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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 924

[Docket No. FV01–924–1 IFR]

Fresh Prunes Grown in Designated Counties in Washington and Umatilla County, OR; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule decreases the assessment rate established for the Washington-Oregon Fresh Prune Marketing Committee (Committee) for the 2001–2002 and subsequent fiscal periods from $1.50 to $1.00 per ton of fresh prunes handled. The Committee locally administers the marketing order which regulates the handling of fresh prunes grown in designated counties in Washington and Umatilla County, Oregon. Authorization to assess fresh prune handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began April 1 and ends March 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: August 14, 2001. Comments received by October 12, 2001 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; Fax (202) 720–8938; or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: http://www.ams.usda.gov/fv/moab.html.

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 924, as amended (7 CFR part 924), regulating the handling of fresh prunes grown in designated counties in Washington and Umatilla County, Oregon, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

This rule decreases the assessment rate established for the Committee for the 2001–2002 and subsequent fiscal periods from $1.50 to $1.00 per ton of fresh prunes handled.

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

For the 1999–2000 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on June 5, 2001, and unanimously recommended 2001–2002 expenditures of $7,804 and an assessment rate of $1.00 per ton of fresh

prunes handled. In comparison, last year's budgeted expenditures were $7,803. The assessment rate of $1.00 is $0.50 lower than the rate currently in effect. At the rate of $1.50 per ton and an estimated 2001–2002 fresh prune production of 4,850 tons, the projected reserve on March 31, 2002, would exceed the maximum level authorized by the order (approximately one fiscal period's operational expenses). The reserve currently is $9,047.

The major expenditures recommended by the Committee for the 2001–2002 fiscal period include $3,461 for salaries, $1,000 for travel, $528 for rent and maintenance, and $475 for its annual audit. Budgeted expenses for these items in 2000–2001 were $3,360, $1,000, $528, and $475, respectively.

The assessment rate recommended by the Committee was derived for the purpose of reducing the operating reserve to a level consistent with the order. As mentioned earlier, fresh prune shipments for the year are estimated at 4,850 tons which should provide $4,850 in assessment income. This income, along with approximately $2,954 from the Committee's authorized reserve, will be adequate to cover the Committee's budgeted expenses of $7,804. With the decreased assessment rate, the current reserve of $9,047 would be reduced by as much as $2,945, thus leaving a balance of about $6,102 at the end of the 2001–2002 fiscal period. The order permits an operating reserve in an amount not to exceed approximately one fiscal period's operational expenses (§ 924.42).

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

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2001–2002 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 60 producers of fresh prunes in the production area and approximately 12 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on Committee records, all of the Washington-Oregon fresh prune handlers ship under $5,000,000 worth of fresh prunes. In addition, based on production and producer prices reported by the National Agricultural Statistics Service, and the total number of Washington-Oregon fresh prune producers, the average annual producer revenue is approximately $18,000, excluding receipts from other sources. In view of the foregoing, it can be concluded that the majority of Washington-Oregon fresh prune producers and handlers may be classified as small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2001–2002 and subsequent fiscal periods from $1.50 to $1.00 per ton of fresh prunes handled. The Committee unanimously recommended 2001–2002 expenditures of $7,804 and an assessment rate of $1.00 per ton of fresh prunes handled. The assessment rate of $1.00 is $0.50 lower than the rate currently in effect. The quantity of assessable fresh prunes for the 2001–2002 fiscal period is estimated at 4,850 tons. Thus, the $1.00 rate should provide $4,850 in assessment income which along with funds from the Committee's authorized reserve will be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2001–2002 fiscal period include $3,461 for salaries, $1,000 for travel, $528 for rent and maintenance, and $475 for its annual audit. Budgeted expenses for these items in 2000–2001 were $3,360, $1,000, $528, and $475, respectively.

At the rate of $1.50 per ton and an estimated 2001–2002 fresh prune production of 4,850 tons, the projected reserve on March 31, 2002, would exceed the maximum level authorized by the order (approximately one fiscal period's operational expenses). As of March 31, 2001, the Committee's reserve was $9,047. With assessment income of $4,850 and expenditures of $7,804, the Committee may draw up to $2,945 from its reserve, thus leaving the reserve at approximately $6,093 on March 31, 2002.

The Committee considered alternative levels of assessment but determined that decreasing the assessment rate to $1.00 per ton would be adequate to reduce the reserve to a level lower than approximately one fiscal period's expenses. The Committee decided that an assessment rate of more than $1.00 per ton, but less than $1.50 per ton, would not decrease the reserve to an adequate level. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Finance and Executive Committees.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the producer price for the 2001–2002 marketing season could range between $160 and $275 per ton of fresh prunes handled. Therefore, the estimated assessment revenue for the 2001–2002 fiscal period as a percentage of total grower revenue should range between 0.36 and 0.63 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Washington-Oregon fresh prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 5, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory

and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large Washington-Oregon fresh prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

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

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2001–2002 fiscal period began on April 1, 2001, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable fresh prunes handled during such fiscal period; (2) the action decreases the assessment rate for all assessable fresh prunes beginning with the 2001–2002 fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 924

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 924 is amended as follows:

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND UMATILLA COUNTY, OREGON

1. The authority citation for 7 CFR part 924 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 924.236 is revised to read as follows:

§ 924.236 Assessment rate.

On and after April 1, 2001, an assessment rate of $1.00 per ton is established for the Washington-Oregon Fresh Prune Marketing Committee.

Dated: August 7, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–20187 Filed 8–10–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs.

25 CFR Part 151

Acquisition of Title to Land in Trust; Delay of Effective Date

AGENCY: Bureau of Indian Affairs.

ACTION: Delay of effective date of final rule.

SUMMARY: This action temporarily delays for 90 days the effective date of the rule titled ''Acquisition of Title to Land in Trust,'' that we published in the **Federal Register** on January 16, 2001. We have extended the effective date of this rule by similar action on April 16, 2001.

DATES: The effective date of the Acquisition to Title to Land in Trust rule, amending 25 CFR Part 151, published in the **Federal Register** on January 16, 2001 (66 FR 3452), delayed by a rule published February 5, 2001 (66 FR 8899), corrected by rules published February 20, 2001 (66 FR 10815) and June 13, 2001 (66 FR 31976), delayed by a rule published April 16, 2001 (66 FR 19403), is further delayed from August 13, 2001, to November 10, 2001.

ADDRESSES: Submit any correspondence of concern or clarification regarding the delay of the effective date of this rule to: Terry Virden, Director, Office of Trust Responsibilities, MS 4513 MIB, 1849 C Street, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Terry Virden, Director, Office of Trust Responsibilities, MS 4513 MIB, 1849 C Street, NW, Washington, DC 20240; telephone 202/208–5831.

SUPPLEMENTARY INFORMATION: This action temporarily delays for 90 days the effective date of the rule entitled ''Acquisition of Title to Land in Trust,'' published in the **Federal Register** on January 16, 2001, at 66 FR 3452, and which has had a prior extension of effective date published in the **Federal Register** on April 16, 2001. This document now extends the effective date of the final rule from August 13, 2001, to November 10, 2001, in order to continue to review comments that were received from the prior extension. The rule and received comments are being evaluated at this time to determine whether to amend the final rule in whole or in part. Given the imminence of the effective date of the final rule, seeking prior public comment on this temporary delay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations.

The Department is publishing a Notice of Proposed Withdrawal in this issue of the **Federal Register** that will seek comments on whether this rule should be withdrawn and a new proposed rule promulgated which better addresses the public's continued concern with the procedures set out in 25 CFR Part 151.

Dated: August 8, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–20253 Filed 8–10–01; 8:45 am]

BILLING CODE 4310–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4137a; FRL–7033–7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Two Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for two major sources of volatile organic

compounds (VOC). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on September 27, 2001 without further notice, unless EPA receives adverse written comment by September 12, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 814–2182 or Pauline Devose at (215) 814–2186, the EPA Region III address above or by e-mail at *quinto.rose@epa.gov* or *devose.pauline@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f)) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are:

(1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment;

(2) All sources covered by a CTG issued prior to November 15, 1990; and

(3) All major non-CTG sources. The regulations imposing RACT for these non-CTG major sources were to be submitted to EPA as SIP revisions by November 15, 1992 and compliance required by May of 1995.

The Pennsylvania SIP already includes approved RACT regulations for all sources and source categories covered by the CTGs. On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements. In the Pittsburgh area, a major source of VOC is defined as one having the potential to emit 50 tons per year (tpy) or more, and a major source of NO_X is defined as one having the potential to emit 100 tpy or more. Pennsylvania's RACT regulations require sources, in the Pittsburgh area, that have the potential to emit 50 tpy or more of VOC and sources which have the potential to emit 100 tpy or more of NO_X comply with RACT by May 31, 1995. The regulations contain technology-based or operational ''presumptive RACT emission limitations'' for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a ''generic'' RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; *or* (2) demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_X RACT regulations by submitting 485 case-by-case VOC/ NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The regulation currently retains its limited approval status. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties; the limited approval of Pennsylvania's generic VOC and NO_X RACT regulations shall convert to a full approval for the Pittsburgh area.

It must be noted that the Commonwealth has adopted and is implementing additional ''post RACT requirements'' to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call rule SIP submittal. EPA expects to publish the final rulemaking in the **Federal Register** in the near future. Federal approval of a case-by-case RACT determination for a major source of NO_X

in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123, and 145.

On April 16, 1996 and August 9, 2000, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several major sources of VOC and/or NO_X. This rulemaking pertains to two of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of operating permits (OPs) issued by PADEP. These two sources are located in the Pittsburgh area.

II. Summary of the SIP Revisions

A. GenCorp, Inc., Jeannette Plant

GenCorp, Inc. (GenCorp) is located in Jeannette, Westmoreland County, Pennsylvania. The facility produces vinyl plastic film. GenCorp is a major source of VOC and had the potential to be defined as a major source of NO_X. The PADEP issued OP 65–000–207 to GenCorp, and on April 16, 1996, PADEP submitted the OP to EPA as a SIP revision. This OP establishes limits to permanently restrict NO_X emissions to a level below the major source threshold and establishes RACT to control VOC emissions. OP 65–000–207 requires GenCorp and any associated air cleaning devices to be operated and maintained in a manner consistent with good operating and management practices. OP 65–000–207 also requires GenCorp to comply with the conditions placed in OP 65–318–052A and the VOC limits required under the Consent Order and Agreement 276MD and 25 PA Code section 129. Boilers 031 and 032 shall not exceed 24,000 pounds of steam per hour per boiler. Compliance with this limit shall be demonstrated by keeping records of steam usage. NO_X emissions for Boiler 031 or 032 shall not exceed 18.7 tons NO_X per year for each unit. VOC emissions shall not exceed the following:

VOC source	VOC emissions in tons per year
Calendering Line 1	40
Calendering Line 2	40
Calendering Line 3	40
Calendering Line 4	40
Embosser Line 1 and Laminator Line 2	8
Cleaning Solvents	2.70
Boiler 031 and Boiler 032	2
Units 1 thru 5	0.5

The calendaring lines 1 through 4 combined total emissions shall not exceed 150 tons of VOC per year. All annual limits are to meet on a rolling monthly basis over every consecutive 12 month period. Emission reductions of the targeted contaminant(s) below the level specified above which are achieved by optimizing the effectiveness of the equipment installed pursuant to OP 65–000–207 are not surplus reductions, and thus, may not be used to generate Emission Reduction Credits (ERCS).

B. CENTRIA, United Coaters Ambridge Coil Coating Operations Plant

CENTRIA owns the United Coaters Ambridge Coil Coating Operations Plant located in Ambridge Borough, Beaver County, Pennsylvania. It is a coil coating operation facility subject to RACT for VOC. In this instance, RACT has been established and imposed by PADEP in OP 04–000–043. On August 9, 2000, PADEP submitted OP 04–000–043 to EPA as a SIP revision. OP 04–000–043 requires that all sources of VOC located at the facility and any associated air cleaning devices be operated and maintained in a manner consistent with good operating and management practices. The facility's Paint Mix Station and the Solvent Cleaning Station must be operated and maintained in accordance with the manufacturer's specifications and operating instructions, and in accordance with good air pollution control practice. OP 04–000–043 imposes VOC emission limits for the Paint Mix Station and the Solvent Cleaning Operations to be 9 tons per year of VOC of which no more than 6 tons per year of hazardous air pollutants (HAPs). United Coaters shall seek to use solvents which will further reduce these releases. United Coaters must maintain records on the hours of operation of the coating line, natural gas consumption, and VOC usage data, in accordance with 25 PA Code sections 129.52(c) and 129.95.

III. EPA's Evaluation

EPA is approving these RACT SIP submittals because PADEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. PADEP has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

IV. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require RACT to control VOC from two major sources located in the Pittsburgh area. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on September 27, 2001 without further notice unless EPA receives adverse comment by September 12, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' See 66 FR 28355, May 22, 2001. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65

FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves 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. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for two named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 27, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific requirements to control VOC and to limit NO_X from the GenCorp., Inc., Jeannette Plant; and the CENTRIA, United Coaters Ambridge Coil Coating Operations Plant located in the Pittsburgh Beaver Valley area of Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen oxides, Ozone, Reporting and record keeping requirements.

Dated: August 7, 2001.

Thomas C. Voltaggio,

Deputy Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(171) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(c)(171) Revisions pertaining to the GenCorp., Inc., Jeannette Plant; and to the CENTRIA, United Coaters Ambridge Coil Coating Operations Plant, located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on April 16, 1996 and August 9, 2000.

(i) Incorporation by reference.

(A) Letter submitted by the Pennsylvania Department of Environmental Protection, dated April 16, 1996, transmitting source-specific VOC and NO_X RACT determinations.

(B) Operating Permit 65–000–207 issued to GenCorp., Inc., Jeannette Plant, effective January 4, 1996, except for the Permit Term and condition 8.

(C) Letter submitted by the Pennsylvania Department of Environmental Protection, dated August 9, 2000, transmitting source-specific VOC and NO_X RACT determinations.

(D) Operating Permit 04–000–043 issued to CENTRIA, Ambridge Coil Coating Operations Plant, effective May 17, 1999, except for the Permit Term.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations submitted for the sources listed in (i) (B) and (D), above.

[FR Doc. 01–20376 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA4127a; FRL–7030–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Eight Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for eight major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X). These sources are located in the Pittsburgh–Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on September 27, 2001 without further notice, unless EPA receives adverse written comment by September 12, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Catherine Magliocchetti (215) 814–2174, or Ellen Wentworth (215) 814–2034 at the EPA Region III address above or by e-mail at *magliocchetti.catherine@epa.gov.* or *wentworth.ellen@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f)) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are:

(1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment;

(2) All sources covered by a CTG issued prior to November 15, 1990; and

(3) All major non-CTG sources. The regulations imposing RACT for these non-CTG major sources were to be submitted to EPA as SIP revisions by November 15, 1992 and compliance required by May of 1995.

The Pennsylvania SIP already includes approved RACT regulations for all sources and source categories covered by the CTGs. On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements. In the Pittsburgh area, a major source of VOC is defined as one having the potential to emit 50 tons per year (tpy) or more, and a major source of NO_X is defined as one having the potential to emit 100 tpy or more. Pennsylvania's RACT regulations require sources, in the Pittsburgh area, that have the potential to emit 50 tpy or more of VOC and sources which have the potential to emit 100 tpy or more of NO_X comply with RACT by May 31, 1995. The regulations contain technology-based or operational ''presumptive RACT emission limitations'' for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a ''generic'' RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by-case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; *or* (2) demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_X RACT regulations by submitting 485 case-by-case VOC/NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The regulation currently retains its limited approval status. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties; the limited approval of Pennsylvania's generic VOC and NO_X RACT regulations shall convert to a full approval for the Pittsburgh area.

