid Transit (BRT) Alternative*—A Busway/Bus Rapid Transit (BRT) line to be constructed with several station stops between downtown Minneapolis, the University of Minnesota and downtown St. Paul, primarily in exclusive guideway in the center of University Avenue. The alternative would include all facilities associated with the construction and operations of the Busway/BRT, including right-of-way, structures, and stations, as well as Busway/BRT, feeder bus and rail operating plans. The Busway/BRT alternative would also incorporate the elements of the No-Build and TSM alternatives.

4. *Light Rail Transit (LRT) Alternatives*—A Light Rail Transit (LRT) line to be constructed with several station stops between downtown Minneapolis, the University of Minnesota and downtown St. Paul, on either University Avenue or I–94. Both the University Avenue and I–94 LRT alternative would incorporate the elements of the No-Build and TSM alternatives.

The I–94 LRT Alternative would provide LRT service, primarily in barrier-separated exclusive lanes in the median of I–94. The alternative would include all facilities associated with the construction and operations of the LRT, including right-of-way, tracks, structures, and stations, as well as LRT, feeder bus and rail operating plans.

The University Avenue LRT Alternative would provide LRT service, primarily in exclusive lanes in the center of University Avenue. The alternative would include all facilities associated with the construction and operations of the LRT, including right-of-way, tracks, structures, and stations, as well as LRT, feeder bus and rail operating plans.

## IV. Probable Effects/Potential Impacts for Analysis

The FTA and the RCRRA will consider probable effects and potentially significant impacts to social, economic and environmental factors associated with the alternatives under evaluation in the EIS. Potential environmental issues to be addressed will include: Land use, historic and archaeological resources, traffic and parking, noise and vibration, environmental justice, regulatory floodway/floodplain encroachments, coordination with transportation and economic development projects, and construction impacts. Other issues to be addressed in the EIS include: natural areas, ecosystems, rare and endangered species, water resources, air/surface water and groundwater quality, energy, potentially contaminated sites, displacements and relocations, and parklands. The potential impacts will be evaluated for both the construction period and the long-term operations period of each alternative considered. In addition, the cumulative effects of the proposed project alternatives will be identified. Measures to avoid or mitigate any significant adverse impacts will be developed.

## V. FTA Procedures

In accordance the regulations and guidance established by the Council on Environmental Quality (CEQ), as well as the Code of Federal Regulations, Title 23, Part 771 (23 CFR 771) of the FHWA/FTA environmental regulations and policies, the EIS will include an analysis of the social, economic and environmental impacts of each of the alternatives selected for evaluation. The EIS will also comply with the requirements of the 1990 Clean Air Act Amendments (CAAA) and with Executive Order 12898 regarding Environmental Justice. After its publication, the Draft Environmental Impact Statement (DEIS) will be available for public and agency review and comment. Public hearings will be held on the DEIS.

The Final EIS will consider comments received during the DEIS public review and will identify the preferred alternative. Opportunity for additional public comment will be provided throughout all phases of project development.

Issued on: May 30, 2001.

**Joel P. Ettinger,**

*Region 5 Administrator, Federal Transit Administration, Chicago, Illinois.*

[FR Doc. 01–14102 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–57–P

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2001–9732]**

### Notice of Receipt of Petition for Decision That Nonconforming 1993 Ford Mustang Passenger Cars Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of receipt of petition for decision that nonconforming 1993 Ford Mustang passenger cars are eligible for importation.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1993 Ford Mustang passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

**DATES:** The closing date for comments on the petition is July 5, 2001.

**ADDRESSES:** Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 am to 5 pm.]

**FOR FURTHER INFORMATION CONTACT:** George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

**SUPPLEMENTARY INFORMATION:**

### Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (''WETL'') (Registered Importer 90–005) has petitioned NHTSA to decide whether 1993 Ford Mustang passenger cars originally manufactured for the European market are eligible for importation into the United States. The vehicles which WETL believes are substantially similar are 1993 Ford Mustang passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1993 Ford Mustang passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

WETL submitted information with its petition intended to demonstrate that non-U.S. certified 1993 Ford Mustang passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1993 Ford Mustang passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems*, 106 *Brake Hoses,* 108 *Lamps, Reflective Devices and Associated Equipment,* 109 *New Pneumatic Tires,* 111 *Rearview Mirror*, 113 *Hood Latch Systems,* 114 *Theft Protection,* 116 *Brake Fluid*, 118 *Power Window Systems*, 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components,* 207 *Seating Systems*, 208 *Occupant Crash Protection*, 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention*, 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that non-U.S. certified 1993 Ford Mustang passenger cars comply with the Bumper Standard found in 49 CFR part 581 and the Vehicle Identification Number plate requirement of 49 CFR part 565.

Petitioner also contends that the non-U.S. certified 1993 Ford Mustang passenger cars are not identical to their U.S. certified counterparts, as specified below, but still comply with the following Standard in the manner indicated:

Standard No. 101 *Controls and Displays*: the speedometer indicates both kilometers per hour and mile per hour. The odometer indicates kilometers and is labeled as such. The brake warning indicator meets the requirements.

Petitioner further contends that the vehicles are capable of being readily

altered to meet the following standards, in the manner indicated:

Standard No. 110 *Tire Selection and Rims*: installation of a tire information placard.

The petitioner also states that a certification label must be affixed to the driver's side door jamb to meet the requirements of 49 CFR part 567.

Additionally, the petitioner states that all vehicles will be inspected prior to importation to ensure that they are equipped with U.S.-model anti-theft devices, and that all vehicle that are not so equipped will be modified to comply with the Theft Prevention Standard at 49 CFR part 541.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 29, 2001.

**Marilynne Jacobs,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 01–14101 Filed 6–4–01; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

May 25, 2001.

The Department of the 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 5, 2001 to be assured of consideration.

**Financial Management Service (FMS)**

*OMB Number:* 1510–0059.

*Form Number:* SF 5510.

*Type of Review:* Extension.

*Title:* Authorization Agreement for Preauthorized Payment.

*Description:* Preauthorized payment is used by remitters (individuals and corporations) to authorize electronic funds transfers from the bank accounts maintained at financial institutions for government agencies to collect monies.

*Respondents:* Business or other for-profit, individuals or households, Federal Government.

*Estimated Number of Respondents:* 100,000.

*Estimated Burden Hours Per Respondent:* 15 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 25,000 hours.

*Clearance Officer:* Juanita Holder, Financial Management Service, 3700 East West Highway, Room 144, PGP II, Hyattsville, MD 20782.

*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. 01–14113 Filed 6–4–01; 8:45 am]

BILLING CODE 4810–35–P

## DEPARTMENT OF THE TREASURY

### Customs Service

**[T.D. 01–42]**

### Customs Accreditation of Robinson International (USA) Incorporated as a Commercial Laboratory

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Notice of Accreditation of Robinson International (USA) Inc. of Houston, Texas, as a Commercial Laboratory.

**SUMMARY:** Robinson International (USA) Inc. of Houston, Texas, has applied to U.S. Customs under Part 151.12 of the Customs Regulations for accreditation as a commercial laboratory to analyze petroleum product under Chapter 27 and Chapter 29 of the Harmonized Tariff Schedule of the United States (HTSUS). Customs has determined that this company meets all of the requirements for accreditation as a commercial laboratory. Specifically, Robinson International (USA) Inc. has been granted accreditation to perform the following tests methods only: (1) API Gravity by Hydrometer, ASTM D287; (2) Percent by Weight of Sulfur by X-Ray Fluorescence, ASTM D4294; (3) Sediment in Crude Oils and Fuel Oils by Extraction, ASTM D473; (4) Water in Crude Oil by Distillation, ASTM D4006. Therefore, in accordance with Part 151.12 of the Customs Regulations, Robinson International (USA) Inc. of Houston, Texas, is hereby accredited to analyze the products named above.

*Location:* Robinson International (USA) Inc. accredited site is located at: 4500 South Wayside Drive, #101, Houston, Texas, 77207.

**EFFECTIVE DATE:** June 1, 2001.

**FOR FURTHER INFORMATION CONTACT:** Michael Parker, National Quality Manager, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Suite 1500 North, Washington, DC 20229, (202) 927–1060.

Dated: May 30, 2001.

**Ira S. Reese,**

*Executive Director, Laboratories and Scientific Services.*

[FR Doc. 01–14060 Filed 6–4–01; 8:45 am]

BILLING CODE 4820–02–P

## DEPARTMENT OF THE TREASURY

### Customs Service

### Announcement of a National Customs Automation Program Test: The International Trade Data System (ITDS)

**AGENCY:** Customs Service, Treasury.

**ACTION:** General notice.

**SUMMARY:** This document announces Customs plan to conduct a pilot test of the International Trade Data System (ITDS), an interagency system designed to enable various federal trade agencies to share a standard set of data in order to effect the more efficient electronic release of goods, conveyances, and crews. The pilot will be conducted for trucks only at the port of Buffalo, New York. Under the pilot, a participant will submit relevant information to ITDS to effect an importation, and ITDS will transmit certain elements of this information to pertinent agencies for processing the importation. This document explains the ITDS system, invites public comments concerning any aspect of the pilot, informs interested members of the public of the eligibility requirements for voluntary participation

in the pilot, and describes the procedures to be followed under the pilot program.

**DATES:** The pilot will commence at the port of Buffalo no sooner than June 18, 2001, first at the Peace Bridge location and 30 days later at the Lewiston Bridge location. It will run for 15 months and may be extended. Applications to participate in the pilot may be submitted throughout its duration. Written comments concerning this notice, including eligibility standards and information submission, must be received on or before July 5, 2001.

**ADDRESSES:** Written comments regarding this notice and applications for voluntary participation in the pilot should be addressed to Janet Pence, Chief, Client Representative Branch, Office of Information and Technology, 7501 Boston Boulevard, Springfield, VA 22153. Application forms will be available on the Internet at *www.itds.treas.gov/register*

**FOR FURTHER INFORMATION CONTACT:** Concerning information regarding the test program and the application process: Janet Pence at (703) 921–7500. Additional information concerning ITDS can be obtained on the Internet at *www.itds.treas.gov*

**SUPPLEMENTARY INFORMATION:**

## Background

Title VI of the North American Free Trade Agreement Implementation Act (the Act), Public Law 103–182, 107 Stat. 2057 (December 8, 1993), contains provisions pertaining to Customs Modernization (107 Stat. 2170). Subtitle B of Title VI establishes the National Customs Automation Program (NCAP), an automated and electronic system for the processing of commercial importations. Section 101.9(b) of the Customs Regulations (19 CFR 101.9(b)) provides for the testing of NCAP components (see T.D. 95–21). This pilot test is established pursuant to those regulations.

The International Trade Data System (ITDS) is a federal government information technology initiative (Initiative IT06) of the National Performance Review. The goal of the initiative is to implement an integrated government-wide system for the electronic collection, use, and dissemination of international trade data. The ITDS was chartered in September of 1995 under then-Vice President Gore's memorandum, ''Implementing the International Trade Data System'' (September 15, 1995), and was reaffirmed in the Government Information Technology Services Board report, ''Access America: Reengineering Through Information Technology'' (February 1997).

Initially, a special project office for the ITDS system was established under the Secretary of the Treasury. On November 17, 1999, the ITDS office and its functions and support were transferred to the Customs Service where it is now part of the Office of Information and Technology. A multi-agency board of directors, currently chaired by a representative of the U.S. International Trade Commission, guides the ITDS project.

When fully developed, the ITDS system will facilitate information processing for businesses and the over 65 federal agencies involved in international trade. While Customs current automated processing system, the Automated Commercial System (ACS), is designed to accommodate the needs of some federal agencies, ITDS will be designed to accommodate all agencies that need international trade data, including those agencies not serviced by the current ACS system.

When importing or exporting, trade participants (traders) are required to submit information to appropriate trade agencies to enable agencies to determine, for example, the legal admissibility of imported merchandise, the duty applicable to imported merchandise, the safe or unsafe condition of a truck intended to be used on U.S. highways, or whether food products are safe for consumption. Currently, traders are required to provide this information to each individual trade agency using a variety of different automated systems, a multitude of paper forms, or a combination of systems and forms. The United Nations Conference on Trade and Development (UNCTAD) has estimated that submission of redundant information and preparation of documentation is equal to 4–6% of the cost of the merchandise.

With ITDS, traders will submit standard electronic data for imports or exports only once to ITDS. Then, ITDS will distribute this standard data to the pertinent federal agencies that have an interest in the transaction for their selectivity and risk assessment. The ITDS will provide each agency only information that is relevant to its mission. Thus, the ITDS system will serve as a government data collection and distribution facility, a ''single window'' system through which information necessary to trade transactions can flow efficiently from traders to agencies. By using this single window, traders will be relieved of the burden of submitting the same information to multiple federal agencies. The ITDS system will support the processes of multiple agencies, including data collection, processing, use, dissemination, and storage. Ultimately, ITDS will become the central data collection system for all federal agencies that, by law, require international trade data. As such, it will be the single, most convenient point for accessing that data.

In addition to assisting federal government agencies in the processing of import and export transactions, ITDS will provide the framework to collect information on behalf of those agencies and will enable Customs to more effectively assist them in enforcing laws and regulations relating to international trade and transportation.

Development of ITDS will be coordinated with the development of the Customs Automated Commercial Environment (ACE), the broader Customs Modernization effort, and the current and future requirements of other agencies' processing systems. Trade data will flow to and from ACE through ITDS.

### *I. The ITDS Pilot*

A pilot test (hereafter, pilot) involving individual federal agencies is an important part of the ITDS design and implementation plan. The pilot will be the first in a series of initiatives to develop a fully integrated, comprehensive trade data processing system. The pilot will test an infrastructure of hardware and software architecture to demonstrate ITDS as a viable system for the collection and dissemination of commercial trade data in a fully electronic environment.

The agencies participating in the ITDS pilot are: The U.S. Customs Service, the Immigration and Naturalization Service (INS), the Food and Drug Administration (FDA), and the Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA).

The initial focus of the pilot will be on adapting to existing government and trade systems. Because the ITDS system will interface with these existing systems, the full ITDS standard data-set will not be used. The pilot will provide the necessary software infrastructure to allow the government and the trade to migrate toward use of the standard data-set as ITDS is further developed. Essentially, the pilot will test the ability of traders and motor carriers to provide the required data and the ability of the government to effectively share this data among several federal trade agencies and to integrate the results of the agencies' processing.

Following the pilot, ITDS will move forward through various phases of implementation designed to:

—Reduce the cost and burden of processing international trade transactions for both the private trade community and the government;
—Provide the trade with a standard data set and a single system for import, export, and transit procedures relative to the goods involved and the transportation employed (conveyances and crew);
—Improve compliance with government trade requirements (*e.g.,* public health and safety rules, export controls, etc.); and
—Provide users with access to more accurate, thorough, and timely international trade data.

*II. The ITDS Pilot Process*

For merchandise that is processed through the ITDS pilot, both the importer (or its customs broker) who files the ITDS pilot entry and the carrier transporting the merchandise (or its authorized agent) who files the ITDS pilot manifest must be participants in the ITDS pilot. (Note that there is one exception to the importer or its broker filing an electronic ITDS pilot entry: where in-bond merchandise is processed through ITDS, the manifest is filed under ordinary ITDS procedures, but the entry in the form of a paper CF 7512 is filed at the secondary inspection station by the carrier or the importer's broker.) At this point, the only carriers that may participate are truckers transporting merchandise between Canada and the United States through the Peace Bridge or the Lewiston Bridge. A high degree of coordination will be required between the participating manifest filers and entry filers.

Electronic filing is required for participation. Accordingly, manifest filers must have access to the Internet in order to submit the required web-based manifest (see ''Manifest filing'' below) and entry filers must be operational participants in the Automated Broker Interface (ABI) program (see 19 CFR Part 143, Subpart A). Entry filers also must develop the technical capacity to batch and address ITDS pilot entries and related transactions separately from non-pilot ABI transactions. ITDS entry filers will need to develop mechanisms to identify truckloads to be cleared under ITDS pilot procedures.

Normally, the ITDS pilot manifest (filed by the carrier or its authorized agent) and the ITDS pilot entry (normally filed by the importer or its customs broker) must be filed electronically prior to arrival (at the Peace Bridge or the Lewiston Bridge, in accordance with this pilot) of any truck carrying merchandise being entered under the ITDS procedure. (Note again the exception for filing in-bond entries at the secondary inspection station.) By accepting both the pilot manifest and the pilot entry prior to arrival of a truck, the ITDS system will allow government agencies to analyze admissibility and enforcement actions before the merchandise arrives.

While the electronic filings of the pilot manifest and entry will be accepted in any sequence, both filings must be received at least 30 minutes prior to arrival of the carrier in order to permit government systems to perform the necessary pre-arrival processing. For merchandise subject to FDA regulations, while it is preferred that entry data be submitted twenty-four hours before arrival, entry data must be submitted at least six hours before arrival.

It is noted that, except under the NCAP Prototype (see the notice published in the **Federal Register** (63 FR 44949) on August 21, 1998, concerning NCAP Prototype operations), trucking companies do not currently provide electronic manifest data to Customs. Electronic filing of the manifest is vital to this pilot because the manifest includes data required by Customs, FMCSA, and INS, in addition to the transportation data required to link the arrival of a truck to the carrier-assigned pro-bill numbers of the merchandise aboard the truck. The pro-bill numbers, in turn, link the manifest to the entries for the shipments aboard the truck. Carriers can be assured that the ITDS will provide a secure method of sending this information via the Internet.

The Peace Bridge is equipped with transponder reading capability in accordance with Interagency Group (IAG) specifications. This equipment can read the permanently programmed serial number transmitted from a truck transponder that triggers port processing. The Lewiston Bridge does not have this capability and uses bar code technology instead. Accordingly, trucks operating with transponders which cross only the Peace Bridge may not need a carrier trip number bar code for ITDS processing, but all trucks transporting under ITDS procedures via the Lewiston Bridge must provide a carrier trip number in bar code format to the Customs Inspector in the primary inspection booth. It is recommended, however, that all transponder-equipped trucks, except those not likely to use the Lewiston Bridge, should carry a carrier trip number bar code in addition to the transponder.