It must be noted that the Commonwealth has adopted and is implementing additional ''post RACT requirements'' to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call rule SIP submittal. EPA expects to publish the final rulemaking in the **Federal Register** in the near future. Federal approval of a case-by-case RACT determination for a major source of NO_X in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

On August 1, 1995, December 8, 1995, April 16, 1996, July 1, 1997, July 2, 1997, January 21, 1997, and February 2,

1999, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several major sources of VOC and/or NO_X. This rulemaking pertains to eight of those sources. The RACT determinations for the other sources are, or have been, the subject of separate rulemakings. The Commonwealth's submittals consist of Operating Permits (OP) issued by PADEP, and an Enforcement Order (EO) issued by the Allegheny County Health Department (ACHD). These OPs, and EOs impose VOC and/or NO_X RACT requirements for each source. These sources are all located in the Pittsburgh area.

II. Summary of the SIP Revisions

The table below identifies the sources and their respective OPs, and EOs which are the subject of this rulemaking. A summary of the VOC and NO_X RACT determinations for each source follows the table.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	OP # or EO #	Source type	Pollutant
Consolidated Natural Gas Transmission Corporation—South Oakford Station.	Westmoreland	OP 65–000–840	Internal Combustion Engine	NO_X/VOC
Consolidated Natural Gas Transmission Corporation—Tonkin Station.	Westmoreland	OP 65–000–634	Natural Gas Fired Engines	NO_X/VOC
Carnegie Natural Gas Company—Creighton Station.	Allegheny	EO 213	Combustion Units	NO_X/VOC
Consolidated Natural Gas Transmission Corporation—Beaver Station.	Beaver	OP 04–000–490	Generator, Boiler and 4 Engines	NO_X/VOC
Consolidated Natural Gas Transmission Corporation—Jeannette Station.	Westmoreland	OP 65–000–852	Internal Combustion Engines	NO_X/VOC
Consolidated Natural Gas Transmission Corporation—South Bend Station.	Armstrong	OP 03–000–180	Internal Combustion Engines	NO_X/VOC
Consolidated Natural Gas Transmission Corporation—Oakford Station.	Westmoreland	OP 65–000–837	Internal Combustion Engines	NO_X/VOC
Texas Eastern Transmission Corporation—Uniontown Station.	Fayette	OP 26–000–413	Internal Combustion Engines	NO_X/VOC

(1) Consolidated Natural Gas Transmission Corporation—South Oakford Station

Consolidated Natural Gas Transmission Corporation's South Oakford Station is located in Hempfield Township, Pennsylvania. Consolidated Natural Gas Transmission Corporation's South Oakford Station is a major source of NO_X and VOC. The PADEP issued OP 65–000–840 to impose RACT on the internal combustion engines at this source. Consolidated Natural Gas Transmission Corporation is required to have INO_X plasma ignition systems on two (2) Cooper 14W–330 internal combustion engines at the South Oakford Station. Operating permit 65–000–840 requires the two (2) Cooper 14W–330 internal combustion engines to meet NO_X emission limits of 125.99 lbs/hr and 551.8 tons per year (tpy). The non-methane volatile organic carbon (NMVOC) limits for these engines are 28.0 lbs/hr and 122.6 tpy. The following sources at the facility must implement SIP-approved presumptive RACT requirements in accordance with 25 PA Code 129.93 (c)(1) : one (1) BS&B 62212 with a 2.0 MMBtu/hr rating; and one (1) Ajax WGEFD–4000 with a 4.0 MMBtu/hr rating. Consolidated Natural Gas Transmission Corporation is required to operate and maintain the above sources at the South Oakford Station in accordance with good air pollution control practices in accordance with the above citations.

Consolidated Natural Gas Transmission Corporation is required to perform stack testing at the South Oakford Station in accordance with 25 PA Code section 139. A minimum of one stack test is required every five years to verify the emission rates for NO_X and NMVOC. Testing shall be performed while engines are operating at full load, full speed, during the ozone season (April to October). All engines operating 750 hours or more during the preceding ozone season shall be stack tested semi-annually to verify the rates of NO_X and NMVOC through either an EPA Method stack test or through the use of portable monitors. All engines operating less than 750 hours during the preceding ozone season shall be stack tested annually to verify the rates of NO_X and NMVOC through either an EPA Method stack test or through the use of portable monitors. The accuracy of the portable analyzer readings shall be verified during the EPA method stack testing. Consolidated Natural Gas Transmission Corporation is required to submit operating procedures for testing protocols, pretest protocols, notice to the PADEP that a stack test is to be performed (so that an observer may be present), and two copies of the stack test results to the PADEP. The source shall maintain records in accordance with the record keeping requirements of 25 PA Code section 129.95, and retain records for at least two years. At a minimum, the source must record operating hours, daily fuel consumption, operating pressures, and operating temperatures for each engine.

All annual limits must be met on a rolling monthly basis over every consecutive 12 months. Consolidated Natural Gas Transmission Corporation's South Oakford Station is also subject to additional post-RACT requirements to reduce NO_X found at 25 PA Code, Chapters 121, 123 and 145.

(2) Consolidated Natural Gas Transmission Corporation—Tonkin Station

Consolidated Natural Gas Transmission Corporation's Tonkin Station is located in Murrysville, Pennsylvania. Tonkin Station is a major source of NO_X and VOC. The PADEP issued OP 65–000–634 to impose RACT on the natural gas fired engines at this source. Consolidated Natural Gas Transmission Corporation is required to limit NO_X emissions from the Cooper 12W–330 engine to 39.68 lbs/hr and 173.8 tpy. The NMVOC limits for this engine are 6.6 lbs/hr and 28.9 tpy. The NO_X emissions from the Waukesha L–5790–550 engine are limited to 8.82 lbs/hr and 38.6 tpy. The Cleaver-Brooks CB–700–800 Boiler, with a 3.3 MMBtu/hr rating, is subject to SIP-approved presumptive RACT requirements in accordance with 25 PA Code 29.93 (c)(1). Consolidated Natural Gas Transmission Corporation is required to operate and maintain these sources in

accordance with good air pollution control practices.

Consolidated Natural Gas Transmission Corporation's Tonkin Station is required to perform stack testing in accordance with 25 PA Code section 139. A minimum of one stack test is required every five years to verify the emission rates for NO_X and NMVOC. Testing shall be performed while engines are operating at full load, full speed, during the ozone season (April to October). All engines operating 750 hours or more during the preceding ozone season shall be stack tested semi-annually to verify the rates of NO_X and NMVOC through either an EPA Method stack test or through the use of portable monitors. All engines operating less than 750 hours during the preceding ozone season shall be stack tested annually to verify the rates of NO_X and NMVOC through either an EPA Method stack test or through the use of portable monitors. The accuracy of the portable analyzer readings shall be verified during the EPA method stack testing. Consolidated Natural Gas Transmission Corporation is required to submit operating procedures for testing protocols, pretest protocols, notice to the PADEP that a stack test is to be performed (so that an observer may be present), and two copies of the stack test results to the PADEP for the Tonkin Station. The source is required to maintain records in accordance with the record keeping requirements of 25 PA Code section 129.95. The source shall retain records for at least two years. At a minimum, the source must record operating hours, daily fuel consumption, operating pressures, and operating temperatures for each engine.

All annual limits must be met on rolling monthly basis over every consecutive 12 months.

Consolidated Natural Gas Transmission Corporation's Tonkin Station is also subject to additional post-RACT requirements to reduce NO_X found at 25 PA Code, Chapters 121, 123 and 145.

(3) Carnegie Natural Gas Company—Creighton Station

Carnegie Natural Gas Company's Creighton Station is located in Creighton, Pennsylvania. Carnegie Natural Gas Company's Creighton Station is a major source of NO_X and VOC. In this instance, RACT has been established and imposed by the ACHD in EO 213. The PADEP submitted this EO to EPA on behalf of the ACHD as a SIP revision. The ACHD issued EO 213 to impose RACT on subject combustion units at the facility. The permit for Creighton Station requires an I NO_X Plasma Ignition System, for the purpose of reducing both NO_X and VOC emissions on both subject combustion units at the facility. For the #1 Cooper-Bessemer GMVH–6, there is a NO_X limit of 3.0 g/bhp/hr and a VOC limit of 2.0 g/bhp/hr. The annual NO_X limit for this unit is 39.5 tpy, and the annual VOC limit is 26.5 tpy. For the #2 Cooper-Bessemer GMVH–6, the same limits apply. The annual facility wide emission limit for NO_X is 79.0 tpy, and the annual facility wide emission limit for VOC is 53.0 tpy.

Consolidated Natural Gas Transmission Corporation is required to perform testing to demonstrate compliance no less than once every five years on each unit. The emission tests shall be conducted in accordance with all applicable EPA approved test methods and section 2108.02 of Article XXI of Allegheny County's regulations. No less than twice a year, the source shall perform NO_X and VOC emission testing to demonstrate compliance with the emission limitations referenced above. Such emission test shall be conducted using a portable analyzer with each unit operating at maximum load, maximum speed, and performed between April 1 and October 31 of each year. The source shall conduct these tests in accordance with section 2108.02 of Article XXI. The source shall maintain all appropriate records to demonstrate compliance with the requirements of both section 2105.06 of Article XXI and EO 213. The source is required to record such data and information required to determine compliance for the facility, in a time frame consistent with the averaging period of the requirements of section 2105.06 of Article XXI and EO 213. The source shall retain all records required by both section 2105.06 of Article XXI and EO 213 for at least two years. The source shall at all times properly operate and maintain all process and emission control equipment according to good engineering practices.

All annual limits must be met on rolling monthly basis over every consecutive 12 months. Carnegie Natural Gas Company's Creighton Station is also subject to additional post-RACT requirements to reduce NO_X found at 25 PA Code, Chapters 121, 123 and 145.

(4) Consolidated Natural Gas Transmission Corporation—Beaver Station

Consolidated Natural Gas Transmission Corporation's Beaver Station is located in New Sewickly Township, Pennsylvania. Consolidated Natural Gas Transmission Corporation Beaver Station is a major source of NO_X and VOC. The PADEP issued OP 04–000–490 to impose RACT on the generator, boiler, and four engines at Beaver Station. The Caterpiller 351251TA generator, with a 778 HP rating, is subject to a NO_X limit of 3.4 lbs/hr, and a VOC limit of 0.03 lbs/hr. The Ajax WGFD–8500 boiler, with an 8.5 MMBtu/hr rating, is subject to NO_X limits of 1.5 lbs/hr and 6.6 tpy and to VOC limits of 0.04 lbs/hr and 0.2 tpy. The four (4) Dresser Rand TLAD–8 engines, with 3200 HP ratings, are subject to NO_X limits of 14.1 lbs/hr and 61.8 tpy, and to VOC limits of 5.6 lbs/hr and 24.6 tpy. This permit requires Consolidated Natural Gas Transmission Corporation to install, operate and maintain all units in accordance with manufacturer's specifications, and in accordance with good air pollution control practice. The auxiliary generator at this facility shall be operated for emergency purposes only, except that it may be operated for non-emergency purposes for up to 250 hours per year. All other units at this facility may be operated continuously.

The source is required to track and record hours of operation, natural gas consumption rate, portable analyzer results, and all maintenance and repair operations performed on the equipment at this station to comply with the record keeping requirements of PA Code, Title 25, Chapter 129.95. Stack testing shall be performed using EPA methods, and in accordance with PA Code, Title 25, Chapter 139 and the PADEP Source Testing Manual, on the four Dresser Rand engines to verify emission rates during the ozone season (April through October) at least once every five years. Fuel consumption rate, engine operation parameters, and portable analyzer readings shall be recorded during the duration of the stack tests. Tests shall be conducted while the engine is running at full load. Under this permit, the source is required to submit pre-test protocols, notify the PADEP prior to stack testing (so that an observer may be present), and submit two copies of the stack test results to the PADEP. Stack testing using a portable analyzer shall be performed one time each year on the exhaust from each TLAD–8 engine. Engines that operated for more than 750 hours during the previous ozone season shall be stack tested using portable analyzers two times each year, to verify the rate of emissions. The source is required to submit a complete portable analyzer operating procedure to the PADEP. The accuracy of the portable analyzer readings shall be verified during the EPA method stack testing.

Results of these tests shall be retained and made available upon request to the PADEP.

All annual limits must be met on rolling monthly basis over every consecutive 12 months. Consolidated Natural Gas Transmission Corporation's Beaver Station is also subject to additional post-RACT requirements to reduce NO_X found at 25 PA Code, Chapters 121, 123 and 145.

(5) Consolidated Natural Gas Transmission Corporation—Jeannette Station

Consolidated Natural Gas Transmission Corporation's Jeannette Station is located in Penn Township, Pennsylvania. Consolidated Natural Gas Transmission Corporation's Jeannette Station is a major source of NO_X and VOC. The PADEP issued OP 65–000–852 to impose RACT on the internal combustion engines at this source. The permit for the Jeannette Station requires ignition timing retard technology on three (3) Ingersoll Rand (IR) 412 KVS–DT, one (1) IR 410 KVG–AK, one (1) IR 83 KVG–NL, and two (2) IR PJUG internal combustion engines. The permit also states that the emission sources at Consolidated Natural Gas Transmission Corporation's Jeannette Station may not operate after December 31, 1998. The PADEP still wishes for EPA to approve for this facility. The emission limits for the engines at this source are as follows: Three (3) IR 412 KVS–DT are subject to NO_X limits of 88.19 lbs/hr and 386.3 tpy, and to VOC limits of 7.3 lbs/hr and 32.0 tpy. One (1) IR 410 KVG–AK is subject to NO_X limits of 38.80 lbs/hr and 170.0 tpy, and to VOC limits of 4.0 lbs/hr and 17.5 tpy. One (1) IR 83 KVG–NL is subject to NO_X limits of 31.04 lbs/hr and 136.0 tpy, and to VOC limits of 3.2 lbs/hr and 14.9 tpy. Two (2) IR PJUG are subject to NO_X limits of 10.41 lbs/hr and 45.6 tpy. The permit requires the following sources at the facility to implement SIP-approved presumptive RACT in accordance with 25 PA Code section 129.93(c) (1), and 129.57: One (1) Superior Boiler, Model # 4RG60D, with a 2.14 MMBtu/hr rating, is subject to 25 PA Code section 129.93 (c)(1). One (1) BS&B Heater, Model # 5B–7224–45, with a 4.45 MMBtu/hr rating, is subject to 25 PA Code section 129.93 (c)(1). One (1) Drip Gasoline Storage Tank, with an 8,000 gal rating, is subject to 25 PA Code section 129.57.