Manifest Filing

The carrier, or an authorized agent of the carrier filing for the carrier, must file the manifest using an ITDS web-form that is available on the Internet. A sample of this form is available on the Internet at *www.itds.treas.gov.* The Internet web site will also provide filing, arrival, examination, and release status information for each participating filer's recently filed manifests.

All shipments of merchandise aboard the truck must be eligible for processing under the pilot. Merchandise eligible for ITDS pilot processing is merchandise that will be entered by consumption entry or in-bond entry. All merchandise aboard the truck must be reported in the manifest and entered under ITDS pilot procedures. Shipments for clearance under 19 U.S.C. 1321 (section 321 of the Tariff Act of 1930, as amended; hereafter, section 321)) will require country of origin and value reporting and an eligibility claim by the entry filer. (Under section 321, merchandise having minimal value can be entered free of duty or tax where the amount of revenue collected would be disproportionate to the expense and inconvenience to the Government in collecting it.) Shipments for processing under in-bond procedures may be included, but will always require manual paper processing (CF 7512— in-bond entry) at the secondary inspection station. No merchandise transported in an ITDS pilot truckload may be cleared under Border Release Advanced Security and Selectivity (BRASS) procedures.

The data elements of the ITDS pilot manifest include trip-level information and standard shipment information, as follows:

(A) Trip-level information, as follows, is reported once in the manifest (unless otherwise indicated below):

—Carrier trip number (carrier's Standard Carrier Alpha Code* (SCAC), followed by a carrier-assigned number);
—Conveyance transponder number (optional; must be reported if the truck will use a transponder for arrival processing);
—Carrier number (DUNS number**);
—Manifest filer number (DUNS number**);
—Conveyance identification—selected from list of pre-identified conveyances (for information on pre-identification of conveyances, please refer to the ''Application'' section below);
—Trailer-equipment identification (container or license plate number and, if applicable, seal number; these

data elements may be repeated for tandems and containers on trailers);
—Gross shipping weight (in kilograms);
—Hazardous material indicator (Yes or No) and code (if Yes);
—Driver identification—selected from list of pre-identified drivers (for more information on pre-identification of drivers, please refer to the ''Application'' section below); and
—Crewmember/Passenger numbers—selected from list of pre-identified crewmembers and passengers (for information on pre-identification of crewmembers, please refer to the ''Application'' section below).

(B) Standard shipment information is required for each shipment of merchandise aboard the truck:
—Pro-bill issuer (SCAC);
—Pro-bill number;
—Shipper number (DUNS number or name and address);
—Deliver-to party (DUNS number or name and address);
—Entry filer (ACS filer code; optional);
—In-bond status indicator (optional);
—Shipping quantity/type of packages; and
—Description of cargo.

[* The SCAC is a unique code assigned by the National Motor Freight Traffic Association, Inc. (NMFTA), to transportation companies for identification purposes. Carriers that do not already have a SCAC may obtain one from NMFTA, 2200 Mill Rd., Alexandria, VA 22314–4654. Further information and an application form are available at . Annual fees apply.

** DUNS numbers are identifiers issued by DUN & Bradstreet free of charge. In order to obtain one, ITDS participants may call 800–333–0505 or go to . Prior to requesting a DUNS number, participants should first verify that their company does not already have a DUNS number assigned. Many companies may already have such numbers for other than international trade purposes.]

Until the truck arrives at the international border, the manifest Internet web form may be used to add, amend, replace or, if the truck is not to be processed under ITDS, delete a manifest. The ITDS system will keep an audit file to record in chronological order all changes made to manifest information. Each transaction will be edited and validated on-line. A particular conveyance transponder number will be accepted in a manifest only if all previous manifests on file with the same conveyance transponder number are in ''arrived'' status. Error-free manifests will be stored on the ITDS transaction database. Manifests containing errors will be returned for correction.

Entry Filing

For each shipment of merchandise reported in an ITDS pilot manifest, an entry must be filed, as follows: (1) Consumption entries must be filed electronically prior to arrival of the cargo at the international border (the port of Buffalo under the pilot) using ITDS procedures and (2) in-bond entries must be filed in paper format (CF 7512) at the secondary inspection station upon arrival at the port. ITDS consumption entries must be filed by the importer of record or a customs broker on behalf of the importer of record. In-bond entries may be filed by either the carrier, the importer, or the importer's broker at the port.

For ITDS consumption entries, entry data will be transmitted to ITDS using current ABI data formats. (Full details of the data for these records can be found in the Customs and Trade Automated Interface Requirements (CATAIR) available on the Internet at www.customs.gov/impoexpo/auto—cat.htm.) Specifically, either an ABI Cargo Selectivity transaction (application ''HI'') or an ABI Border Cargo Selectivity transaction (application ''HN'') must be transmitted to ITDS. Pro-bill numbers transmitted in entry data will serve to link the entry with the appropriate manifest.

If an ABI Cargo Selectivity transaction (application ''HI'') is transmitted, it must include at least one ''HA'' record. An ''HA'' record reports the pro-bill of a shipment covered by the entry. Specifically, in the ''HA'' record, the SCAC code of the issuer of the pro-bill will be reported in the ''Issuer Code of Master Bill number'' field, and the pro-bill number will be reported in the ''Master Bill number'' field.

If an ABI Border Cargo Selectivity transaction (application ''HN'') is transmitted, it must include at least one ''0M'' (zero-M) record. A ''0M'' record reports the pro-bill of a shipment covered by the entry. Specifically, in the ''0M'' record, the SCAC code of the issuer of the pro-bill will be reported in the ''Issuer of Master Bill Number'' field, and the pro-bill number will be reported in the ''Master Bill number'' field.

When FDA data are required for cargo release processing, data satisfying that agency's requirements will be reported in ABI formats as currently accepted by ACS. These data will be incorporated in the ABI Cargo Selectivity or Border Cargo Selectivity transaction.

Note that no modifications to current ABI records are required. However, ITDS pilot entries and related transactions (*i.e.*, ABI entry status queries (applications ''II'' and ''IN'') and other government agency corrections (application ''CP'') for ITDS pilot entries) must be batched and addressed separately from non-pilot ABI data. Current ABI data communications protocols will be supported.

Where a shipment is eligible for clearance under section 321, the entry filer may certify the shipment's eligibility under the statute. This may be accomplished by submitting an ABI section 321 eligibility claim (a new ABI application for use only under the ITDS pilot). These claims must be addressed to the same specially assigned ABI message queue as are other ITDS pilot ABI data and include the following information:
—Entry filer number (ACS filer code);
—Pro-bill issuer (SCAC);
—Pro-bill number;
—Section 321 eligibility claim;
—Country of origin; and
—Value of the shipment in U.S. dollars.

The ITDS pilot system will not accept entry changes after arrival of cargo at the international border. Before arrival of the cargo, the ITDS pilot system will apply the same rules as ACS in permitting filers to make entry data changes. If changes are made, ITDS will keep an audit file to record them in chronological order. ITDS entries will be edited and validated. All current ABI edit and validation rules, including those for FDA and NHTSA data, will apply. The ITDS pilot system will also perform additional FDA edits not currently performed by ABI. Standard ABI formats (application ''HR'' for Cargo Selectivity, application ''HS'' for Border Cargo Selectivity, application ''DT'' for other government agency data rejections, and the new ABI application for section 321 eligibility claims) will be used to return acceptance and rejection messages to the filer of the entry. Error-free pilot entries will be stored on the ITDS transaction database. Pilot entries containing errors will be rejected for correction.

Where merchandise is to be processed under in-bond procedures, the manifest filer may so indicate by submitting an in-bond status indicator for that merchandise. As above, processing of in-bond merchandise will always require manual paper processing (CF 7512—in-bond entry) at the secondary inspection station at the border port.

Risk Assessment

The ITDS pilot system will pass pertinent manifest and entry data to the appropriate participating agencies for

automated risk assessment. Only information relevant to the agency's mission will be passed. Based on the information received, a participating agency may place a hold to prevent release of the truck at the primary inspection booth.

Agency risk assessment procedures begin immediately upon receipt of the ITDS pilot manifest, as follows:

1. Customs will perform a risk assessment using complete manifest data. Based on this information, Customs may place a hold on the driver, one or more crewmembers, the conveyance, or one or more shipments.

2. The FMCSA will perform risk assessment using data identifying the driver, carrier, and conveyance. Based on this information, FMCSA may place a hold on the driver or the conveyance.

3. The INS will perform risk assessment using data identifying the driver and crewmembers. Based on this information, INS may place a hold on the driver or one or more crewmembers.

Agency risk assessment procedures begin immediately upon receipt of the ITDS pilot entry (other than an in-bond entry), as follows:

1. The ITDS pilot system will pass complete entry data to ACS. An ACS entry record will be created, and ACS cargo selectivity screening will be performed. As a result of the screening, Customs may place a hold on the merchandise covered by the entry.

2. For commodities subject to FDA regulation, an extract of the entry data and all reported FDA data will be passed to the FDA OASIS system for risk assessment. FDA may place a hold on the merchandise covered by the entry. (Note that submission of entry data with FDA elements is preferred twenty-four hours before arrival and is, in any event, required at least six hours before arrival.)