For the above sources, Consolidated Natural Gas Transmission Corporation shall operate and maintain the source in accordance with good air pollution control practices. Consolidated Natural Gas Transmission Corporation shall perform a minimum of one stack test in accordance with 25 PA Code Chapter 139, and the PADEP's Source Testing Manual, on all engines to verify the emission rates for NO_X, and NMVOC. Testing shall be conducted while engines are operating at full load, full speed, during the ozone season (April to October). All engines operating 750 hours or more during the preceding ozone season shall be stack tested semi-annually to verify the rates of NO_X and NMVOC through either an EPA Method stack test or through the use of portable monitors. All engines operating less than 750 hours during the preceding ozone season shall be stack tested annually to verify the rates of NO_X and NMVOC through either an EPA Method stack test or through the use of portable monitors. The accuracy of the portable analyzer readings shall be verified during the EPA method stack testing. Consolidated Natural Gas Transmission Corporation shall submit pre-test protocols, notify PADEP in advance of stack testing (so that an observer may be present), and submit two copies of the testing results to PADEP. Consolidated Natural Gas Transmission Corporation shall maintain records for the Jeannette Station in accordance with the record keeping requirements of 25 PA Code section 129.95. At a minimum, the source shall keep records for each engine that include operating hours, daily fuel consumption, operating pressures, and operating temperatures. These records shall be maintained on file at the facility for not less than two years.

All annual limits must be met on rolling monthly basis over every consecutive 12 months. Consolidated Natural Gas Transmission Corporation's Jeannette Station is also subject to additional post-RACT requirements to reduce NO_X found at 25 PA Code, Chapters 121, 123 and 145.

(6) Consolidated Natural Gas Transmission Corporation—South Bend Station

Consolidated Natural Gas Transmission Corporation's South Bend Station is located in South Bend Township, Pennsylvania. Consolidated Natural Gas Transmission Corporation's South Bend Station is a major source of NO_X and VOC. The PADEP issued OP 03–000–180 to impose RACT on the internal combustion engines at this source. The permit for the South Bend Station requires low emission combustion technology on six (6) Clark HLA–8 internal combustion engines. In accordance with 25 PA Code section 127.441, emission limits for the six engines are as follows: At full load and full speed, the NO_X limit on each engine is 3.0 g/bhp-hr and the VOC limits are 6.61 lbs/hr and 29.0 tpy. Under all other conditions, the NO_X limits on each engine are 26.46 lbs/hr and 115.9 tpy. Under all other conditions, the VOC limits on each engine are 13.22 lbs/hr and 57.9 tpy. The following sources at the facility must implement SIP-approved presumptive RACT in accordance with 25 PA Code section 129.93: One (1) Caterpillar G3512 engine, with a 814 bhp rating. The applicable RACT emission limit is found at 25 PA Code section 129.93 (c)(5). One (1) IR JVG–6 engine, with a 110 bhp rating. The applicable RACT emission limit is found at 25 PA Code section 129.93(c)(3). One (1) PENNCO Boiler, with a 2.4 MMBtu/hr rating. The applicable RACT emission limit is found at 25 PA Code section 129.93(c)(1). One (1) NATCO Dehydrator, with a 2.14 MMBtu/hr rating. The applicable RACT emission limit is found at 25 PA Code section 129.93(c)(1). The IR JVG–6 engine shall be maintained at four degrees retarded, relative to standard timing in accordance with the above citation. The Caterpillar G3512 engine shall be limited to a maximum of 500 hours of operation in any consecutive 12-month period in accordance with the above citation. Consolidated Natural Gas Transmission Corporation is required to operate and maintain the above sources at the South Bend Station in accordance with good air pollution control practices in accordance with the above citations. Consolidated Natural Gas Transmission Corporation is required to implement RACT in accordance with 25 PA Code section 129.57 for (1) 10,000 gal Drip Gasoline Storage Tank at the facility.

Consolidated Natural Gas Transmission Corporation South Bend is required to perform stack testing in accordance with 25 PA Code section 139 and the PADEP's Source Testing Manual. The permit requires that a minimum of one stack test be performed on each of the Clark HLA–8 engine every five years to verify the emissions rates. Testing shall be conducted while the engines are operating at full load, full speed, during the ozone season (April to October) in accordance with 25 PA Code section 127.441. The permit also requires the source to semi-annually stack test any of the six (6) Clark HLA–8 engines that operate 750 hours or more during the preceding ozone season, either through an EPA method stack test, or through the use of portable analyzers in accordance with 25 PA Code section 127.441. The accuracy of the portable analyzer readings shall be verified during the

EPA method stack testing. For those engines that operate less than 750 hour, stack tests shall be conducted annually, as described above. Consolidated Natural Gas Transmission Corporation is required to submit a complete operating procedure to PADEP, in accordance with 25 PA Code section 127.441, as described in the permit. The source is required to submit a pretest protocol, to notify the PADEP (so that an observer may be present), and to supply PADEP with two copies of the stack test results as described in the permit, in accordance with 25 PA Code section 127.441. The source is required to maintain records in accordance with the record keeping requirements of 25 PA Code section 129.95. At a minimum, the source must retain records for each engine for not less than two years, and those records must contain operating hours, daily fuel consumption, and all maintenance and repair operations.

All annual limits must be met on rolling monthly basis over every consecutive 12 months. Consolidated Natural Gas Transmission Corporation's South Bend Station is also subject to additional post-RACT requirements to reduce NO_X found at 25 PA Code, Chapters 121, 123 and 145.

(7) Consolidated Natural Gas Transmission Corporation—Oakford Station

Consolidated Natural Gas Transmission Corporation's Oakford Station is located in Salem Township, Pennsylvania. Consolidated Natural Gas Transmission Corporation's Oakford Station is a major NO_X and VOC emitting facility. The PADEP issued OP 65–000–837 to impose RACT on the internal combustion engines at this source. Consolidated Natural Gas Transmission Corporation is required to have ignition timing retard technology and INO_X plasma ignition systems on twelve (12) Cooper GMW–10TF internal combustion engines, and ignition timing retard technology on two (2) Worthington SEHG–L internal combustion engines at the Oakford Station. Emission limits for the engines under this permit are as follows: Twelve (12) Cooper GMW–10TF internal combustion engines each have NO_X limits of 74.41 lbs/hr and 325.9 tpy. The VOC limits for each engine are 1.20 lbs/hr and 5.26 tpy. Two (2) Worthington SEHG–L internal combustion engines each have NO_X limits of 28.67 lbs/hr and 125.6 tpy. The VOC limits for each engine are 0.25 lbs/hr and 1.07 tpy. One (1) IR JVG Dehy Engine has NO_X limits of 3.88 lbs/hr and 17.0 tpy. The VOC limits are 0.40 lbs/hr, 1.75 tpy. The following sources at the facility must implement SIP-approved presumptive RACT in accordance with 25 PA Code section 129.93: Two (2) Kewanee Boilers, with 16.74 MMBtu/hr rating. The applicable RACT emission limit is found at 25 PA Code section 129.93 (c)(7). One (1) Hot Water Boiler, with a 0.1 MMBtu/hr rating. The applicable RACT emission limit is found at 25 PA Code section 129.93(c)(1). Two (2) NATCO Type WT Process Heaters, with 9.4 MMBtu/hr ratings. The applicable RACT emission limit is found at 25 PA Code section 129.93(c)(1). Seven (7) Drip Gasoline Storage Tanks, (2) with 11,600 gal ratings, (5) with 14,600 gal ratings. The applicable RACT emission limit is found at 25 PA Code section 129.57. Two (2) Methanol Storage Tanks, with 6,000 gal ratings. The applicable RACT emission limit is found at 25 PA Code section 129.57.

All annual limits must be met on rolling monthly basis over every consecutive 12 months. Consolidated Natural Gas Transmission Corporation Oakford is required to operate and maintain the above sources in accordance with good air pollution control practices in accordance with the above citations. Consolidated Natural Gas Transmission Corporation is required to perform stack testing in accordance with 25 PA Code section 139 at the Oakford Station. A minimum of one stack test is required every five years to verify the emission rates for NO_X and NMVOC. Testing shall be performed while engines are operating at full load, full speed, during the ozone season (April to October). All engines operating 750 hours or more during the preceding ozone season shall be stack tested semi-annually to verify the rates of NO_X and NMVOC through either an EPA Method stack test or through the use of portable monitors. All engines operating less than 750 hours during the preceding ozone season shall be stack tested annually to verify the rates of NO_X and NMVOC through either an EPA Method stack test or through the use of portable monitors. The accuracy of the portable analyzer readings shall be verified during the EPA method stack testing. Consolidated Natural Gas Transmission Corporation is required to submit operating procedures for testing protocols, pretest protocols, notice to the PADEP that a stack test is to be performed (so that an observer may be present), and two copies of the stack test results to the PADEP. The source shall maintain record in accordance with the record keeping requirements of 25 PA Code section 129.95. The source shall retain records for at least two years. At a minimum, the source must record operating hours, daily fuel consumption, operating pressures, and operating temperatures for each engine.

Consolidated Natural Gas Transmission Corporation's Oakford Station is also subject to additional post-RACT requirements to reduce NO_X found at 25 PA Code, Chapters 121, 123 and 145.

(8) Texas Eastern Transmission Corporation—Uniontown Station Texas

Eastern Transmission Corporation's Uniontown Station is located in North Union Township, Pennsylvania. Texas Eastern Transmission Corporation's Uniontown Station is a major source of NO_X and VOC. The PADEP issued OP 26–000–413 to impose RACT on the internal combustion engines at this source. The permit for this facility requires non-selective catalytic reduction on (4) IR KVG–103 rich burn engines, dry low-NO_X combustors on (2) Solar Mars turbines, and for the implementation of presumptive RACT on eight ancillary sources at the facility. The hours of operation are limited by this permit as indicated in the following table:

	Hour of operation per quarter				
Unit #	Jan–Mar	Apr–Jun	Jul–Sep	Oct–Dec	Total
1	1459	1419	793	1428	5099
2	1487	1607	647	1360	5101
3	1458	1213	1030	1400	5101
4	1560	1461	815	1263	5099

The Uniontown Station shall only use low ash lubricating oil (0.5% or less) in the IR KVG–103 engines, and shall continuously monitor and record temperature rise and pressure differential across the catalyst of each

engine. The catalytic converter of the engines shall be equipped with a high temperature alarm and/or shutdown set at 1350 degrees Fahrenheit or less. The catalyst on each engine shall be physically inspected annually for physical damage and fouling. A log shall be kept detailing all actions taken to maintain catalyst performance. The file shall be maintained for not less than two years and be made available to PADEP upon request. The source shall continuously monitor and record oz levels prior to the catalyst on each engine, and the source shall maintain oz levels below 0.5% on each engine. The NO_X emission limits for each engine are 4.8 lbs/hr and 12.2 tpy. The NMVOC emission limits are 0.5 lbs/hr and 3 tpy. The emission rate for each of the Solar Mars turbines shall be established by stack testing. The hours of operation per year of the Caterpillar 3412 emergency generator shall not exceed 500 hours. The hours of operation per year of the Leroi L3460 emergency generator shall not exceed 500 hours.

The source is required to maintain records in accordance with 25 PA Code section 129.95. At a minimum, the source must keep records of operating hours, daily fuel consumption, operating pressures, and operating temperatures. These records must be kept on file for a period of not less than two years. The source shall perform a minimum of one stack test every five years, in accordance with 25 PA Code Chapter 139, and the PADEP's Source Testing Manual, on all engines to verify the emission rates for NO_X, and NMVOC. Testing shall be conducted while engines are operating at full load, full speed, during the ozone season (April to October). All engines operating 750 hours or more during the preceding ozone season shall be stack tested semi-annually to verify the rates of NO_X and NMVOC through either an EPA Method stack test or through the use of portable monitors. All engines operating less than 750 hours during the preceding ozone season shall be stack tested annually to verify the rates of NO_X and NMVOC through either an EPA Method stack test or through the use of portable monitors. The accuracy of the portable analyzer readings shall be verified during the EPA method stack testing. Texas Eastern Transmission Corporation is required to submit pre-test protocols, notify PADEP in advance of stack testing (so that an observer may be present), and submit a copy of the testing results to PADEP for the Uniontown Station.

All annual limits must be met on rolling monthly basis over every consecutive 12 months. Texas Eastern Transmission Corporation's Uniontown Station is also subject to additional post-RACT requirements to reduce NO_X found at 25 PA Code, Chapters 121, 123 and 145.

III. EPA's Evaluation of the SIP Revisions

EPA is approving these RACT SIP submittals because the ACHD and PADEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The ACHD and PADEP have also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

IV. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and NO_X RACT for eight major of sources located in the Pittsburgh area. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on September 27, 2001 without further notice unless EPA receives adverse comment by September 12, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' See 66 FR 28355, May 22, 2001. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves 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. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and

ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for eight named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 12, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from eight individual gas compressor stations in the Pittsburgh area may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen Oxides, Ozone, Reporting and recordkeeping requirements.

Dated: August 3, 2001.

Thomas C. Voltaggio,

Deputy Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(164) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(164) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and NO_X RACT, submitted by the Pennsylvania Department of Environmental Protection on August 1, 1995, December 8, 1995, April 16, 1996, July 1, 1997, July 2, 1997, January 21, 1997, and February 2, 1999.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection dated August 1, 1995, December 8, 1995, April 16, 1996, July 1, 1997, July 2, 1997, January 21, 1997, and February 2, 1999, transmitting source-specific RACT determinations.

(B) The following companies' Operating Permits (OP) or Enforcement Order (EO):

(*1*) Consolidated Natural Gas Transmission Corporation, Beaver Station, OP 04–000–490, effective June 23, 1995.

(*2*) Consolidated Natural Gas Transmission Corporation, Oakford Station, OP 65–000–837, effective October 13, 1995.

(*3*) Consolidated Natural Gas Transmission Corporation, South Oakford Station, OP 65–000–840, effective October 13, 1995.

(*4*) Consolidated Natural Gas Transmission Corporation, Tonkin Station, OP 65–000–634, effective October 13, 1995.

(*5*) Consolidated Natural Gas Transmission Corporation, Jeannette Station, OP 65–000–852, effective October 13, 1995.

(*6*) Carnegie Natural Gas Company, Creighton Station, EO 213, effective May 14, 1996, except for condition 2.7.

(*7*) Texas Eastern Transmission Corporation, Uniontown Station, OP 26–000–413, effective December 20, 1996.

(*8*) Consolidated Natural Gas Transmission Corporation, South Bend Station, OP 03–000–180, effective December 2, 1998.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in (i) (B), above.

[FR Doc. 01–20378 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52, 60, 61 and 62

[MT–001–0040a; FRL–7026–1a]

Approval and Promulgation of Air Quality Implementation Plans; Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On June 15, 2001, EPA published a direct final rule (66 FR 32545) partially approving and partially disapproving, and a parallel proposed rule (66 FR 32594) proposing to partially approve and partially disapprove, State Implementation Plan (SIP) revisions submitted by the Governor of Montana on September 19, 1997; December 10, 1997; April 14, 1999; December 6, 1999; and March 3, 2000. These submitted revisions are intended to recodify and modify the State's air quality rules so that they are consistent with Federal requirements, minimize repetition in the air quality rules, and clarify existing provisions. They also contain Yellowstone County's Local Regulation No.002—Open Burning. Also, in our June 15, 2001 publication, EPA announced that on May 16, 2001, we delegated the authority for the implementation and enforcement of the New Source Performance Standards (NSPS) to the State. EPA also updated the NSPS and National Emissions Standards for Hazardous Air Pollutants (NESHAP) ''Status of Delegation Tables'' and the names and addresses of the Regional Office and State Offices in the Region. EPA also updated regulations to indicate that Montana provided a negative declaration. The direct final and proposed rule preambles explained that the direct final rule was to become effective on August 14, 2001. However, if EPA received an adverse comment by July 16, 2001, EPA would publish a timely withdrawal of the direct final rule and it would not take effect. Only

the June 15, 2001, parallel proposed rule preamble also stated that EPA would address all public comments in a subsequent final rule based on the proposed rule and that EPA would not institute a second comment period. Even though EPA did not receive adverse comments on the June 15, 2001, actions, EPA is withdrawing the June 15, 2001, direct final rule because the direct final and parallel proposed rules contain a number of errors that we have independently identified and want to correct before the direct final rule would otherwise become effective on August 14, 2001. EPA will issue another direct final rule and a parallel proposed rule correcting these errors and addressing the Governor of Montana's September 19, 1997, December 10, 1997, April 14, 1999, December 6, 1999, and March 3, 2000, submittals.

DATES: As of August 13, 2001, EPA withdraws the direct final rule published at 66 FR 32545.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202.

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, EPA Region 8, (303) 312–6437.

SUPPLEMENTARY INFORMATION: On June 15, 2001, EPA published a direct final rule (66 FR 32545) (FR Doc. 01–15027) partially approving and partially disapproving, and a parallel proposed rule (66 FR 32594) (FR Doc. 01–15028) proposing to partially approve and partially disapprove, State Implementation Plan (SIP) revisions submitted by the Governor of Montana on September 19, 1997; December 10, 1997; April 14, 1999; December 6, 1999; and March 3, 2000. The direct final rule was scheduled to become effective on August 14, 2001 (except that the delegation of the NSPS to Montana had already become effective on May 16, 2001). However, our preambles to the rules explained that if we received an adverse comment on our action by July 16, 2001, we would issue a timely withdrawal of the direct final rule and it would not take effect. In addition, only one of the June 15, 2001, rules—the parallel proposed rule—further explained that we would then issue another rule responding to any adverse comments and taking final action on the parallel proposal without instituting another public comment period. Our June 15, 2001, actions contained the following specific errors:

1. The June 15, 2001 direct final rule contained incorrect and misleading language in the Administrative Requirements section. Specifically, on page 32553, third column, the paragraph labeled ''G. Submission to Congress and the Comptroller General'' is incorrect in stating that ''EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.'' Instead, the paragraph should have stated that EPA will submit a report containing the rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the U.S., prior to publication of the rule in the **Federal Register**. Our subsequent direct final rule will correct this inaccuracy.

2. The June 15, 2001, preamble to the direct final rule stated our intent to partially disapprove two of the State's air quality regulations, specifically, Administrative Rules of Montana (ARM) 17.8.309(5)(b) and 17.8.310(3)(e). See 66 FR at 32547, 32552. Although we indicated in the preamble that we intended to partially disapprove the rules, we failed to promulgate necessary corresponding regulatory text in 40 CFR part 52 subpart BB indicating that the State rules were to be disapproved. The subsequent direct final rule and parallel proposed rule will correct this error.

3. The June 15, 2001, direct final rule failed to identify the existence of or otherwise accurately cross-reference the parallel proposed rule published on the same day, or indicate that if we received an adverse comment—in addition to withdrawing the direct final rule—we would address all comments in a subsequent final rule based on the proposed rule, without instituting a second comment period. As a result, readers who reviewed our direct final rule alone, without knowledge of the parallel proposed rule, could not have been fully informed of our rulemaking process for this action. If, on the other hand, a reader reviewed both the direct final rule and the parallel proposed rule, she or he would have been presented with inconsistent descriptions of the process to be followed after submission of an adverse comment. Our failure to clearly and accurately describe the rulemaking process will be corrected in the subsequent direct final and parallel proposed rules.

4. The Summary of the June 15, 2001, proposed rule contains an inaccurate and misleading description of the proposed action. Specifically, the Summary indicated that we were proposing to take direct final action, which is confusing and not in fact what we intended. Instead, the proposal should have simply stated that we were proposing to take the actions described in the Summary. The Summary also indicated that we were ''approving'' other provisions, thus suggesting that some things were not only being proposed but were the subject of final action in that proposed rule, when it should have stated that we were proposing to approve those provisions. Our subsequent parallel proposed rule will correct this mistake.

5. The June 15, 2001 preambles to the direct final and proposed rules stated our intent to approve most of the State's recodified air quality rules, including the State's recodified stack height rules. However, in another pending SIP action in Montana (Billings/Laurel), we have questioned aspects of the Montana stack height regulations that are repeated in the recodification. We do not believe we should act on the recodification of these rules before we give full consideration to relevant issues in the context of our ongoing action on the Billings/Laurel SIP, where the issues first arose and should be resolved. The direct final rule's inadvertent approval of the recodification was premature, and should not yet become effective. Accordingly, the subsequent direct final rule will indicate that we will act on the recodified stack height rules at a later date. This deferral of action will have no effect on the existing approved Montana stack height SIP.

We believe that the unique circumstances of the combination of errors in the June 15, 2001, direct final and parallel proposed rules for this action are best remedied, in this case, by a withdrawal of the direct final rule in advance of its taking effect, as would have occurred if someone had filed a comment objecting to the incorrect and misleading preamble language and the mistaken omission of regulatory language or the inadvertent and premature approval of the recodified stack height regulations. In addition, since the parallel proposed rule also contained an inaccurate and misleading description of the nature of that action and since we are withdrawing the direct final rule to which it was paired, it is appropriate to withdraw that rule. Our subsequent direct final and parallel proposed rules will clarify how we are treating the SIP submission, and will contain the necessary regulatory language to fully promulgate the direct final rule, should it become effective. Today's withdrawal action does not affect the status of the May 16, 2001, delegation of the NSPS to Montana, which had already become effective.

In the ''Proposed Rules'' section of today's **Federal Register** publication, we

are withdrawing the proposed rule published on June 15, 2001.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 60

Environmental protection, Air pollution control, Aluminum, Ammonium sulfate plants, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Drycleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Grains, Graphic arts industry, Household appliances, Insulation, Intergovernmental relations, Iron, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Tires, Urethane, Vinyl, Waste treatment and disposal, Wool, Zinc.

40 CFR Part 61

Environmental protection, Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Hazardous substances, Mercury, Vinyl chloride.

40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Fluoride, Intergovernmental relations, Phosphate fertilizer plants, Reporting and recordkeeping requirements.

Dated: July 31, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

Accordingly, under the authority of 42 U.S.C. 7401–7671q, the direct final rule (66 FR 32545) (FR Doc. 01–15027) published on June 15, 2001, is withdrawn.

[FR Doc. 01–19871 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52, 60, 61 and 62

[MT–001–0018a, MT–001–0019a, MT–001–0020a, MT–001–0022a, MT–001–0023a; MT–001–0031a; FRL–7026–3]

Approval and Promulgation of Air Quality Implementation Plans; Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action partially approving and partially disapproving State Implementation Plan (SIP) revisions submitted by the Governor of Montana on September 19, 1997; December 10, 1997; April 14, 1999; December 6, 1999; and March 3, 2000. These submitted revisions are intended to recodify and modify the State's air quality rules so that they are consistent with Federal requirements, minimize repetition in the air quality rules, and clarify existing provisions. They also contain Yellowstone County's Local Regulation No. 002—Open Burning. We are also announcing that on May 16, 2001 we delegated the authority for the implementation and enforcement of the New Source Performance Standards (NSPS) to the State. We are updating the NSPS and National Emissions Standards for Hazardous Air Pollutants (NESHAP) ''Status of Delegation Tables'' and the names and addresses of the Regional Office and State Offices in the Region. We are also updating regulations to indicate that Montana provided a negative declaration. EPA is either not acting on or disapproving certain provisions of the State's air quality rules that should not be in the SIP because they are not generally related to attainment of the National Ambient Air Quality Standards (NAAQS) or they are inconsistent with our SIP requirements. Finally, some provisions of the rules will be acted on at a later date. This action is being taken under sections 110 and 111 of the Clean Air Act.

DATES: This rule is effective on October 12, 2001 without further notice, unless EPA receives adverse comment by September 12, 2001. If adverse comment is received, EPA will before October 12, 2001 publish a withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect. The NSPS delegation of authority to Montana became effective on 5/16/2001.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, EPA Region 8, (303) 312–6437.

SUPPLEMENTARY INFORMATION: For the purpose of this document, we are giving meaning to certain words as follows: (a) The words ''EPA,'' ''we,'' ''us'' or ''our'' mean or refer to the United States Environmental Protection Agency. (b) The words State or Montana mean the State of Montana unless the context indicates otherwise. (c) The initials MDEQ mean the Montana Department of Environmental Quality.

On June 15, 2001, EPA published a direct final rule (66 FR 32545) partially approving and partially disapproving, and a parallel proposed rule (66 FR 32594) proposing to partially approve and partially disapprove, the SIP revisions submitted by the Governor of Montana on September 19, 1997; December 10, 1997; April 14, 1999; December 6, 1999; and March 3, 2000. The direct final rule was scheduled to become effective on August 14, 2001, if EPA did not before that date withdraw the rule, possibly in response to submission of an adverse comment. In separate actions published today, we are withdrawing both the June 15, 2001, direct final rule and parallel proposed rule because the documents contain a number of errors that we had independently identified and wanted to correct before the direct final rule would have otherwise become effective on August 14, 2001. In the withdrawal actions, we indicate that we intend to issue another direct final rule and a parallel proposed rule correcting these errors and addressing the Governor of Montana's September 19, 1997, December 10, 1997, April 14, 1999, December 6, 1999, and March 3, 2000, submittals.

This document is the subsequent direct final rule which addresses the Governor of Montana's September 19, 1997, December 10, 1997, April 14, 1999, December 6, 1999, and March 3, 2000 submittals and corrects the errors we committed in our June 15, 2001, actions as discussed in our withdrawal action. In addition to the errors identified in our withdrawal actions, we have made some additional changes. We expanded the Summary and Final Action paragraphs; revised the regulatory text for 40 CFR 52.1370(c)(49) to (1) make it clearer, (2) indicate that the Governor's submittals also include the Yellowstone County Open Burning Regulation, (3) remove the incorporation by reference of the State's new stack height rules and indicate that the prior stack height rules still remain in the approved SIP, and (4) add another document to the list of Additional Material; expanded section II.B.2.a, below; and made minor editorial changes.

I. What Is the Purpose of This Document?

In this document we are acting on five SIP revisions, submitted by the Governor of Montana on September 19, 1997; December 10, 1997; April 14, 1999; December 6, 1999; and March 3, 2000, which modify the Montana air quality rules. The revisions are intended to make the rules consistent with Federal requirements, minimize repetition in the air quality rules, and clarify existing provisions. This document explains our action in response to the five submittals.

The September 19, 1997 submittal is a recodification (renumbering) of the State air quality rules. The December 10, 1997 submittal updates the incorporation by reference (IBR) of various documents in the State air quality rules. The April 14, 1999 submittal consists of various air quality rule revisions the State made between 1995 to 1998 but which had not previously been submitted to us. The December 6, 1999 submittal revises the State's open burning rules and adopts Yellowstone County's Local Regulation No. 002—Open Burning. The March 3, 2000 submittal again updates the IBR of various documents in the State's rules and corrects references to an EPA Handbook for Air Pollution Measurement Systems.

II. Is the State's Submittal Approvable?

We reviewed the five submittals and placed each rule (or section of a rule) into a category based on the changes that were made in the rule and/or our action on the rule. The first category (see II.A. below) consists of those rules (or sections of rules) which have been recodified; there are no substantive changes in the text of the rules. We are approving these recodified rules. The second category (see II.B below) consists of those rules (or sections of rules) for which, in addition to being recodified, the text of the rule was modified. A discussion of whether or not the text changes are approved or disapproved is provided below. The third category (see II.C. below) includes those rules we cannot approve in the SIP. A discussion of why these rules cannot be approved in the SIP is provided below. Finally, the fourth category (see II.D. below) identifies those rules that we will act on at a later date.

A. Category 1

We are approving the following sections of the Administrative Rules of Montana (ARM) because the rules have only been recodified; there are no substantive changes in the text of the rules. These recodified rules replace the prior codified rules in the federally approved SIP.

1. Subchapter 1—General Provisions

ARM sections 17.8.101 (except 17.8.101(40)(a)), 17.8.105(1), 17.8.110(3), 17.8.111, 17.8.130–131, 17.8.140–142;

2. Subchapter 3—Emission Standards

ARM sections 17.8.301, 17.8.304 (except 17.8.304(4)(f)), 17.8.308, 17.8.316, 17.8.320, 17.8.322–323, 17.8.324 (except 17.8.324(1)(c) and (2)(d)), 17.8.325–326, 17.8.330–331, 17.8.333–334;

3. Subchapter 6—Open Burning

ARM sections 17.8.605, 17.8.614–615;

4. Subchapter 7—Permit, Construction, and Operation of Air Contaminant Sources [1]

ARM sections 17.8.701 (except 17.8.701(10)), 17.8.704(1), (3)-(5), 17.8.705(1)(a)–(n), 17.8.706–707, 17.8.710, 17.8.715–717, 17.8.730–732, 17.8.733 (except (17.8.733(1)(c)), 17.8.734;

5. Subchapter 8—Prevention of Significant Deterioration [2]

ARM sections 17.8.801 (except 17.8.801(29)(a)), 17.8.804–809, 17.8.818–828;

6. Sub-Chapter 9—Permit Requirements for Major Stationary Sources or Major Modifications Locating Within Non-attainment Areas

ARM sections 17.8.901 (except 17.8.901(14)(c) and 901(20)(a)), 17.8.904–906;

7. Subchapter 10—Preconstruction Permit Requirements for Major Stationary Sources or Major Modifications Locating Within Attainment or Unclassified Areas

ARM sections 17.8.1001, 17.8.1006–1007; and

8. Subchapter 11—Visibility Impact Assessment

ARM sections 17.8.1101(2) and (3), 17.8.1106(2), 17.8.1108, 17.8.1109(2) and (3), and 17.8.1110.

B. Category 2

The second category consists of those rules (or sections of rules) for which, in addition to being recodified, the text of the rule has been modified. A discussion of the modification to each rule (or section of a rule) and whether or not the text changes are approved or disapproved is provided below. The recodified and modified rules that we are approving replace the prior codified rules in the federally approved SIP.

1. Subchapter 1—General Provisions

(a) *Definitions—ARM 17.8.101(40)(a).* On October 6, 1995, June 21, 1996 and June 12, 1998, the State adopted revisions to the definition of ''volatile organic compounds (VOC)'' in ARM 17.8.101(40)(a) (formerly ARM 16.8.701(40)(a)). The State revised the definition to coincide with revisions to the federal definition. Since the definition of VOC is consistent with our definition we are approving ARM 17.8.101(40)(a) into the SIP.

(b) *Incorporation by Reference—ARM sections 17.8.102 and 17.8.103(1)–(4).* On June 21, 1996, the State adopted revisions to its incorporation by reference of documents and other statutory references contained in the State's air quality rules, to update the references to the July 1995 edition of the Code of Federal Regulations (CFR), 1995 edition of the Montana Code Annotated

[1] The recodification contains paragraphs ARM 17.8.705(1)(q), 17.8.708, and 17.8.733(1)(c) (formerly ARM 16.8.1102(1)(q), 16.8.1121 and 16.8.1113(1)(c), respectively) that had been adopted by the State on August 8, 1996 but had not been submitted to us prior to the recodification submittal. Revisions to ARM 17.8.705(1) and (2), 17.8.708 (repealed), and 17.8.733(1)(b) and (c) were subsequently adopted by the State on May 14, 1999. The August 8, 1996 and May 14, 1999 adopted revisions were submitted to EPA on August 26, 1999. With this document we are not approving ARM 17.8.705(1)(q), 17.8.708 and 17.8.733(1)(c) submitted with the recodification. We are addressing the August 26, 1999 submittal and these recodified rules in a separate rulemaking action.