The ITDS pilot system will link each manifest with corresponding entries and consolidate the results of the participating agencies' risk assessments. However, no agency's risk assessment results will be communicated to manifest or entry filers prior to arrival of the truck at the primary inspection booth.

Arrival Processing at the Port

At the Peace Bridge, arrival processing will normally begin when a truck's transponder interacts with the dedicated short-range radio communications reader at the primary inspection booth. Upon reading the permanently programmed transponder number, the ITDS system will initiate arrival processing. At the Lewiston Bridge, or at the Peace Bridge if a truck is not equipped with transponders, the truck driver will present a carrier trip number in bar code format to the Customs Inspector in the primary inspection booth. By electronically scanning the bar code, the Customs Inspector will initiate ITDS arrival processing. The ITDS manifest facility on the Internet will provide a means for printing carrier trip number bar codes.

Data will be considered incomplete upon arrival of the truck if the manifest has not been accepted or the entry has not been accepted for one of the shipments reported in an accepted manifest. If data is incomplete, or if the manifest includes one or more in-bond shipments, the primary Customs Inspector will refer the truck to the secondary inspection station. In these cases, the truckload will be processed under standard, non-pilot release procedures.

If data is complete upon arrival of the truck and the manifest includes no in-bond shipments (*i.e.*, the manifest and entry has been accepted for each reported shipment), the ITDS pilot processing will proceed. The ITDS pilot system will accept no further changes to manifest or entry data associated with the trip after ITDS arrival processing has been initiated. The ITDS system will retrieve the corresponding manifest, all associated entry data, and the agencies' risk assessment results and display these records to the primary Customs Inspector.

The primary Customs Inspector will review the risk assessment results. If no agency risk assessment has resulted in a hold, the primary Customs Inspector generally will release the truck and its shipments at the primary inspection booth. The primary Customs Inspector may, however, initiate a hold and direct the truck to the secondary inspection station. No paper forms will be required for primary inspection processing, such as a paper manifest, entry, invoice, or other paperwork (except the carrier trip number bar code for trucks without transponders).

If any agency's risk assessment has resulted in a hold, the primary Customs Inspector will direct the truck to the secondary inspection station. During the pilot, there will be motor carrier safety inspectors stationed at the Peace Bridge and Lewiston Bridge to ensure that drivers and vehicles comply with U.S. commercial vehicle safety requirements. If a truck is referred to the secondary inspection station, standard paper entry documents and invoices for all entries will be required for Customs and FDA processing.

Following release of cargo from either the primary inspection booth or the secondary examination station, the ITDS pilot system will update the appropriate ACS entry records with the release date. Entry summary reporting, payment, and all other post-entry processing will be accomplished under existing procedures.

## III. Eligibility Criteria

In order to participate in the ITDS pilot, manifest filers (carriers or their agents) must have access to the Internet in order to submit the required web-based manifest. ITDS trucks, drivers, and crewmembers must be identified in advance.

Entry filers (customs brokers and importers) who wish to participate in the ITDS pilot must be participants in Customs ABI system. They must also develop the technical capacity to batch and address ITDS pilot entries and related transactions separately from non-pilot ABI transactions. In order to ensure proper filing, ITDS pilot entry filers will need to develop mechanisms to identify truckloads to be cleared under ITDS pilot procedures. A high degree of coordination will be required between participating manifest filers and entry filers.

In general, approval for participation in the ITDS pilot will be granted to all applicants who meet the requirements above and provide all required application information. It is noted that both the importer (or its customs broker) who files the ITDS pilot entry and the carrier (or its agent) who files the pilot manifest must be participants in the ITDS pilot to effect an entry of merchandise through ITDS pilot procedures.

## IV. Application

Both manifest filers and entry filers who wish to participate in this pilot must submit an application. Applications may be mailed to: Janet Pence, Chief, Client Representative Branch, Office of Information & Technology, 7501 Boston Blvd., Springfield, VA 22153. Application forms will be available on the Internet at *www.itds.treas.gov/register*.

Applications submitted by manifest filers (carriers and their agents) must state that the applicant wishes to voluntarily participate in the ITDS pilot and must address the eligibility criteria outlined above. The application must also include the following information:

—Name and address of the manifest filer;
—Point of contact name, e-mail address, and telephone number;
—Alternate point of contact name, e-mail address, and telephone number;

—DUNS number of the manifest filer; and
—For each carrier for whom manifests will be filed:
  —Name and address of the carrier;
  —DUNS number of the carrier;
  —SCAC of the carrier;
  —U.S. DOT number and type (CA, MX, or US) of the carrier (if available);
—For each conveyance that the carrier expects to use for transportation of ITDS pilot truckloads across international borders:
  —Vehicle identification number (VIN);
  —Country, state/province, and number of primary registration license plate;
  —Default transponder number (if available);
—For each crewmember that the carrier expects to employ for transportation of ITDS pilot truckloads across the international border:
  —IRS registration number (if known);
  —Given name;
  —If applicable, middle name and/or maternal name;
  —Paternal name;
  —Name suffix;
  —Date of birth;
  —Country of citizenship; and
  —For each driving crewmember:
  —Country, state/province, and number of commercial driver license.

Manifest filers will be required to provide the same information for new conveyances and crewmembers that are added throughout the course of the pilot. Internet web forms will be provided for submission of these updates.

Applications submitted by entry filers (customs brokers and importers) who wish to participate in this pilot must state that the applicant wishes to voluntarily participate in the ITDS pilot and must address the eligibility criteria outlined above. The application must also include the following information:

—Name and address of the entry filer;
—Point of contact name, e-mail address, and telephone number;
—Alternate point of contact name, e-mail address, and telephone number; and
—ACS filer code of the entry filer.

Customs will inform applicants, in writing or by e:mail, of their selection or non-selection for participation in the pilot. The notice will provide reasons for non-selection. An applicant may re-apply by resubmitting an application that addresses and resolves the reason(s) given for non-selection.

## V. Misconduct

If a pilot participant makes late or inadequate submissions of manifest and/or entry data, or fails to exercise reasonable care in the execution of participant obligations and the filing of information regarding the admissibility of merchandise and declaring the classification, value, and rate of duty applicable to the merchandise, or otherwise fails to follow the procedures (outlined in this document) or applicable laws and regulations (save those suspended under the pilot), then the participant may be suspended or removed from the pilot program and/or subjected to penalties, liquidated damages, or other administrative sanctions. Customs has the discretion to suspend or remove a pilot participant based on the determination that an unacceptable compliance risk exists. This action may be invoked at any time after acceptance in the pilot.

Any decision proposing suspension or removal of a participant may be appealed in writing to Eugene A. Rosengarden, U.S. International Trade Commission, 500 E. St., SW., Washington, DC 20436, within 15 days of the decision date. Such proposed suspension/removal will apprise the participant of the facts or conduct warranting suspension. If no appeal is filed within 15 days, the decision proposing suspension or removal is final, and the participant may no longer continue with ITDS processing as of that date. If an appeal is filed, the participant may continue with ITDS processing until a decision on the appeal is made. In the case of willfulness or where public health interests or safety are concerned, the suspension/removal may be effective immediately. Should the participant appeal the notice of suspension or removal, the participant should address the facts or conduct charges contained in the notice and state how he does or will achieve compliance. If a participant is assessed with a penalty, liquidated damages, etc., normal procedures apply to contest those actions.

## VI. Regulatory Provisions Suspended

Under § 101.9(b) of the Customs Regulations (19 CFR 101.9(b)), for purposes of conducting a test program or procedure (referred to in this document as a pilot) to evaluate planned components of the NCAP (as described in 19 U.S.C. 1411(a)(2)(G)), the Commissioner of Customs may impose requirements different from those specified in the regulations, provided that the departure does not affect collection of the revenue, public health or safety, or law enforcement. These different requirements imposed under a test may require more or less information than required under the regulations.

Ordinarily, merchandise that qualifies for treatment under section 321 is subject to the requirements of § 143.23(j), which pertains to the informal entry of shipments of merchandise not exceeding $200. Among these are the requirements to file a bill of lading or a manifest listing each bill of lading (§ 143.23(j)) and to submit the name and address of the ultimate consignee (§ 143.23(j)(3)). ITDS participants file a manifest under ITDS procedures that meets the requirements of the regulation, but ITDS procedures do not require the submission of the ultimate consignee name and address. Rather, the DUNS number or name and address of the deliver-to party is provided in the manifest. Thus, for purposes of the ITDS pilot, Customs is suspending the requirement of § 143.23(j)(3).

Also, some information beyond what is required in § 123.4 concerning inward foreign manifests is requested under the pilot. To the extent that the pilot exceeds the finite requirements of § 123.4, Customs is suspending this limitation of the regulation.

## VII. Pilot Evaluation

Customs, the FDA, the INS, the FMCSA, and participants in the pilot will meet to: (1) Review all public comments received relative to any aspect of the pilot program or procedures, (2) form problem solving teams, and (3) establish baseline measures and evaluation methods and criteria. Based on Customs analysis, Customs may amend pilot procedures as necessary. One year after the implementation of the pilot, evaluation results will be published in the **Federal Register** and the Customs Bulletin.

Evaluation criteria for participating government agencies may include workload impact, policy and procedural accommodation, cost benefit, and compliance impact. Criteria for trade participants may include cost benefit, system efficiency, operational efficiency, and other elements identified by the trade community. Evaluation will also encompass the data elements required for federal trade agency processing, including the availability of data, the need for the data, the time when data must be submitted, alternative methods of archiving and retrieving repetitive data, and continued efforts to eliminate redundant data. The data elements listed in this document are for the pilot. The evaluation of the

pilot may result in changes to this data set. There will be ongoing sessions with the trade community and the participating agencies in the evaluation of this data.

Note that the fact of participation in the ITDS pilot is not confidential information. Lists of participants will be made available to the public by means of the Customs Electronic Bulletin Board, the Customs Administrative Message System, and upon written request. All interested parties are invited to comment on the design, conduct, and evaluation of the ITDS pilot at any time during the prototype.

Dated: May 31, 2001.

**Bonni G. Tischler,**

*Assistant Commissioner, Office of Field Operations.*

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## DEPARTMENT OF VETERANS AFFAIRS

### Privacy Act of 1974; System of Records

**AGENCY:** Department of Veterans Affairs (VA).

**ACTION:** Notice of amendment to system of records ''Ionizing Radiation Registry—VA''.

**SUMMARY:** As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veterans Affairs (VA) is amending and renumbering the system of records known as ''Ionizing Radiation Registry—VA'' (69VA114) as set forth in the **Federal Register** 56 FR 26186 dated 6/6/1991. VA is amending the system by including Purpose and amending the System Number; Categories of Individuals Covered by the System; Categories of Records in the System; Authority for Maintenance of the System; and Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System, including Storage, Retrievability and Safeguards. Other sections remain unchanged (i.e., record source categories.) VA is republishing the system notice in its entirety at this time.

**DATES:** Comments on the amendment of this system of records must be received no later than July 5, 2001. If no public comment is received, the amended system will become effective July 5, 2001.

**ADDRESSES:** Written comments concerning the proposed amended system of records may be submitted to the Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Veterans Health Administration (VHA) Privacy Act Officer (193B3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (727) 320–1839.

**SUPPLEMENTARY INFORMATION:** The number of the system is changed from VA (69VA114) to VA (69VA131) to reflect organizational changes. The number of individuals covered by this system has been increased to include veterans who have received nasopharyngeal (NP) radium treatments during active military, naval or air service and received registry examinations as authorized by Public Law 105–368. This system will continue to include data collected for veterans who may have been exposed to a radiation-risk activity, as authorized by Public Law 99–576, under the following conditions:

a. On site participation in a test involving the atmospheric detonation of a nuclear weapon, between 1945 and 1962, whether or not the testing nation was the United States.

b. Participation in the occupation of Hiroshima or Nagasaki from August 6, 1945, through July 1, 1946; or

c. Internment as a Prisoner-of-War in Japan during World War II that the Secretary of Veterans Affairs determines resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans involved in the occupation of Hiroshima or Nagasaki, and who

(1) Apply for hospital or nursing home care under Title 38, U.S.C., Chapter 17;

(2) File a claim for compensation under Title 38 U.S.C., Chapter 11; or

(3) Dies and is survived by a spouse, child, or parent who files a claim for dependency and indemnity compensation under Title 38 U.S.C., Chapter 13.

In addition to the categories of records maintained in the Ionizing Radiation Registry (IRR) system, physicians' names and titles are included but may not be retrievable. Outdated information related to the estimate of the radiation doses to which the veterans are exposed while on active military duty has been deleted from these records.

The System Manager(s) and addresses have been changed from the Director, Environmental Agents Service (146A) to Program Chief for Clinical Matters, Office of Public Health and Environmental Hazards (13) and Management/Program Analyst, Environmental Agents Service (131), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

These IRR records may have several identifiers—Department of Defense data are identified by military service number and only 25 percent are identified by social security numbers.

The IRR program located at the Austin Automation Center (AAC), Austin, Texas, is an automated integrated system containing demographic and medical data of registry examinations from 1981 through the current date. These data were entered manually on code sheets by VA facility staff and hard copies sent to the AAC for entry into the IRR data set. The IRR system of records located at VA Headquarters, Washington, DC, is an optical disk system containing images of paper records, i.e., code sheets, medical records, correspondence and questionnaires relating to the veterans exposed to ionizing radiation. Once these paper records are scanned on optical disks, they are disposed of in accordance with RCS–10.1.

The purpose of this IRR system of records is to provide information about veterans who have had an IRR examination at a VA facility, to assist in generating hypotheses for research studies, provide management with the capability to track patient demographics, reported birth defects among veteran's children or grandchildren and radiogenic related diseases and planning and delivery of health care services and associated costs.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: May 21, 2001.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

**69VA131**

**SYSTEM NAME:**

Ionizing Radiation Registry-VA.

**SYSTEM LOCATION:**

Character-based data from Ionizing Radiation Code Sheets are maintained in a registry data set at the Austin Automation Center, 1615 Woodward Street, Austin, Texas 78772. Since the data set at the Austin Automation Center (AAC) is not all-inclusive, i.e., narratives, signatures, etc., noted on the code sheets are not entered into this system, images of the code sheets are maintained at the Department of Veterans Affairs, Environmental Agents Service (131), 810 Vermont Avenue, NW, Washington, DC 20420. These are electronic images of paper records, i.e., code sheets, medical records, questionnaires and correspondence that are stored on optical disks.

**CATEGORIES OF INDIVIDUALS COVERED BY THIS SYSTEM:**

Veterans who may have been exposed to ionizing radiation while on active military duty and have had an Ionizing Radiation Registry (IRR) examination at a Department of Veterans Affairs (VA) medical facility under conditions described in Title 38 United States Code (U.S.C.) section 1710(e)(1)(B) and section 1710(e)(1)(B) and section 1720E. These conditions include:

1. On-site participation in a test involving the atmospheric detonation of a nuclear device (between 1945 and 1962), at a nuclear device testing site—the Pacific Island, e.g., Bikini, New Mexico, Nevada, etc. (whether or not the testing nation was the United States);

2. participation in the occupation of Hiroshima or Nagasaki, Japan, from August 6, 1945, through July 1, 1946;

3. internment as a POW in Japan during World War II which the Secretary of Veterans Affairs determines resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans involved in the occupation of Hiroshima or Nagasaki, Japan; and

(a) Veterans who apply for hospital or nursing home care under Title 38 United States Code, Chapter 17;

(b) Files a claim for compensation under Title 38 United States Code, Chapter 11; or

(c) Dies and is survived by a spouse, child, or parent who files a claim for dependency and indemnity compensation under Title 38 United States Code, Chapter 3;

4. Treatment with nasopharyngeal (NP) radium irradiation while in the active military, naval or air service.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

These records consist of: Code sheet records containing VA facility code identifier where veteran was examined or treated; veteran's name; address; social security number; military service serial number; claim number; date of birth; telephone number; sex; report of birth defects among veteran's children or grandchildren; dates of medical examinations; consultations; radiogenic related diseases; and name and signature of examiner/physician coordinator.

In addition, there may be medical records with information relating to the examination and/or treatment, including laboratory findings on vision, hearing, blood tests, electrocardiograms, chest x-rays, urinalysis, laboratory report displays, medical certificates to support diagnosis; progress notes; military unit assignments; questionnaires; and correspondence relating to veteran's exposure history; personal history, e.g., education, marital status, occupational history, family history, complaints/symptoms; personal medical history, habits, recreation, reproductive and family history, physical measurements; military discharge records; and VA claims for compensation.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Title 38, United States Code (U.S.C.) sec. 1710(e)(1)(B) and sec. 1710(e)(1)(B) and sec. 1720E.

**PURPOSE(S):**

The records will be used for the purpose of providing information about veterans who have had an IRR examination at a VA facility; assisting in generating hypotheses for research studies; providing management with the capability to track patient demographics, reported birth defects among veterans' children or grandchildren and radiogenic related diseases; and planning and delivery of health care services and associated costs.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of, and at the written request of, that individual.

2. Disclosure of records covered by this system, as deemed necessary and proper to named individuals serving as accredited service organization representatives and other individuals named as approved agents or attorneys for a documented purposes and period of time, to aid beneficiaries in the preparation and presentation of their cases during the verification and/or due process procedures and in the presentation and prosecution of claims under laws administered by the Department of Veterans Affairs.

3. A record containing the name(s) and address(es) of present or former members of the armed services and/or their dependents may be released from this system of records under certain circumstances:

(a) To any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, and

(b) To any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a standing written request that such name(s) or address(es) be provided for a purpose authorized by law; provided, further, that the record(s) will not be used for any purpose other than that stated in the request and that the organization, agency or instrumentality is aware of the penalty provision of 38 U.S.C. 3301(f).

4. Disclosure may be made to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of Title 44 U.S.C.

5. Disclosure of information, excluding name and address (unless name and address is furnished by the requestor) for research purposes determined to be necessary and proper, to epidemiological and other research facilities approved by the Under Secretary for Health.