[2] In the State definition of ''baseline area,'' ARM 17.8.801(3)(a), it reads '' * * * equal to or greater than 1 g/m^3 (annual average) * * *'' This should read '' * * * equal to or greater than 1 μg/m^3 (annual average) * * *'' The State must correct this error in its next regulatory update.

(MCA), 1993 edition of the United States Code, and December 31, 1995 edition of the Administrative Rules of Montana. With this revision, the State deleted duplicative rules and combined existing incorporation by references into new rules. The State also made several non-substantive amendments for consistency, to delete unnecessary language and to make the language in the rules conform to current rule drafting requirements. The following sections of the rules were modified or added: ARM 17.8.102 (formerly ARM 16.8.710) and ARM 17.8.103(1)–(4) (formerly ARM 16.8.708(1)–(2)).

On August 22, 1997, the State again adopted updates to its incorporation by reference section of the Administrative Rules of Montana to specify additional sources for obtaining federal material incorporated by reference, and to incorporate the July 1996 edition of the CFR and the December 31, 1996 edition of the Administrative Rules of Montana. The following sections were revised: ARM 17.8.102 and ARM 17.8.103(3).

On June 12, 1998, the State again adopted revisions to incorporate the July 1997 edition of the CFR, the 1997 edition of the MCA and the December 31, 1997 edition of the Administrative Rules of Montana into ARM 17.8.102.

On September 24, 1999, the State again adopted revisions to incorporate the July 1998 edition of the CFR and the December 31, 1998 edition of the Administrative Rules of Montana into ARM 17.8.102 and the reference to EPA's ''Quality Assurance Handbook for Air Pollution Measurement Systems'' into ARM 17.8.103.

We are approving ARM sections 17.8.102 and 17.8.103(1)–(4) into the SIP.

(c) *Testing Requirements—ARM 17.8.105(2).* On June 21, 1996 the State adopted a minor revision in ARM 17.8.105(2) (formerly ARM 16.8.704(2)) to include a reference to another State rule. In addition, on June 21, 1996 the State deleted and did not replace ARM 16.8.704(3). State rule ARM 16.8.704(3) incorporated by reference 40 CFR part 51, Appendix P. This incorporation was duplicative of ARM 16.8.708(1)(d) (now ARM 17.8.103(1)(d)) which also incorporated by reference 40 CFR part 51, Appendix P. We are approving the revision of ARM 17.8.105(2) into the SIP and the deletion of ARM 16.8.704(3) from the SIP.

(d) *Source Testing Protocol—ARM 17.8.106.* On September 24, 1999 the State adopted revisions to ARM 17.8.106 to correct the reference to EPA's ''Quality Assurance Handbook for Air Pollution Measurement Systems.'' We are approving the revisions to ARM 17.8.106 into the SIP.

(e) *Malfunctions—ARM 17.8.110(1), (2), (4), (5), (6), and (7).* On October 6, 1995, the State adopted revisions to its malfunction rule in ARM 17.8.110(7) (formerly ARM 16.8.705(7)). The revised State rule allows a facility to respond to a malfunction of equipment on a temporary basis without obtaining an air quality permit. Because the revisions require that if the temporary replacement equipment constitutes a major stationary source under sub-chapters 8, 9, and 10, then the source must comply with the requirements of the applicable sub-chapter, we believe the revision is acceptable. In addition to the temporary replacement revisions, on October 6, 1995 the State also made several editorial and clarifying revisions in the malfunction rule, ARM 17.8.110(1), (2), (4), (5) and (6) (formerly ARM 16.8.705(1), (2), (4), (5) and (6)). We are approving the revisions to ARM 17.8.110(1), (2), (4), (5), (6), and (7) into the SIP.

2. Subchapter 3—Emission Standards

(a) *Incorporation by Reference —ARM 17.8.302(1)–(4).* On May 19, 1995, the State adopted revisions to add ARM 17.8.302(1)(b) and (c) (formerly ARM 16.8.1429(2)(b) and (c)). This revision incorporated by reference 40 CFR part 60, Appendix A, Method 9, and 40 CFR part 60 Appendix B, performance specification 1. This revision occurred at the same time the State adopted revisions to the Kraft Pulp Mill rule. See the discussion of the Kraft Pulp Mill rule in section II.D.1 below.

On August 9, 1996 the State adopted revisions reformatting the incorporation by reference of documents in ARM 17.8.302(1)(a)–(h) and (2)–(4) and adding ARM 17.8.302(1)(i) (formerly ARM 16.8.1429(1)(a)–(h) and (2)–(4) and 16.8.1429(1)(i), respectively). State rule ARM 17.8.302(1)(i) incorporates by reference 40 CFR part 63.

On June 20, 1997, the State adopted revisions to ARM 17.8.302(1) by adding 17.8.302(1)(j). State rule ARM 17.8.302(1)(j) incorporates by reference 40 CFR part 60, subpart Cc.

As indicated in the General Provisions section II.B.1(b) above, on August 22, 1997, the State again adopted updates to its incorporation by reference of documents. State rule ARM 17.8.302(3) was revised.

On June 12, 1998 the State adopted more revisions to update the incorporation by reference of documents in ARM 17.8.302(1)(e) and (i). State rule ARM 17.8.302(1)(e) was revised to incorporate by reference our final rule published on October 7, 1997 (62 FR 52399), entitled ''Determination of Total Fluoride Emissions from Selected Sources of Primary Aluminum Production Facilities.'' State rule ARM 17.8.302(1)(i) was revised to incorporate by reference our final rule published on October 7, 1997 (62 FR 52407), entitled ''National Emission Standards for Hazardous Air Pollutants from Primary Reduction Facilities.''

On November 6, 1998 the State adopted revisions to ARM 17.8.302(1) by adding 302(1)(k). State rule ARM 17.8.302(1)(k) incorporates by reference 40 CFR part 60, subpart Ce.

On September 24, 1999, the State adopted more revisions to ARM 17.8.302(1) to remove superfluous language since a more current version of the CFR is being incorporated elsewhere. As a result, the September 24, 1999 revision deleted some of the prior adopted revisions mentioned above.

We are approving ARM 17.8.302(1)–(4) into the SIP.

(b) *Visible Air Contaminants—ARM 17.8.304(4)(f).* On May 19, 1995, the State adopted revisions to its rules by adding ARM 17.8.304(4)(f) (formerly 16.8.1404(4)(f)). This pertains to opacity from recovery furnaces at Kraft Pulp Mills. As indicated in section II.D.1 below, we will act on the revisions pertaining to the Kraft Pulp Mill Rule at a later date. Therefore, we are not approving ARM 17.8.304(4)(f) into the SIP at this time.

(c) *Fuel Burning—ARM 17.8.309 and ARM 17.8.310.* On October 6, 1995, the State adopted revisions to the particulate emission limits for fuel burning equipment and industrial processes (ARM 17.8.309 and 17.8.310, formerly, ARM 16.8.1402 and 16.8.1403, respectively). The State re-wrote and re-formatted the provisions in ARM 17.8.309(1) and (2) (formerly ARM 16.8.1402(1) and (2)) and ARM 17.8.310(1) and (2) (formerly ARM 16.8.1403(1) and (2)). We believe the revisions to these sections do not change the stringency of the rule and are approving them. However, the State added provisions to the rules with ARM 17.8.309(5)(b) and 17.8.310(3)(e) (formerly ARM 16.8.1402(5) and ARM 16.8.1403(3)(e)). State rules ARM 17.8.309(5)(b) and 17.8.310(3)(e) provide an exception that the rules do ''* * * not apply to particulate matter emitted from * * * sources constructed after March 16, 1979, that have a specific particulate emission limitation contained in an air quality preconstruction permit obtained under ARM Title 17, Chapter 8, sub-chapter 7, a court order, board order or department order, or a process specific rule.'' We

interpret this language as allowing terms of a construction permit to override a requirement that has been approved as part of the SIP. We cannot approve this part of the provision into the SIP, as it would allow the State to change a SIP requirement through the issuance of a permit. Pursuant to section 110 of the Act, to change a requirement of the SIP, the State must adopt a SIP revision and obtain our approval of the revision. Alternatively, EPA's March 5, 1996 ''White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program'' explains how States can streamline multiple applicable requirements for the same emission unit under the part 70 permit process. Such process must ensure that the streamlined emission limit is at least as stringent as all applicable emission limits for an emissions unit. This streamlining can only be allowed through the part 70 permit process, in which we have the opportunity to review the streamlined requirements and the ability to veto the part 70 permit if the streamlined requirement is not as stringent as each separate applicable requirement. Because we do not have veto authority under the Prevention of Significant Deterioration (PSD) or minor source permitting programs, we do not allow the State to streamline requirements through either of those construction permitting programs. Therefore, we are approving ARM 17.8.309 and ARM 17.8.310 into the SIP, except that we are disapproving ARM 17.8.309(5)(b) and 17.8.310(3)(e).

(d) *Hydrocarbon Emissions, Petroleum Products—ARM 17.8.324(1)(c) and (2)(d).* On December 6, 1996, the State adopted a new numbering system for the air rules. We are disapproving ARM 17.8.324(1)(c) and (2)(d) (formerly ARM 16.8.1425(1)(c) and (2)(d), respectively). We previously disapproved these rules under the prior codification. See July 18, 1995 (60 FR 36768) notice and 40 CFR 52.1384(c). Our prior disapproval also applies to the new codification. We are modifying 40 CFR 52.1384(c) accordingly.

(e) *Emission Standards for Existing Aluminum Plants—Standards for Visible Emissions—ARM 17.8.332.* As indicated in the General Provisions section II.B.1(b) above, on June 21, 1996 the State adopted revisions to its incorporation by reference of documents. State rule ARM 17.8.332(1) (formerly ARM 16.8.1503(1)) was modified and ARM 16.8.1503(2) was deleted. State rule ARM 16.8.1503(2) incorporated by reference method 9 of Appendix A of 40 CFR part 60. This was duplicative of the incorporation by reference material being added with ARM 16.8.1507(1)(a). On November 7, 1996 the state repealed ARM 16.8.1507 because, with the recodification of the rules, sub-chapters 14 and 15 were combined, making ARM 16.8.1507 unnecessary since sub-chapter 14 already had a rule incorporating by reference the same documents being incorporated in sub-chapter 15. Therefore, the material incorporated by reference in ARM 16.8.1503(2) is now incorporated by reference at ARM 17.8.302(1)(b). We are approving the revision of ARM 17.8.332 into the SIP and the deletion of ARM 16.8.1503(2) from the SIP.

3. Subchapter 6—Open Burning

(a) *Incorporation by Reference and Minor Changes—ARM sections 17.8.602, 17.8.604 and 17.8.612(6).* On January 20, 1995, the State adopted revisions to its Open Burning Rules (ARM 17.8.604 and 17.8.612(6) (formerly ARM 16.8.1302 and 16.8.1307(6), respectively)). The State revised the rules to correct incorrect wording, insert a missing rule reference and correct a reference to the Division.

As indicated in the General Provisions section in II.B.1(b) above, on June 21, 1996 the State adopted revisions to its incorporation by reference of documents. The following sections were modified: ARM 17.8.602 (formerly ARM 16.8.1311) and ARM 17.8.604(1)–(2) (formerly ARM 16.8.1302(1)–(3)).

As indicated in the General Provisions section in II.B.1(b) above, on August 22, 1997, the State again adopted updates to its incorporation by reference of documents. State rule ARM 17.8.602(3) was revised.

On July 2, 1999, the State revised ARM 17.8.612(6) to update the MDEQ's telephone number.

We are approving ARM sections 17.8.602, 17.8.604 and 17.8.612(6) into the SIP.

(b) *Open Burning Eastern Montana—ARM sections 17.8.601 and 17.8.606.* On October 6, 1995 the State adopted revisions to its Open Burning Rules (ARM 17.8.601 and 17.8.606 (formerly ARM 16.8.1301 and 16.8.1303, respectively)). The revisions allow minor open burners in eastern Montana to conduct essential agricultural open burning and prescribed wildland open burning without a permit during December, January and February if they notify the department prior to the burning. Prior to these changes, minor open burners in eastern Montana had to request department permission to conduct such open burning. We are approving the revisions to the open burning rule because we do not believe the revisions will jeopardize existing particulate matter (particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10)) nonattainment areas or interfere with attainment and maintenance of the PM–10 NAAQS or increment in Montana. All but one of the State's PM–10 nonattainment areas are in the western region of the State. Although there is one PM–10 nonattainment area in the eastern Montana open burning zone, the difference in the geography and weather patterns of the eastern part of the State should assure that the revisions made in the open burning rule will not jeopardize this one PM–10 nonattainment area. For these same reasons, we believe these rule changes will not interfere with attainment and maintenance of the PM–10 NAAQS or increment in Montana. Therefore, we are approving ARM 17.8.601 and 17.8.606 into the SIP.

(c) *Other Revisions to Open Burning Rule—ARM sections 17.8.601, 17.8.606, 17.8.610, 17.8.611, 17.8.612, 17.8.613.* On July 2, 1999, the State adopted revisions to the Open Burning Rules (ARM 17.8.601, 17.8.606, 17.8.610, 17.8.611, 17.8.612, 17.8.613). The revisions (1) update the MDEQ's telephone number; (2) remove reference to the national weather service office as a source of forecasts of ventilation conditions and in its place indicate that ventilation conditions may be obtained from MDEQ; (3) allow open burning permits to be issued for periods other than one year; and (4) require additional information be submitted for emergency open burning permits.

We are approving the revisions to ARM 17.8.601, 17.8.606, 17.8.610, 17.8.611, 17.8.612, and 17.8.613, adopted on July 2, 1999, into the SIP.

4. Subchapter 7—Permit, Construction, and Operation of Air Contaminant Sources

(a) *Definition and IBR—ARM 17.8.701 and ARM 17.8.702.* On August 8, 1996, the State adopted a definition for ''negligible risk'' (ARM 17.8.701(10), formerly ARM 16.8.1101(10)) and updated the incorporation by references in ARM 17.8.702 (formerly ARM 16.8.1120). As indicated in an April 5, 2000 letter from the State to EPA, the definition of ''negligible risk,'' at ARM 17.8.701(10) and a document incorporated by reference in ARM 17.8.702(1)(f) were not intended to be incorporated into the SIP.

As indicated in the General Provisions section in II.B.1(b) above, on August 22, 1997, the State adopted

updates to its incorporation by reference of documents. State rule ARM 17.8.702(3) was revised.

We are approving ARM 17.8.702 (except for ARM 17.8.702(1)(f)) into the SIP. We are not approving ARM 17.8.701(10) nor ARM 17.8.702(1)(f) into the SIP.

(b) *Minor Corrections—ARM 17.8.704(2), 17.8.705(1)(o), 17.8.720(2).* On January 20, 1995, the State adopted revisions to several sections of the permitting rules to clarify the rules and update incorrect citations. The following rules were revised: ARM 17.8.704(2), 17.8.705(1)(a), 17.8.720(2)) (formerly, ARM 16.8.1119(2), 16.8.1102(1)(o), and 16.8.1107(2), respectively). We are approving ARM 17.8.704(2), 17.8.705(1)(o), and 17.8.720(2) into the SIP.

(c) *Malfunctions—ARM 17.8.705(1)(p).* On October 6, 1995, the State adopted revisions to its permitting rule (in ARM 17.8.705(1)(p) (formerly ARM 16.8.1102(1)(p)) to coincide with revisions to its malfunction rule. As discussed in section II.B.1(e) above, we believe the revision to the malfunction rule is acceptable. Therefore, we are approving ARM 17.8.705(1)(p) into the SIP.

(d) *Public review of Permit Application—ARM 17.8.720.* On April 12, 1996, the State adopted revisions to ARM 17.8.720 (formerly ARM 16.8.1107) to allow an applicant to request an extension of the 60-day deadline for the department to issue a permit; to allow the department more time to issue a permit; to correct grammatical and citations in the rule; and to improve clarity of the rule. We are approving ARM 17.8.720 into the SIP.

5. Subchapter 8—Prevention of Significant Deterioration

(a) Definitions—ARM 17.8.801(29)(a). On October 6, 1995, June 21, 1996 and June 12, 1998 the State adopted revisions to the definition of ''volatile organic compounds (VOC)'' in ARM 17.8.801(29)(a) (formerly 16.8.945(29)(a)). The State revised the definition to coincide with revisions to the federal definition. Since the definition of VOC is consistent with our definition, we are approving ARM 17.8.801(29)(a) into the SIP.

(b) *Incorporation by Reference—ARM 17.8.802.* As indicated in the General Provisions section II.B.1(b) above, on June 21, 1996 the State adopted revisions to its incorporation by reference of documents. State rule ARM 17.8.802 (formerly ARM 16.8.946) was revised.

As indicated in the General Provisions section II.B.1(b) above, on August 22, 1997, the State again adopted updates to its incorporation by reference of documents. State rules ARM 17.8.802(1)(g) and (3) were revised.

We are approving ARM 17.8.802 into the SIP.

6. Subchapter 9—Permit Requirements for Major Stationary Sources or Major Modifications Locating Within Non-Attainment Areas

(a) *Definitions—ARM 17.8.901(20)(a).* On October 6, 1995, June 21, 1996 and June 12, 1998 the State adopted revisions to the definition of ''volatile organic compounds (VOC)'' in ARM 17.8.901(20)(a) (formerly ARM 16.8.1701(20)(a). The State revised the definition to coincide with revisions to the federal definition. Since the definition of VOC is consistent with our definitions, we are approving ARM 17.8.901(20)(a) into the SIP.

(b) *Incorporation by Reference—ARM sections 17.8.901(14)(c) and 17.8.902(1)–(5).* As indicated in the General Provisions section II.B.1(b) above, on June 21, 1996 the State adopted revisions to its incorporation by reference of documents. The following sections were modified: ARM 17.8.901(14)(c) (formerly 16.8.1701(14)(c)) and ARM 17.8.902(1)–(5) (formerly ARM 16.8.1702(1)–(2)).

As indicated in the General Provisions section II.B.1(b) above, on August 22, 1997, the State again adopted updates to its incorporation by reference of documents. State rule ARM 17.8.902(3) was revised.

We are approving ARM 17.8.901(14)(c) and 17.8.902 into the SIP.

7. Subchapter 10—Preconstruction Permit Requirements for Major Stationary Sources or Major Modifications Locating Within Attainment or Unclassified Areas

(a) *Incorporation by Reference—ARM 17.8.1002.* As indicated in the General Provisions section II.B.1(b) above, on June 21, 1996 the State adopted revisions to its incorporation by reference of documents. State rule ARM 17.8.1002(1)–(5) (formerly ARM 16.8.1802(1)–(2)) was revised.

As indicated in the General Provisions section II.B.1(b) above, on August 22, 1997, the State again adopted updates to its incorporation by reference of documents. State rule ARM 17.8.1002(3) was revised.

We are approving ARM 17.8.1002 into the SIP.

(b) *Minor Corrections—ARM sections 17.8.1004 and 17.8.1005.* On January 20, 1995, the State adopted revisions to several sections of the permitting rules to clarify the rules and update incorrect citations. The following rules were revised: ARM 17.8.1004 and 17.8.1005 (formerly, ARM 16.8.1803 and 16.8.1804, respectively). We are approving ARM 17.8.1004 and 17.8.1005 into the SIP.[3]

8. Subchapter 11—Visibility Impact Assessment

(a) *Incorporation by Reference—ARM 17.8.1102, 1103 and 1107.* As indicated in the General Provisions section II.B.1(b) above, on June 21, 1996 the State adopted revisions to its incorporation by reference of documents. The following sections were modified: ARM 17.8.1102 (formerly ARM 16.8.1009); ARM 17.8.1103(1) (formerly ARM 16.8.1001) and ARM 17.8.1107(1) (formerly ARM 16.8.1004(1)).

As indicated in the General Provisions section II.B.1(b) above, on August 22, 1997, the State again adopted updates to its incorporation by reference of documents. The following sections were revised: ARM 17.8.1102(1)(b) and (3).

Because of the reformatting of the incorporation by reference of documents, on June 21, 1996 the State deleted and did not replace the following sections: ARM 16.8.1001(2) and 16.8.1004(2).

We are approving ARM 17.8.1102, 1103 and 1107 into the SIP and the deletion of ARM 16.8.1001(2) and 16.8.1004(2) from the SIP.

(b) *Minor Corrections—ARM 17.8.1101(1), 17.8.1103(1), 17.8.1106(1), 17.8.1109(1), and 17.8.1111.* On January 20, 1995 the State adopted revisions to several sections of the visibility rules to update incorrect citations. The following rules were revised: ARM 17.8.1101(1), 17.8.1103(1), 17.8.1106(1), 17.8.1109(1), and 17.8.1111 (formerly, ARM 16.8.1002(1), 16.8.1001(1), 16.8.1003(1), 16.8.1006(1), and 16.8.1008, respectively). We are approving ARM 17.8.1101(1), 17.8.1103(1), 17.8.1106(1), 17.8.1109(1), and 17.8.1111 into the SIP.

C. Category 3

We cannot approve certain types of rules into the SIP. A listing of each rule (or section of a rule) we are not approving in the SIP and a discussion

[3] When the State recodified its rules it inadvertently made an error. ARM 17.8.1005(6) refers to ''17.8.905(6) through (8).'' This should read ''17.8.906(6) through (8).'' The State must correct this error in its next regulatory update.

of why we believe we can not approve that rule into the SIP is provided below:

1. Subchapter 3—Emission Standards

(a) *Odors—ARM 17.8.315.* We believe we have no legal basis in the Act for approving Montana's odor control rule ARM 17.8.315 (formerly ARM 16.8.1427) and making it Federally enforceable because odor control provisions are not generally related to attainment or maintenance of the National Ambient Air Quality Standards (NAAQS). Therefore, we are not taking action to incorporate ARM 17.8.315 into the SIP.

(b) *Standard of Performance for New Stationary Sources and Emission Guidelines for Existing Sources—ARM 17.8.340(1) through (3).* ARM 17.8.340(1) through (3) (formerly ARM 16.8.1423(1) through (3)) is the rule the State uses to implement our new source performance standards (NSPS) in 40 CFR part 60. On May 16, 2001, we issued a letter delegating the responsibility for all sources located, or to be located, in the State of Montana subject to the NSPS promulgated in 40 CFR part 60. The categories of new stationary sources covered by this delegation are the categories covered by all NSPS subparts in 40 CFR part 60, as in effect on July 1, 1998, except subparts Cb, Cc, Cd and Ce. Given that the State now has delegation of authority for NSPS in 40 CFR part 60, pursuant to 110(k)(6) of the Act, we are removing the old codification, ARM 16.8.1423(1) through (3), from the SIP and not approving the new codification of ARM 17.8.340(1) through (3) into the SIP. We are updating the table in 40 CFR 60.4(c) to indicate that the 40 CFR part 60 NSPS are now delegated to the State and revising EPA's address and Montana's and other States' agency names and addresses in 40 CFR 60.4(a) and (b)(BB), (b)(JJ) and (b)(TT).

The May 16, 2001 letter of delegation to the State follows:

Honorable Judy Martz,
Governor of Montana, State Capitol, Helena, Montana 59620–0801

Dear Governor Martz: On March 3, 2000 the State submitted a revision to the New Source Performance Standards (NSPS) rules in the Administrative Rules of Montana (ARM) 17.8.340. Specifically, the State revised its NSPS to incorporate the Federal NSPS in effect as of July 1, 1998.

Subsequent to States adopting NSPS regulations, EPA delegates the authority for the implementation and enforcement of those NSPS, so long as the State's regulations are equivalent to the Federal regulations. EPA reviewed the pertinent statutes and regulations of the State of Montana and determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State of Montana. Therefore, pursuant to Section 111(c) of the Clean Air Act (Act), as amended, and 40 CFR Part 60, EPA hereby delegates its authority for the implementation and enforcement of the NSPS to the State of Montana as follows:

(A) Responsibility for all sources located, or to be located, in the State of Montana subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60. The categories of new stationary sources covered by this delegation are all NSPS subparts in 40 CFR Part 60, as in effect on July 1, 1998. Note this delegation does not include the emission guidelines in subparts Cb, Cc, Cd, and Ce. These subparts require state plans which are approved under a separate process pursuant to Section 111(d) of the Act.

(B) Not all authorities of NSPS can be delegated to States under Section 111(c) of the Act, as amended. The EPA Administrator retains authority to implement those sections of the NSPS that require: (1) approving equivalency determinations and alternative test methods, (2) decision making to ensure national consistency, and (3) EPA rulemaking to implement. Therefore, of the NSPS of 40 CFR Part 60 being delegated in this letter, the enclosure lists examples of sections in 40 CFR Part 60 that cannot be delegated to the State of Montana.

(C) As 40 CFR Part 60 is updated, Montana should revise its regulations accordingly and in a timely manner and submit to EPA requests for updates to its delegation of authority.

This delegation is based upon and is a continuation of the same conditions as those stated in EPA's original delegation letter of May 18, 1977, to the Honorable Thomas L. Judge, then Governor of Montana, except that condition 6, relating to Federal facilities, was voided by the Clean Air Act Amendments of 1977. Please also note that EPA retains concurrent enforcement authority as stated in condition 3. In addition, if at any time there is a conflict between a State and Federal NSPS regulation, the Federal regulation must be applied if it is more stringent than that of the State, as stated in condition 9. EPA published its May 18, 1977 delegation letter in the notices section of the September 6, 1977 **Federal Register** (42 FR 44573), along with an associated rulemaking notifying the public that certain reports and applications required from operators of new or modified sources shall be submitted to the State of Montana (42 FR 44544). Copies of the **Federal Register** notices are enclosed for your convenience.

Since this delegation is effective immediately, there is no need for the State to notify the EPA of its acceptance. Unless we receive written notice of objections from you within ten days of the date on which you receive this letter, the State of Montana will be deemed to accept all the terms of this delegation. EPA will publish an information notice in the **Federal Register** in the near future to inform the public of this delegation, in which this letter will appear in its entirety.

If you have any questions on this matter, please contact me or have your staff contact Richard Long, Director of our Air and Radiation Program, at (303) 312–6005.

Sincerely yours,
Jack W. McGraw,
Acting Regional Administrator.

Enclosures

cc: Jan Sensibaugh, Director, Montana Department of Environmental Quality, John Wardell, 8MO

Enclosure to Letter Delegating NSPS in 40 CFR Part 60, Effective Through July 1, 1998, to the State of Montana

EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELEGATED

40 CFR subparts	Section(s)
A	60.8(b)(2) and (b)(3), and those sections throughout the standards that reference 60.8(b)(2) and (b)(3); 60.11(b) and (e).
Da	60.45a.
Db	60.44b(f), 60.44b(g) and 60.49b(a)(4).
Dc	60.48c(a)(4).
Ec	60.56c(i), 60.8
J	60.105(a)(13)(iii) and 60.106(i)(12).
Ka	60.114a.
Kb	60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii).
O	60.153(e).
S	60.195(b).
DD	60.302(d)(3).
GG	60.332(a)(3) and 60.335(a).
VV	60.482–1(c)(2) and 60.484.
WW	60.493(b)(2)(i)(A) and 60.496(a)(1).

EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELEGATED—Continued

40 CFR subparts	Section(s)
XX	60.502(e)(6)
AAA	60.531, 60.533, 60.534, 60.535, 60.536(i)(2), 60.537, 60.538(e) and 60.539.
BBB	60.543(c)(2)(ii)(B).
DDD	60.562–2(c).
GGG	60.592(c).
III	60.613(e).
JJJ	60.623.
KKK	60.634.
NNN	60.663(e).
QQQ	60.694.
RRR	60.703(e).
SSS	60.711(a)(16), 60.713(b)(1)(i) and (ii), 60.713(b)(5)(i), 60.713(d), 60.715(a) and 60.716.
TTT	60.723(b)(1), 60.723(b)(2)(i)(C), 60.723(b)(2)(iv), 60.724(e) and 60.725(b).
VVV	60.743(a)(3)(v)(A) and (B), 60.743(e), 60.745(a) and 60.746.
WWW	60.754(a)(5).

(d) *Standard of Performance for New Stationary Sources and Emission Guidelines for Existing Sources—Municipal Solid Waste Landfill Facilities—ARM 17.8.340(4).* On June 20, 1997, the State adopted rules for Municipal Solid Waste Landfill Facilities. We believe we have no legal basis in the Act for approving Montana's rule for Municipal Solid Waste Landfill Facilities, ARM 17.8.340(4), into the SIP because these rules are not generally related to attainment or maintenance of the NAAQS. Therefore, we are not taking action to incorporate ARM 17.8.340(4) into the SIP. However, on July 8, 1998 (63 FR 36858), we did approve these rules as meeting section 111(d) of the Act. See 40 CFR 62.6600–6602.

(e) *Standard of Performance for New Stationary Sources and Emission Guidelines for Existing Sources—Hospital/Medical/Infectious Waste Incinerator Facilities—ARM 17.8.340(5).* On October 16, 1998, the State adopted rules for Hospital/Medical/Infectious Waste Incinerator Facilities. We believe we have no legal basis in the Act for approving Montana's rule for Hospital/Medical/Infectious Waste Incinerator Facilities, ARM 17.8.340(5), into the SIP because these rules are not generally related to attainment or maintenance of the NAAQS. Therefore, we are not taking action to incorporate ARM 17.8.340(5) into the SIP. However, on June 22, 2000 (65 FR 38732), we did approve these rules as meeting section 111(d) of the Act. See 40 CFR 62.6610–6612.

(f) *Emission Standards for Hazardous Air Pollutants—ARM 17.8.341.* ARM 17.8.341 (formerly ARM 16.8.1424) is the rule the State uses to implement our national emission standards for hazardous air pollutants (NESHAPs) regulations in 40 CFR part 61. On May 16, 2000, we issued a letter indicating that we were delegating the authority of 40 CFR part 61 to the State. Given that the State now has delegation of authority for NESHAPs in 40 CFR part 61, pursuant to 110(k)(6) of the Act, we are removing the old codification ARM 16.8.1424 from the SIP and not approving the new codification of ARM 17.8.341 into the SIP. We are updating the table in 40 CFR 61.04(c)(8) to indicate that the 40 CFR part 61 NESHAPs are now delegated to the State and revising EPA's address and Montana's and other States' agency names and addresses in 40 CFR 61.04(a) and (b)(G), (b)(BB), (b)(JJ), (b)(TT) and (b)(ZZ).