6. In order to conduct Federal research necessary to accomplish a statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(es) of present or former personnel or the Armed Services and/or their dependents may be disclosed.

(a) To a Federal department or agency or

(b) Directly to a contractor of a Federal department or agency. When a disclosure of this information is to be made directly to the contractor, VA may impose applicable conditions on the department, agency, and/or contractor to insure the appropriateness of the disclosure to the contractor.

7. Any information in this system may be disclosed to a Federal grand jury, a Federal court or a party in litigation, or a Federal agency or party to an administrative proceeding being conducted by a Federal agency, in order

for VA to respond to and comply with the issuance of a Federal subpoena.

8. Any information in this system may be disclosed to a State or municipal grand jury, a State or municipal court or a party in a litigation, or to a State or municipal administrative agency functioning in a quasi-judicial capacity or a party to a proceeding being conducted by such agency, in order for VA to respond to and comply with the issuance of a State or municipal subpoena; provided, that any disclosure or claimant information made under this routine use must comply with the provisions of 38 CFR 1.511.

9. In the event that a record maintained by VA to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, information may be disclosed 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 or rule, regulation or order issued pursuant thereto.

10. For program review purposes and the seeking of accreditation and/or certification, disclosure may be made to survey teams of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), College of American Pathologists, American Association of Blood Banks, and similar national accreditation agencies or boards with whom VA has a contract or agreement to conduct such reviews but only to the extent that the information is necessary and relevant to the review.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:**

Electronic data are maintained on Direct Access Storage Devices at the AAC, Austin, Texas, and on optical disks at VA Headquarters, Washington, DC. AAC stores registry tapes for disaster back up at an off-site location. VA Headquarters also have back-up optical disks stored off-site. In addition to electronic data, registry reports are maintained on paper documents and microfiche. Records will be maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

**RETRIEVABILITY:**

Documents are retrieved by name of veteran, social security number and service serial number.

**SAFEGUARDS:**

Access to records at VA Headquarters is only authorized to VA personnel on a ''need to know'' basis. Records are maintained in manned rooms during working hours. During non-working hours, there is limited access to the building with visitor control by security personnel. Registry data maintained at the AAC can only be updated by authorized AAC personnel. Read access to the data is granted through a telecommunications network to authorized VA Headquarters personnel. AAC reports are also accessible through a telecommunications network on a read-only basis to the owner (VA facility) of the data. Access is limited to authorized employees by individually unique access codes which are changed periodically. Physical access to the AAC is generally restricted to AAC staff, VA Headquarters employees, custodial personnel, Federal Protective Service and authorized operational personnel through electronic locking devices. All other persons gaining access to the computer rooms are escorted. Backup records stored off-site for both the AAC and VA Headquarters are safeguarded in secured storage areas.

**RETENTION AND DISPOSAL:**

Records will be maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

**SYSTEM MANAGER(S) AND ADDRESS:**

Program Chief for Clinical Matters, Office of Public Health and Environmental Hazards (13) (for clinical issues) and Management/Program Analyst, Environmental Agents Service (131) (for administrative issues,) VA Headquarters, 810 Vermont Avenue, NW, Washington, DC 20420.

**NOTIFICATION PROCEDURE:**

An individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to determine the contents of such record, should submit a written request or apply in person to the last VA facility where medical care was provided or submit a written request to the Program Chief for Clinical Matters, Office of Public Health and Environmental Hazards (13) or the Management/ Program Analyst, Environmental Agents Service (131), VA Headquarters, 810 Vermont Avenue, NW, Washington, DC 20420. Inquiries should include the veteran's name, social security number, service serial number, and return address.

**RECORD ACCESS PROCEDURES:**

An individual who seeks access to records maintained under his or her name may write or visit the nearest VA facility or write to the Program Chief for Clinical Matters, Office of Public Health and Environmental Hazards (13) or the Management/Program Analyst, Environmental Agents Service (131), VA Headquarters, 810 Vermont Avenue, NW., Washington, DC 20420.

**CONTESTING RECORDS PROCEDURES:**

Refer to previous item ''Record Access Procedures.''

**RECORD SOURCE CATEGORIES:**

VA patient medical records, various automated record systems providing clinical and managerial support to VA health care facilities, the veteran, family members, and records from Veterans Benefits Administration, Department of Defense, Department of the Army, Department of the Air Force, Department of the Navy and other Federal agencies.

[FR Doc. 01–14131 Filed 6–4–01; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Tuesday,
June 5, 2001

# Part II

# Department of Housing and Urban Development

## Request or Comments on Obstacles to the Participation of Faith-Based and Other Community Organizations; Notice

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4685–N–01]**

## Notice of Request for Comments on Obstacles to the Participation of Faith-Based and Other Community Organizations

**AGENCY:** Office of the Secretary; Center for Faith-Based and Community Initiatives, HUD.

**ACTION:** Notice of request for comments.

**SUMMARY:** This notice invites interested parties to comment on regulatory, contracting and other programmatic obstacles to the participation of faith-based and other community organizations in HUD's grant funding programs.

**DATES:** *Comment Due Date:* July 5, 2001.

**ADDRESSES:** Interested persons are invited to submit comments regarding this Notice to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

**FOR FURTHER INFORMATION CONTACT:** Loyd LaMois, Center for Faith-Based and Community Initiatives, Room 10286, 451 Seventh Street, SW., Washington, DC 20410–2000. Telephone number (202) 708–2404. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708–0455. (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:** Executive Order 13198, entitled ''Agency Responsibilities With Respect to Faith-Based and Community Initiatives'' and issued on January 29, 2001, requires, among other actions, certain Executive Departments, including HUD, to inventory current programs in order to identify any existing or perceived impediments ''to the participation of faith-based and other community organizations in the delivery of social services by the department, including but not limited to regulations, rules, orders, procurement, and other internal policies and practices, and outreach activities that either facially discriminate against or otherwise discourage or disadvantage the participation of faith-based and other community organizations in Federal programs.'' To assist in carrying out this action, HUD is requesting comments that identify specific issues with HUD programs that in any way discourage or inhibit participation of faith-based and community-based groups. Examples might include burdensome application, documentation or reporting requirements, or requirements for a mandatory organizational structure (*e.g.,* 501(c)(3) status). HUD will consider the comments received in conducting its review to determine whether any regulations or procedures may discriminate against religious or local groups' participation in HUD programs.

Under this notice, HUD is requesting that commenters specifically focus on the following programs:

Community Development Block Grant
HOME
Housing Vouchers, including HOPE VI
HOPE VI Revitalization Grants
Sec. 202 (elderly housing)
Sec. 811 (housing for people with disabilities)
Continuum of Care, 3 programs
Supportive Housing
Shelter Plus Care
Sec. 8 Mod. Rehab (SRO)
Housing for Persons Living with AIDS (HOPWA)
Family Self-Sufficiency
Single-family programs entailing HUD approval of nonprofits
Housing counseling
HUD homes (REO disposition)
203 mortgage insurance program
YouthBuild

For each of these funding programs, HUD especially wants comments to address the following questions:

1. Are there restrictive conditions that constrict the participation of faith-based and community-based organizations?

2. How are restrictions manifested or applied (specifically identify the provision which you believe creates the restrictive condition and explain how it prevents participation by Faith-Based and community-based organizations. Also if possible give a specific example):

a. In Departmental regulations;

b. In the eligibility criteria in Notices of Funding Availability (NOFAs);

c. In Requests for Proposals (RFPs);

d. In grant monitoring;

e. In guidance the Department gives its State and local government partners;

f. In contract or grant manuals; and

g. In guidance to grant managers?

3. Are any information collection, submission or monitoring requirements duplicative or unduly burdensome?

In addition, HUD requests that commenters identify any positive program practices or procedures that presently facilitate, or that would increase, the participation of faith-based and other community organizations.

Comments not covered by the above specific interest areas are welcome.

HUD seeks specific information, *e.g.*, the name of the program, the form, etc., where the impediment or the positive practice is found. It will also be helpful if respondents indicate whether they have ever applied (successfully or unsuccessfully) for the program, or otherwise been involved with the program(s).

For comments on the CDBG or HOME programs and the Continuum of Care process, it will help if the comment identifies the jurisdiction that administered the program, *i.e.*, the relevant State, county or municipal government.

HUD also requests that the comments provide the name, size, and location of the nonprofit, faith-based, or other organization submitting the comments, and identify a contact person to permit HUD to follow-up on the concerns and issues raised.

Dated: May 29, 2001.

**Robin McDonald,**

*Director, Center for Faith-Based and Community Initiatives.*

[FR Doc. 01–14021 Filed 6–4–01; 8:45 am]

BILLING CODE 4210–32–P

Federal Register

Tuesday,
June 5, 2001

# Part III

# Department of Housing and Urban Development

**24 CFR Part 206**

**Home Equity Conversion Mortgage (HECM) Program; Insurance for Mortgages To Refinance Existing HECMs; Proposed Rule**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Part 206**

**[Docket No. FR–4667–P–01]**

**RIN 2502–AH63**

## Home Equity Conversion Mortgage (HECM) Program; Insurance for Mortgages To Refinance Existing HECMs

**AGENCY:** Office of Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend HUD's regulations for the Home Equity Conversion Mortgage (HECM) Program to implement the recent amendments made by section 201(a) of the American Homeownership and Economic Opportunity Act of 2000. The HECM Program enables older homeowners to withdraw some of the equity in their home in the form of payments for life, a fixed term, or at intervals through a line of credit. Section 201(a) authorizes HUD to offer mortgage insurance for refinancing of existing HECMs, and provides consumer safeguards for such refinancings.

**DATES:** *Comments Due Date:* July 5, 2001.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

**FOR FURTHER INFORMATION CONTACT:** Vance T. Morris, Director, Office of Single Family Program Development, Office of Insured Single Family Housing, Room 9266, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000; telephone (202) 708–2121 (this is not a toll-free number). Hearing-or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Home Equity Conversion Mortgage (HECM) Program helps homeowners 62 years of age or older, who have paid off their mortgages or have small mortgage balances, to stay in their homes while using some of their equity. The program enables these homeowners to get financing with a Federal Housing Administration (FHA) insured reverse mortgage—a mortgage that converts equity into income. The FHA insures HECM loans to protect lenders against loss. Such a loss could occur if amounts withdrawn exceed equity when the property is sold. The statutory authority for the HECM Program is section 255 of the National Housing Act (12 U.S.C. 1715z–20) (the NHA). HUD's implementing regulations are located at 24 CFR part 206 (entitled ''Home Equity Conversion Mortgage Insurance''). More information on the HECM Program can be found at HUD's website at www.hud.gov/buying/reverse.cfm.

Section 201 of the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106–569, 114 Stat. 2944, 2948, approved December 27, 2000) makes several changes to the HECM Program. Among other amendments, section 201(a) adds a new section 255(k) to the NHA (the existing subsection (k), concerning funding for counseling and consumer education, was redesignated as subsection (m)). New section 255(k) authorizes FHA to offer mortgage insurance for refinancing existing HECMs, and establishes several requirements concerning such refinancings for the protection of homeowners and to expedite the refinancing process. For example, the statute establishes an ''anti-churning'' disclosure requirement for HECM refinancings, and authorizes the waiver of the HECM counseling requirements under certain circumstances. Expedited procedures for refinancing will enable elderly homeowners to quickly take advantage of declining interest rates and increasing home prices in particular areas.

In addition to the statutory changes concerning HECM refinancings, section 201 also made amendments to the HECM Program regarding housing cooperatives (section 201(b)) and the waiver of up-front premiums for mortgages to fund long-term care insurance (section 201(c)). These statutory changes are not implemented by this proposed rule, but may be the subject of future HUD rulemaking.

### II. This Proposed Rule

*A. General*

This proposed rule would implement new section 255(k) of the NHA. Specifically, the proposed rule would create a new § 206.53, which contains the requirements applicable for a refinanced HECM to be eligible for mortgage insurance. Section 206.53 would provide that HUD may, upon application by a mortgagee, insure any mortgage (that meets the HECM Program requirements) given to refinance an existing HECM. Except as otherwise provided in § 206.53, all of the requirements in 24 CFR part 206 would apply to HECM refinancings.

*B. Anti-Churning Disclosure*

New section 255(k)(2) of the NHA establishes an ''anti-churning'' disclosure requirement, which is designed to ensure that homeowners are made aware of the costs associated with a HECM refinancing. The anti-churning disclosure must be provided to borrowers in addition to the disclosures already required under § 206.43 of the existing HECM regulations.

The proposed rule would implement the anti-churning disclosure requirement in paragraph (c) of § 206.53. New § 206.53(c) would require that the mortgagee provide to the mortgagor, in addition to the other required disclosures for the HECM Program, a good faith estimate of:

1. The total cost of the refinancing to the mortgagor (the proposed rule defines the term ''total cost of the refinancing'' to mean the sum of the allowable charges and fees permitted under § 206.31 and the initial mortgage insurance premium (MIP) described in § 206.105(a)); and

2. The increase in the mortgagor's principal limit as measured by the estimated initial principal limit on the mortgage to be insured less the current principal limit on the HECM that is being refinanced. (The term ''principal limit'' is defined at § 206.3 of the existing HECM regulations and is not being changed by this proposed rule.)

New section 255(k)(2) of the NHA requires that HUD, through regulation, establish ''an appropriate time period'' for submission of the anti-churning disclosure. The proposed rule would implement this statutory directive by adopting the timing requirements applicable to the Good Faith Estimate required under the Real Estate Settlement Procedures Act (RESPA). The RESPA Good Faith Estimate is a required disclosure under the HECM Program (see § 206.43(a)). By conforming the timing of the new anti-churning disclosure to the existing RESPA disclosure, the proposed rule will minimize the administrative burden imposed on lenders, and help to

ensure that borrowers are provided with all required disclosures at a single time.

*C. Waiver of Counseling Requirement*

1. *General.* Because HECM borrowers can be vulnerable to fraudulent or predatory lending abuses, the HECM Program requires that a mortgagor receive reverse mortgage housing counseling from a HUD-approved housing counseling agency as a condition for obtaining HECM financing (see § 206.41). However, the mortgagor who is refinancing a HECM would previously have received the required counseling when obtaining FHA insured mortgage financing for the initial HECM. Accordingly, new section 255(k)(3) of the NHA provides that such mortgagors may elect to forego housing counseling if certain requirements are satisfied. The new statute establishes three conditions that must be met in order to waive the housing counseling requirement:

a. The mortgagor has received the anti-churning disclosure;

b. The increase in the mortgagor's principal limit (as described in the anti-churning disclosure) exceeds the total cost of the refinancing by an amount established by HUD; and

c. The time between the closing on the original HECM and the application for refinancing does not exceed 5 years.

2. *Second condition for waiver of the housing counseling requirement.* HUD proposes that the second condition for a waiver be satisfied if the increase in the mortgagor's principal limit exceeds five times the total cost of the refinancing. Housing counseling is an important component of HUD's efforts to protect borrowers participating in the HECM Program from predatory lending abuses. While no one set of abusive practices or terms characterizes a predatory mortgage loan, such loans frequently contain excessive, often hidden, fees. In establishing the amount required for the second waiver criterion, HUD has attempted to assure that mortgagors who may be subject to such predatory fees receive housing counseling. At the same time, HUD is cognizant of the statutory intent to waive a potentially duplicative requirement for HECM mortgagors who wish to refinance and who have already received counseling. Accordingly, HUD proposes to establish a high threshold for waiver of the housing counseling requirement. HUD believes that a refinanced HECM with an increase in the principal limit that does not exceed the proposed threshold is more likely to contain the excessive fees that frequently characterize predatory loans.

The amount necessary to satisfy the second condition for a waiver would not be specified in the regulatory text. This amount may need to be updated on a periodic basis due to changes in the available financial data, or changes in the housing market. Codification of the threshold amount would require that HUD use rulemaking procedures each time the amount is revised. Rulemaking is a potentially lengthy process that may delay HUD's ability to quickly update this figure in response to rapidly changing circumstances. Accordingly, HUD proposes to announce any changes to the second waiver criterion through **Federal Register** notice. In order to provide HECM program participants with sufficient time to adjust to any such change, HUD will delay the effective date of the revision for a period of not less than 30-days following publication in the **Federal Register** notice. After consideration of the public comments on this proposed rule, HUD will announce the initial threshold amount in the preamble to the final rule.

3. *Third condition for waiver of the housing counseling requirement.* With regards to the third condition for waiver of the counseling requirement, HUD notes that the statutory language refers to the ''original'' HECM that is to be refinanced. Accordingly, a refinancing mortgagor would be required to receive housing counseling if more than 5 years have passed since closing on the mortgagor's first HECM, regardless of whether less than 5 years have passed since a previous refinancing.

*D. Limit on Origination Fee*

New section 255(k)(6) of the NHA permits HUD to ''establish a limit on the origination fee that may be charged to a mortgagor'' for a HECM refinancing. HUD proposes to adopt the existing limit on HECM origination fees for purposes of HECM refinancings. Specifically, the origination fee on a refinanced HECM would be limited to the greater of $2,000 or two percent of the maximum claim amount on the refinanced reverse mortgage (see HUD Mortgagee Letter 00–10, issued on March 8, 2000). Although this proposed rule would adopt the existing HECM origination fee limits for HECM refinancings, different limits may be established for ''original'' HECMs and refinanced HECMs at a later date. As with the current origination fee limits for the HECM Program, the limits for HECM refinancings would not be specified in the regulatory text.

The proposed rule would also revise § 206.31(a)(1) of the existing HECM regulations (which concerns origination fees) to clarify that the origination fee may be fully financed with the mortgage. Further, any origination fee limit shall include any fees paid to correspondent mortgagees approved by the Secretary. HUD also proposes to adopt a new process for revising the origination fee limits for the HECM Program (this procedure would apply to both HECM financing and refinancings). Specifically, HUD will announce any changes to the origination fee limits through publication of a **Federal Register** notice. Further, in order to provide program participants with sufficient time to adjust to any such change, HUD will delay the effective date of the revision for a period of not less than 30-days following publication in the **Federal Register**.