(g) *Emission Standards for Hazardous Air Pollutants for Source Categories—ARM 17.8.342.* On August 9, 1996, the State adopted ARM 17.8.342 (formerly ARM 16.8.1431) for the Maximum Achievable Control Technology (MACT) standards (i.e., 40 CFR part 63). We believe we have no legal basis in the Act for approving Montana's MACT rules into the SIP because these rules are not generally related to attainment or maintenance of the NAAQS. Therefore, we are not taking action to incorporate ARM 17.8.342 into the SIP. However, on May 16, 2000, we issued a letter indicating that we were delegating the authority of 40 CFR part 63 to the State.

(h) *Air Quality Operating Permit Program Applicability—ARM 17.8.1204.* On January 20, 1995, the State adopted revisions to ARM 17.8.1204 (formerly ARM 16.8.2004) and the Governor of Montana submitted these revisions on April 14, 1999. Sub-chapter 12 pertains to the Operating Permit Program. We believe we have no legal basis in the Act for approving any of the provisions of the operating permit program into the SIP. Therefore, we are not taking action to incorporate ARM 17.8.1204 into the SIP. However, we fully approved Montana's Title V program on December 22, 2000, 65 FR 80785.

D. Category 4

Category 4 consists of those rules that we will act on at a later date.

(1) On April 14, 1999, the Governor of Montana submitted revisions to the Incorporation by Reference Rule, Visible Air Contaminant Rule and Kraft Pulp Mill Rule (ARM 17.8.302(1)(b) and (c), 17.8.304(4)(f) and 17.8.321 (formerly ARM 16.8.1429(2)(b) and (c), 16.8.1404(4)(f) and 16.8.1413, respectively)) which had been adopted by the State on May 19, 1995 and December 11, 1998. The revisions to the Kraft Pulp Mill Rule were adopted both prior to and after the air quality rules were recodified. As discussed earlier in section II.B.2(a), we are approving the revisions to ARM 17.8.302(1). We will act on the revisions and the recodification of ARM 17.8.304(4)(f) and 17.8.321 at a later date. These revisions are not being approved as part of SIP at this time. The prior codified Kraft Pulp Mill Rule, ARM 16.8.1413, effective December 13, 1972, remains in the SIP.

(2) On December 8, 1997, the Governor of Montana submitted revisions to the Incinerator Rule, ARM 17.8.316, which were adopted by the State on June 11, 1997. The revisions to the Incinerator rule were adopted after the recodification of the air quality rules. We are approving the recodification, as indicated in section II.A.2 above, but we will act on the June 11, 1997 revisions to the Incinerator Rule at a later date.

(3) The September 19, 1997 submittal contained Subchapter 13, Conformity. We will act on the Conformity sub-chapter at a later date.

(4) The September 19, 1997 recodification contains paragraphs ARM

17.8.705(1)(q), 17.8.708, and 17.8.733(1)(c) (formerly ARM 16.8.1102(1)(q), 16.8.1121 and 16.8.1113(1)(c), respectively) that had been adopted by the State on August 8, 1996 but had not been submitted to us prior to the recodification. Revisions to ARM 17.8.705(1) and (2), 17.8.708 (repealed), and 17.8.733(1)(b) and (c) were subsequently adopted by the State on May 14, 1999. The August 8, 1996 and May 14, 1999 adopted revisions were submitted to EPA on August 26, 1999. With this document we are not approving ARM 17.8.705(1)(q), 17.8.708 and 17.8.733(1)(c), which were submitted with the recodification. We will address the August 26, 1999 submittal along with these recodified rules at a later date.

(5) On January 20, 1995, the State adopted revisions to several sections of the stack height rules to update incorrect citations. The following rules were revised: ARM 17.8.401(4)(b) and 17.8.403(1) (formerly, ARM 16.8.1204(4)(b) and 16.8.1206(1), respectively). On September 17, 1997, the State submitted a recodification of its rules including the stack height rules. We will address the January 20, 1995 stack height rule revisions along with the recodified stack height rules in a future rulemaking action. The prior codified stack heights and dispersion techniques rule, ARM 16.8.1204 through 16.8.1206, effective June 13, 1986, remains in the approved SIP.

The June 15, 2001 preambles to the direct final and proposed rules stated our intent to approve most of the State's recodified air quality rules, including the State's recodified stack height rules. However, in another pending SIP action in Montana (Billings/Laurel), we have questioned aspects of the Montana stack height regulations that are repeated in the recodification. We do not believe we should act on the recodification of these rules before we give full consideration to relevant issues in the context of our ongoing action on the Billings/Laurel SIP, where the issues first arose and should be resolved. Accordingly, we will act on the recodified stack height rules at a later date. This deferral of action will have no effect on the existing approved Montana stack height SIP.

III. Miscellaneous Issues

(1) On June 21, 1996, the State repealed ARM 16.8.1419, Fluoride Emissions—Phosphate Processing. Previously we had incorporated this provision into the Federally approved SIP. Since fluoride emissions are not generally related to attainment or maintenance of the NAAQS, we are approving the deletion of ARM 16.8.1419 from the SIP. In a February 14, 2001 letter, the State indicated that ARM 16.8.1419 was not developed to satisfy the Clean Air Act section 111(d) requirements and that there are no phosphate fertilizer plants in Montana that meet the definition of affected facility under any of the 40 CFR part 60, subparts T, U, V, W or X, and that there are no phosphate fertilizer plants in Montana that meet the definition of affected facility under any of the subparts T, U, V, W, or X, constructed before October 22, 1974, and that have not reconstructed or modified since 1974. We are revising 40 CFR part 62, subpart BB to indicate that Montana has certified that it has no such sources.

(2) On November 7, 1996, the State repealed ARM 16.8.301, Standing (pertaining to a rehearing before the Board), because it merely refers the reader to existing statutory requirements, and ARM 16.8.401–404, Emergency Procedures (pertaining to Board hearings on emergency orders of the department), because most of the provisions repeat statutory language. Previously we had incorporated these provisions into the Federally approved SIP. Since these provisions are not generally related to attainment or maintenance of the NAAQS, we are approving the deletion of ARM 16.8.301 and 16.8.401–404 from the SIP.

(3) On November 7, 1996, the State repealed ARM 16.8.1104, Existing Sources and Stacks—Permit Application Requirements (requiring existing sources constructed after November 23, 1968, to apply for an air quality permit), because the State believed the rule was no longer necessary; all such facilities have either applied for an air quality permit or have altered the facility in a manner that would require an air quality permit under other provisions of the department's air quality rules. Previously we had incorporated ARM 16.8.1104 into the Federally approved SIP. We agree with the State's assessment and are approving the deletion of ARM 16.8.1104 from the SIP.

(4) The April 14, 1999 submittal contained rule ARM 17.4.101 pertaining to alternative public hearing procedures. According to the State's April 5, 2000 letter to EPA, the State will be rescinding this rule. We are not acting on rule ARM 17.4.101.

(5) The State's September 19, 1997 submittal also contained the State Emergency Episode Avoidance Plan (EEAP). The same EEAP was submitted on July 8, 1997. We approved the July 8, 1997 submittal on December 6, 1999 (64 FR 68034). Since the September 19, 1997 EEAP merely duplicates the July 8, 1997 EEAP, and we have already approved the July 8, 1997 EEAP, we are not acting on the September 19, 1997 submittal.

(6) On August 22, 1997, the Board revised ARM 17.8.1202 (formerly ARM 16.8.2003). The Governor's April 14, 1999 letter requested that ARM 17.8.1202 be rescinded. Sub-chapter 12 pertains to the Operating Permit Program. We have no legal basis in the Act for approving any of the provisions of the operating permit program into the SIP. However, on October 23, 1996 (61 FR 54946) we inadvertently incorporated ARM 16.8.2003 (now ARM 17.8.1202) into the SIP. Since approval of ARM 16.8.2003 into the SIP was in error, we are removing ARM 16.8.2003 from the SIP pursuant to section 110(k)(6) of the Act. Also, we fully approved Montana's Title V program on December 22, 2000, 65 FR 80785.

(7) On December 6, 1999, the Governor of Montana submitted a regulation from the Yellowstone County Air Pollution Control (YCAPC) program. The submittal consists solely of Regulation No. 002—Open Burning Restrictions. We believe it is appropriate to incorporate local air pollution control programs in the SIP if the program is needed for attainment and maintenance of any National Ambient Air Quality Standard (NAAQS). The State's Group II PM–10 SIP relies on many rules, including the State's open burning rules, to assure maintenance of the PM–10 NAAQS. We approved the Group II PM–10 SIP on January 20, 1994 (59 FR 2988). By approving the YCAPC's Regulation No. 002, the State has given Yellowstone County the responsibility to ensure that State open burning rules are met. Since the County is implementing measures that the State is relying upon to assure that the PM–10 NAAQS are maintained, we believe it is appropriate to incorporate the county rules in the SIP. In addition, including the county rules in the SIP will make the county-issued open burning permits federally enforceable, further assuring the effectiveness of the PM–10 plan.

On December 23, 1992, then Montana Governor Stan Stephens submitted a SIP revision regarding the YCAPC major rule revisions. To date we have not acted on the December 23, 1992 submittal. The December 6, 1999 letter from Governor Marc Racicot indicates that the recent modifications to the YCAPC's program supersede the 1992 submittal and, therefore, rescinds the December 23, 1992 submittal. Accordingly, we are acting to approve the December 6, 1999 submittal of the YCAPC open burning program.

IV. Final Action

We are approving the revisions and recodification to the Administrative Rules of Montana submitted by the Governor on September 19, 1997, December 10, 1997, April 14, 1999 December 6, 1999 and March 3, 2000 except for the following provisions that we are not acting on, are disapproving, or will act upon at a later date. The portions of the recodification and revisions that we are approving replace the prior SIP approved regulations (except for the Kraft Pulp Mill Rule, ARM 16.8.1413, effective December 13, 1972, and the Stack Heights and Dispersion Techniques Rule, ARM 16.8.1204–1206, effective June 13, 1986, which will remain a part of the approved SIP). We are also approving into the SIP Yellowstone County's Local Regulation No. 002—Open Burning. The provisions that we are not acting on because these rules are not appropriate to be in the SIP or because the State does not want them in the SIP include: ARM sections 17.4.101, 17.8.315, 17.8.340, 17.8.341, 17.8.342, 17.8.701(10) and 17.8.702(1)(f), and 17.8.1204.

The provisions that we are disapproving include: ARM 17.8.309(5)(b), 17.8.310(3)(e), and 17.8.324(1)(c) and 2(d).

The provisions that we will act upon at a later date include: ARM sections 17.8.304(4)(f), revisions to ARM 17.8.316 (adopted on 6/11/97), 17.8.321, 17.8.401–403, 17.8.705(1)(q), 17.8.708, 17.8.733(1)(c), and 17.8.1301–1313.

The provisions that we are removing from the SIP include: ARM sections 16.8.301, 16.8.401–404, 16.8.704(3), 16.8.1001(2), 16.8.1004(2), 16.8.1104, 16.8.1419, 16.8.1423, 16.8.1424, 16.8.1503(2) and 16.8.2003.

Finally, we are announcing the delegation of authority for NSPS implementation and enforcement to the State and updating the tables in 40 CFR 60.4(c) and 40 CFR 61.04(c)(8) to indicate that the 40 CFR part 60 NSPS and 40 CFR part 61 NESHAPs are now delegated to the State and revising EPA's address and Montana's and other States' agency names and addresses in 40 CFR 60.4(a), (b)(BB), (b)(JJ) and (b)(TT), and 40 CFR 61.04(a), (b)(G), (b)(BB), (b)(JJ), (b)(TT) and (b)(ZZ). We are also updating 40 CFR part 62 subpart BB to indicate that Montana submitted a negative declaration.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective October 12, 2001 without further notice unless we receive adverse comments by September 12, 2001. If the EPA receives adverse comments, we will before October 12, 2001 publish a withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

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 Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). 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.'' Under Executive Order 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 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 partially approves and partially disapproves 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 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 final 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. This action does not involve or impose any requirements that affect Indian Tribes. Thus, Executive Order 13175 does not apply to this rule.

E. Executive Order 13211

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

F. Regulatory Flexibility

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 partial approval 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 approve 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. 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).

Moreover, EPA's partial disapproval rule will not have a significant impact on a substantial number of small entities. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities. Furthermore, as explained in this action, the submission does not meet the requirements of the Clean Air Act and EPA cannot approve the submission. EPA has no option but to partially disapprove the submittal. The partial disapproval will not affect any existing State requirements applicable to the entities. Federal disapproval of a State submittal does not affect its State enforceability.

G. 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 the 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 partial approval and partial disapproval actions promulgated do 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 Federal action partially approves and partially disapproves 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.

H. 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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective October 12, 2001 unless EPA receives adverse written comments by September 12, 2001.

I. 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.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 12, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Clean Air Act.)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 60

Environmental protection, Air pollution control, Aluminum, Ammonium sulfate plants, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Drycleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Grains, Graphic arts industry, Household appliances, Insulation, Intergovernmental relations, Iron, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Reporting and recordkeeping requirements, Sewage

disposal, Steel, Sulfur oxides, Tires, Urethane, Vinyl, Waste treatment and disposal, Wool, Zinc.

40 CFR Part 61

Environmental protection, Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Hazardous substances, Mercury, Vinyl chloride.

40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Fluoride, Intergovernmental relations, Phosphate fertilizer plants, Reporting and recordkeeping requirements.

Dated: July 31, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.1370 is amended by adding paragraph (c)(49) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(49) On September 19, 1997, December 10, 1997, April 14, 1999, December 6, 1999 and March 3, 2000, the Governor submitted a recodification and revisions to the Administrative Rules of Montana. EPA is replacing in the SIP all of the previously approved Montana air quality regulations except that the Kraft Pulp Mill Rule, ARM 16.8.1413, effective December 13, 1972, and Stack Heights and Dispersion Techniques Rule, ARM 16.8.1204–1206, effective June 13, 1986, with those regulations listed in paragraph (c)(49)(i)(A) of this section. The Kraft Pulp Mill Rule, ARM 16.8.1413, effective December 13, 1972, and Stack Heights and Dispersion Techniques Rule, ARM 16.8.1204–1206, effective June 13, 1986, remain part of the SIP. In addition, the Governor submitted Yellowstone County's Local Regulation No. 002—Open Burning.

(i) Incorporation by reference.