*E. Reduction of Up-Front HECM Mortgage Insurance Premium*

For a refinancing mortgage, new section 255(k)(4) of the NHA authorizes HUD to reduce the amount of the initial MIP otherwise collected on a HECM (equal to 2 percent of the maximum claim amount—see § 206.105(a)). Section 255(k)(4) requires that any such reduction be based on the results of a statutorily mandated actuarial study to determine the adequacy of the insurance premiums collected for HECM refinancings. Further, the statute requires that HUD conduct the actuarial study no later than 180 days after enactment of the American Homeownership and Economic Opportunity Act of 2000. The required actuarial study is currently under development. As provided by the statute, HUD may, based on the findings of the study, determine that a reduction in the initial MIP for HECM refinancings is appropriate. HUD will implement any such reduction through a proposed rule and will provide the public with an opportunity to comment on the proposed MIP reduction.

## III. Justification for Reduced Comment Period

It is the general practice of the Department to provide a 60-day public comment period on all proposed rules. The Department, however, is reducing its usual 60-day public comment period to 30 days for this proposed rule. Section 201(a)(2) of the American Homeownership and Economic Opportunity Act of 2000 requires that HUD's final regulations implementing new section 255(k) of the NHA take effect no later than 180 days after enactment. The reduced 30 day comment period is necessary to help ensure that the final rule is effective by the statutory deadline date, and to provide sufficient time for compliance with all applicable rulemaking requirements (such as the statutory 15-

day prepublication Congressional review requirements and the 30-day delayed effective date requirements of section 7(o) of the Department of HUD Act (42 U.S.C. 3535(d)).

## IV. Findings and Certifications

*Regulatory Planning and Review*

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review.* OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

*Information Collection Requirements*

The information collection requirements contained in § 206.53(c) have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

The burden of the information collections in this proposed rule is estimated as follows:

REPORTING AND RECORDKEEPING BURDEN

| Section reference | Number of parties | Number of responses per respondent | Estimated average time for requirement (in hours) | Estimated annual burden (in hours) |
|---|---|---|---|---|
| 206.53(c) anti-churning disclosure | 4,000 | 1 | .5 | 2,000 |

*Total Reporting and Recordkeeping Burden:* 2,000 hours.

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Comments must be received within sixty (60) days from the date of this proposal. Comments must refer to the proposal by name and docket number (FR–4667) and must be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and Ethelene Washington, Reports Liaison Officer, Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development, 451 7th Street, SW., Room 9114, Washington, DC 20410.

*Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This proposed rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

*Environmental Impact*

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). The Finding of No Significant Impact is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

*Impact on Small Entities*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (the RFA), has reviewed and approved this proposed rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows.

The proposed regulatory amendments are not discretionary, but are mandated by statute. These amendments authorizes FHA mortgage insurance for HECM refinancings, and provide consumer safeguards for such refinancings. The amendments would impose minimal, if any, economic costs on small lenders and other participants in the HECM Program. For example, the origination fee limits that would be established under this proposed rule for HECM refinancings do not impose any economic burden on lenders (the same fee limits are already applicable original financing under the HECM Program). The anti-churning disclosure (although a new information collection requirement) also does not add new costs or impose additional economic burdens on lenders.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

*Executive Order 13132, Federalism*

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

*Catalog of Domestic Assistance Number*

The Catalog of Domestic Assistance Number for the HECM program is 14.871.

**List of Subjects in 24 CFR Part 206**

Aged, Condominiums, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR part 206 as follows:

## PART 206—HOME EQUITY CONVERSION MORTGAGE INSURANCE

1. The authority citation for 24 CFR part 206 continues to read as follows:

**Authority:** 12 U.S.C. 1715b, 1715z–1720; 42 U.S.C. 3535(d).

2. Revise § 206.31(a)(1) to read as follows:

### § 206.31 Allowable charges and fees.

(a) * * *

(1) A charge to compensate the mortgagee for expenses incurred in originating and closing the mortgage loan, which may be fully financed with the mortgage. The Secretary may establish limitations on the amount of any such charge. Any limitation on the origination fee shall include any fees paid to correspondent mortgagees approved by the Secretary. HUD will publish any such limit in the **Federal Register** at least 30-days before the limitation takes effect.

* * * * *

3. Add § 206.53 under a new undesignated heading ''REFINANCING OF EXISTING HOME EQUITY CONVERSION MORTGAGES'' to read as follows:

### § 206.53 Refinancings.

(a) *General.* This section implements section 255(k) of NHA. Except as otherwise provided in this section, all requirements applicable to the insurance of home equity conversion mortgages under this part apply to the insurance of refinancings under this section. HUD may, upon application by a mortgagee, insure any mortgage given to refinance an existing home equity conversion mortgage presently insured under this part.

(b) *Definition of ''total cost of the refinancing.''* For purposes of paragraphs (c) and (d) of this section, the term ''total cost of the refinancing'' means the sum of the allowable charges and fees permitted under § 206.31 and the initial MIP described in § 206.105(a).

(c) *Anti-churning disclosure.* (1) *Contents of anti-churning disclosure.* In addition to the disclosures required under § 206.43, the mortgagee shall provide to the mortgagor a good faith estimate of:

(i) The total cost of the refinancing to the mortgagor; and

(ii) The increase in the mortgagor's principal limit as measured by the estimated initial principal limit on the mortgage to be insured less the current principal limit on the home equity conversion mortgage that is being refinanced under this section.

(2) *Timing of anti-churning disclosure.* The mortgagee shall provide the anti-churning disclosure concurrently with the Good Faith Estimate required under § 3500.7 of this title.

(d) *Waiver of counseling requirement.* The mortgagor may elect not to receive counseling under § 206.41, but only if:

(1) The mortgagor has received the anti-churning disclosure required under paragraph (c) of this section.

(2) The increase in the mortgagor's principal limit (as provided in the anti-churning disclosure) exceeds the total cost of the refinancing by an amount established by the Secretary through **Federal Register** notice. HUD may periodically update this amount through publication of a notice in the **Federal Register**. Publication of any such revised amount will occur at least 30-days before the revision becomes effective.

(3) The time between the date of the closing on the original home equity conversion mortgage and the date of the application for refinancing under this section does not exceed 5 years (even if less than five years have passed since a previous refinancing under this section).

Dated: April 19, 2001.

**Mel Martinez,**

*Secretary.*

[FR Doc. 01–14120 Filed 6–4–01; 8:45 am]

BILLING CODE 4210–27–P

Federal Register

Tuesday,
June 5, 2001

# Part IV

# The President

## Executive Order 13215—President's Information Technology Advisory Committee, Further Amendment to Executive Order 13035, as Amended

Federal Register
Vol. 66, No. 108
Tuesday, June 5, 2001

# Presidential Documents

**Title 3—**

## The President

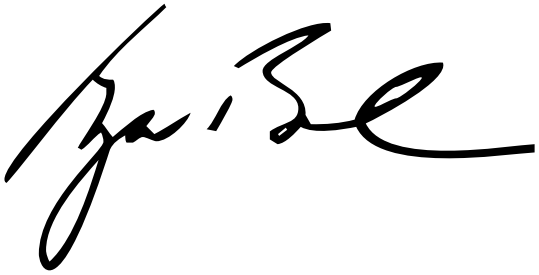
**Executive Order 13215 of May 31, 2001**

## President's Information Technology Advisory Committee, Further Amendment to Executive Order 13035, as Amended

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the High-Performance Computing Act of 1991 (Public Law 102–194), as amended by the Next Generation Internet Research Act of 1998 (Public Law 105–305), and in order to extend the life of the President's Information Technology Advisory Committee so that it may continue to carry out its responsibilities, it is hereby ordered that Executive Order 13035 of February 11, 1997, as amended by Executive Orders 13092, 13113, and 13200 (Executive Order 13035, as amended), is further amended as follows:

**Section 1.** Section 1 of Executive Order 13035, as amended, is further amended by deleting the last sentence and inserting in lieu thereof: ''Members appointed prior to June 1, 2001, shall serve until December 1, 2001, unless reappointed by the President. Members appointed or reappointed on or after June 1, 2001, shall serve for no more than 2 years from the date of their appointment, unless their period of service is extended by the President. The President shall designate two co-chairs from among the members of the Committee. A co-chair may serve for a term of 2 years or until the end of his or her service as a member of the Committee, whichever is the shorter period.''

**Sec. 2.** Section 4(b) of Executive Order 13035, as amended, is further amended by deleting ''June 1, 2001,'' and inserting in lieu thereof: ''June 1, 2003.''



THE WHITE HOUSE,
*May 31, 2001.*

[FR Doc. 01–14319
Filed 6–4–01; 8:45 am]
Billing code 3195–01–P

# Reader Aids

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## 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. 581/P.L. 107–13**

To authorize the Secretary of the Interior and the Secretary of Agriculture to use funds appropriated for wildland fire management in the Department of the Interior and Related Agencies Appropriations Act, 2001, to reimburse the United States Fish and Wildlife Service and the National Marine Fisheries Service to facilitate the interagency cooperation required under the Endangered Species Act of 1973 in connection with wildland fire management. (June 3, 2001; 115 Stat. 24)

**Last List June 1, 2001**

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