(A) Administrative Rule of Montana (ARM) Table of Contents; section 17.8.101, effective 6/26/98; sections 17.8.102–103, effective 10/8/99; section 17.8.105, effective 8/23/96; section 17.8.106, effective 10/8/99, sections 17.8.110–111, effective 8/23/96; sections 17.8.130–131, effective 8/23/96; sections 17.8.140–142, effective 8/23/96; section 17.8.301, effective 8/23/96; section 17.8.302, effective 10/8/99; section 17.8.304 (excluding 17.8.304(4)(f)), effective 8/23/96; section 17.8.308, effective 8/23/96; section 17.8.309 (excluding 17.8.309(5)(b)), effective 8/23/96; section 17.8.310 (excluding 17.8.310(3)(e)), effective 8/23/96; section 17.8.316, effective 8/23/96; section 17.8.320, effective 8/23/96; sections 17.8.322–323, effective 8/23/96; section 17.8.324 (excluding 17.8.324(1)(c) and (2)(d)), effective 8/23/96; sections 17.8.325–326, effective 8/23/96; sections 17.8.330–334, effective 8/23/96; section 17.8.601, effective 7/23/99; section 17.8.602, effective 9/9/97; sections 17.8.604–605, effective 8/23/96; section 17.8.606, effective 7/23/99; sections 17.8.610–613, effective 7/23/99; section 17.8.614–615, effective 8/23/96; section 17.8.701 (excluding 17.8.701(10)), effective 8/23/96; section 17.8.702 (excluding 17.8.702(1)(f)), effective 9/9/97; section 17.8.704, effective 8/23/96; section 17.8.705 (excluding 17.8.705(1)(q)) effective 8/23/96; sections 17.8.706–707, effective 8/23/96; section 17.8.710, effective 8/23/96; sections 17.8.715–717, effective 8/23/96; section 17.8.720, effective 8/23/96; sections 17.8.730–732, effective 8/23/96; section 17.8.733 (excluding 17.8.733(1)(c)), effective 8/23/96; section 17.8.734, effective 8/23/96; section 17.8.801, effective 6/26/98; section 17.8.802, effective 9/9/97; sections 17.8.804–809, effective 8/23/96; sections 17.8.818–828, effective 8/23/96; section 17.8.901, effective 6/26/98; section 17.8.902, effective 9/9/97; sections 17.8.904–906, effective 8/23/96; section 17.8.1001, effective 8/23/96; section 17.8.1002, effective 9/9/97; sections 17.8.1004–1007, effective 8/23/96; section 17.8.1101, effective 8/23/96; section 17.8.1102, effective 9/9/97; section 17.8.1103, effective 8/23/96; and sections 17.8.1106–1111, effective 8/23/96.

(B) April 27, 2000 letter from Debra Wolfe, Montana Department of Environmental Quality, to Dawn Tesorero, U.S. Environmental Protection Agency, Region 8.

(C) Board Order issued on September 24, 1999, by the Montana Board of Environmental Review approving the Yellowstone County Air Pollution Control Program.

(D) Yellowstone County Air Pollution Control Program, Regulation No. 002 Open Burning, effective September 24, 1999.

(E) March 6, 2001 letter from Robert Habeck, Montana Department of Environmental Quality, to Laurie Ostrand, EPA Region 8, explaining the effective date of the Yellowstone County Air Pollution Control Program Regulation No. 002 Open Burning.

(ii) Additional Material.

(A) April 5, 2000 letter from Debra Wolfe, Montana Department of Environmental Quality, to Dawn Tesorero, U.S. Environmental Protection Agency, Region 8.

(B) February 14, 2001 letter from Don Vidrine, Montana Department of Environmental Quality, to Dick Long, U.S. Environmental Protection Agency, Region 8.

* * * * *

3. Section 52.1384 is amended by adding paragraph (a) and revising paragraph (c).

§ 52.1384 Emission control regulations.

(a) Administrative Rules of Montana 17.8.309(5)(b) and 17.8.310(3)(e) of the State's rule regulating fuel burning, which were submitted by the Governor on April 14, 1999 and which allow terms of a construction permit to override a requirement that has been approved as part of the SIP, are disapproved. We cannot approve these provisions into the SIP, as it would allow the State to change a SIP requirement through the issuance of a permit. Pursuant to section 110 of the Act, to change a requirement of the SIP, the State must adopt a SIP revision and obtain our approval of the revision.

* * * * *

(c) Administrative Rules of Montana 17.8.324(1)(c) and 2(d) (formerly ARM 16.8.1425(1)(c) and (2)(d)) of the State's rule regulating hydrocarbon emissions from petroleum products, which were submitted by the Governor on May 17, 1994 and later recodified with a submittal by the Governor on September 19, 1997, and which allow the discretion by the State to allow different equipment than that required by this rule, are disapproved. Such discretion cannot be allowed without requiring EPA review and approval of the alternative equipment to ensure that it is equivalent in efficiency to that equipment required in the approved SIP.

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601 as amended by the Clean Air Act Amendments of 1990, Pub. L. 101–549, 104 Stat. 2399 (November 15, 1990; 402, 409, 415 of the Clean Air Act as amended, 104 Stat. 2399, unless otherwise noted).

Subpart A—General Provisions

2. Section 60.4 is amended by:

a. Revising the names and addresses listed for the EPA Region VIII office in paragraph (a), the State of Montana in paragraph (b)(BB), the State of North Dakota in paragraph (b)(JJ) and the State of Utah in paragraph (b)(TT) to read as follows: and

b. Amending the table entitled ''Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]'' in paragraph (c) by revising the column heading for ''MT'' and the entries for subparts ''Ec'', ''RRR'', ''UUU'' and ''WWW'' to read as follows:

§ 60.4 Address.

* * * * *

(a) * * *

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming) Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, 999 18th Street, Suite 300, Denver, CO 80202–2466.

* * * * *

(b) * * *

(BB) State of Montana, Department of Environmental Quality, 1520 E. 6th Ave., PO Box 200901, Helena, MT 59620–0901.

Note: For a table listing Region VIII's NSPS delegation status, see paragraph (c) of this section.

* * * * *

(JJ) State of North Dakota, Division of Air Quality, North Dakota Department of Health, P.O. Box 5520, Bismarck, ND 58506–5520.

Note: For a table listing Region VIII's NSPS delegation status, see paragraph (c) of this section.

* * * * *

(TT) State of Utah, Division of Air Quality, Department of Environmental Quality, P.O. Box 144820, Salt Lake City, UT 84114–4820.

Note: For a table listing Region VIII's NSPS delegation status, see paragraph (c) of this section.

* * * * *

(c) * * *

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS [(NSPS)] FOR REGION VIII

Subpart	CO	MT	ND	SD [1]	UT [1]	WY
* * * *		*		*		*
Ec-Hospital/Medical/Infectious Waste Incinerators	(*)	(*)	(*)	(*)		
* * * *		*		*		*
RRR—VOC Emissions from Synthetic Organic Chemistry Manufacturing Industry (SOCMI) Reactor Processes	(*)	(*)	(*)	(*)	(*)	(*)
* * * *		*		*		*
UUU—Calciners and Dryers in Mineral Industries	(*)	(*)	(*)	(*)	(*)	(*)
* * * *		*		*		*
WWW—Municipal Solid Waste Landfills	(*)	(*)	(*)	(*)	(*)	(*)

(*) Indicates approval of State regulation.
[1] Indicates approval of State regulation as part of the State Implementation Plan (SIP).

PART 61—[AMENDED]

1. The authority citation for part 61 continues to read as follows:

Authority: Sec. 101, 112, 114, 116, 301, Clean Air Act as amended (42. U.S.C. 7401, 6412, 7414, 7416, 7601).

Subpart A—General Provisions

2. § 61.04 is amended by:

a. Revising the names and addresses listed for the EPA Region VIII office in paragraph (a), the State of Colorado in paragraph (b)(G), the State of Montana in paragraph (b)(BB), the State of North Dakota in paragraph (b)(JJ) and the State of Utah in paragraph (b)(TT) and adding the State of Wyoming in paragraph (b)(ZZ) to read as follows:

b. Amending the table entitled ''Region VIII.—Delegation Status of National Emission Standards for Hazardous Air Pollutants'' by revising the column heading for ''MT'' to read as follows:

§ 61.04 Address.

* * * * *

(a) * * *

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming) Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, 999 18th Street, Suite 300, Denver, CO 80202–2466.

* * * * *

(b) * * *

(G) State of Colorado, Air Pollution Control Division, Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, CO 80246–1530.

Note: For a table listing Region VIII's NESHAP delegation status, see paragraph (c) of this section.

* * * * *

(BB) State of Montana, Department of Environmental Quality, 1520 E. 6th Ave., PO Box 200901, Helena, MT 59620–0901.

Note: For a table listing Region VIII's NESHAP delegation status, see paragraph (c) of this section.

* * * * *

(JJ) State of North Dakota, Division of Air Quality, North Dakota Department of Health, P.O. Box 5520, Bismarck, ND 58506–5520.

Note: For a table listing Region VIII's NESHAP delegation status, see paragraph (c) of this section.

* * * * *

(TT) State of Utah, Division of Air Quality, Department of Environmental Quality, P.O. Box 144820, Salt Lake City, UT 84114–4820.

Note: For a table listing Region VIII's NESHAP delegation status, see paragraph (c) of this section.

* * * * *

(ZZ) State of Wyoming, Air Quality Division, Department of Environmental Quality, 122 W. 25th St., Cheyenne, WY 82002.

* * * * *

(c) * * *

REGION VIII.—DELEGATION STATUS OF NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS [1]

Subpart	CO	MT	ND [2]	SD [2]	UT [2]	WY
* * *	*	*		*		*

* Indicates approval of delegation of subpart to state.

[1] Authorities which may not be delegated include 40 CFR part 61.04(b), 61.12(d)(1), 61.13(h)(1)(ii), 61.112(c), 61.164(a)(2), 61.164(a)(3), 61.172(b)(2)(ii)(B), 61.172(b)(2)(ii)(C), 61.174(a)(2), 61.174(a)(3), 61.242–1(c)(2), 61.244, and all authorities listed as not delegable in each subpart under Delegation of Authority.

[2] Indicates approval of National Emission Standards for Hazardous Air Pollutants as part of the State Implementation Plan (SIP) with the exception of the radionuclide NESHAP subparts B, Q, R, T, W which were approved through section 112(l) of the Clean Air Act.

[3] Delegation only for asbestos demolition, renovation, spraying, manufacturing, and fabricating operations, insulating materials, waste disposal for demolition, renovation, spraying, manufacturing and fabricating operations, inactive waste disposal sites for manufacturing and fabricating operations, and operations that convert asbestos-containing waste material into nonasbestos (asbestos-free) material.

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671.

Subpart BB—Montana

2. Add a new and undesignated center heading and § 62.6613 to subpart BB to read as follows:

Fluoride Emissions From Existing Phosphate Fertilizer Plants

§ 62.6613 Identification of plan—negative declaration.

The Montana Department of Environmental Quality certified in a letter dated February 14, 2001, that there are no phosphate fertilizer plants in Montana that meet the definition of affected facility under any of the subparts T, U, V, W or X. Additionally, there are no phosphate fertilizer plants in Montana that meet the definition of affected facility under any of the subparts T, U, V, W, or X, constructed before October 22, 1974, and that have not reconstructed or modified since 1974.

[FR Doc. 01–19872 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–7031–6]

Clean Air Act Full Approval of Operating Permits Program in Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the operating permits program submitted by the State of Washington. Washington's operating permits program was submitted in response to the directive in the 1990 Clean Air Act Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authority's jurisdiction.

DATES: Effective September 12, 2001.

ADDRESSES: Copies of the State of Washington's submittal and other supporting information used in developing this final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Denise Baker, EPA, Region 10, Office of Air Quality (OAQ–107), 1200 6th Avenue, Seattle, WA 98101, (206) 553–8087.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act (CAA) Amendments of 1990 required all state and local permitting authorities to develop operating permits programs that meet certain Federal criteria. Washington's operating permits program was submitted in response to this directive. EPA granted interim approval to Washington's air operating permit program on November 9, 1994 (59 FR 55813). EPA repromulgated final interim approval on one issue, and a notice of correction for Washington's operating permits program, on December 8, 1995 (60 FR 62992).

After the state and local agencies that implement the Washington operating permits program revised their programs to address the conditions of the interim approval, EPA promulgated a proposal to approve Washington's title V operating permits program on January 2, 2001, (66 FR at 84). At the same time, because EPA viewed the proposal as a noncontroversial action and did not anticipate adverse public comment on the proposal, EPA also published a direct final rule approving the Washington operating permits program (66 FR 16).

EPA received one adverse public comment on the proposal. Therefore, EPA removed the direct final approval on April 2, 2001 (66 FR 17512). After carefully reviewing and considering the issues raised by the commenter, EPA is taking final action to give full approval to the Washington operating permits program.

II. Response to Comments

The comment received by EPA related to Washington's provisions for insignificant emission units (IEUs). As discussed in the direct final approval notice, the Washington operating permits program specifically exempts IEUs from monitoring, recordkeeping, reporting, and compliance certification requirements except where such requirements are specifically imposed in the applicable requirement itself. *See* WAC 173–401–530(2)(c) and (d); *see also* 66 FR at 19. Because EPA does not believe that part 70 exempts IEUs from the monitoring, recordkeeping, reporting, and compliance certification requirements of 40 CFR 70.6, but instead provides only a limited exemption from permit application requirements for IEUs, EPA initially determined that Ecology must revise its IEU regulations as a condition of full approval. *See* 60 FR at 62993–62997 (final interim approval of Washington's operating permits program based on exemption of IEUs from certain permit content requirements); 60 FR 50166 (September 28, 1995) (proposed interim approval of Washington's operating permits program on same basis).

As also discussed in the direct final notice, however, the Western States Petroleum Association (WSPA), together with several other companies and the

Washington Department of Ecology, challenged EPA's determination that Ecology must revise its IEU regulations as a condition of full approval. *See* 66 FR at 19. On June 17, 1996, the Ninth Circuit found in favor of the petitioners. *WSPA* v. *EPA,* 87 F.3d 280 (9th Cir. 1996). The Ninth Circuit did not opine on whether EPA's position was consistent with part 70. It did, however, find that EPA had acted inconsistently in its title V approvals, and had failed to explain the departure from precedent that the Court perceived in the Washington interim approval. The Court then remanded the matter to EPA, instructing EPA to give full approval to Washington's IEU regulations. In light of the Court's order, EPA proposed in the direct final notice to give full approval to Washington's operating permits program even though Washington continued to exempt IEUs from monitoring, recordkeeping, reporting, and compliance certification requirements. *See* 66 FR at 19. EPA noted, however, that it continued to believe that part 70 does not allow the exemption of IEUs from the monitoring, recordkeeping, reporting, and compliance certification requirements of 40 CFR 70.6. *See* 66 FR at 19.

The commenter on EPA's direct final action objected to EPA giving full approval to the Washington operating permits program without first requiring correction of the Washington's provisions for IEUs. The commenter agreed with EPA that part 70 does not allow the exemption of IEUs subject to applicable requirements from the monitoring, recordkeeping, reporting, and compliance certification requirements of 40 CFR part 70. The commenter further asserted, however, that the Ninth Circuit's decision in *WSPA* v. *EPA* does not compel EPA to now grant full program approval to Washington because the procedural circumstances forming the basis for that decision no longer exist. EPA assumes the commenter is referring to EPA's statement in the direct final notice that, with respect to three of the states identified by the Ninth Circuit, EPA has determined that the states' regulations were not in fact inconsistent with EPA's position on IEUs and, in the case of the five other states identified by the Ninth Circuit, EPA has been working with these permitting authorities to ensure changes are made to their IEU provisions. *See* 66 FR at 19.

After carefully reviewing the Ninth Circuit's order, EPA continues to believe that it must give full approval to Washington's operating permits program even though Washington's regulations exempt IEUs from monitoring, recordkeeping, reporting, and compliance certification requirements because the Court ordered EPA to do so. The Court subsequently denied EPA's request for rehearing on the matter. *WSPA* v. *EPA,* No. 95–70034 (9th Cir. October 17, 1996).

As stated in the direct final notice, however, EPA maintains its position that part 70 does not allow the exemption of IEUs subject to generally applicable requirements from the monitoring, recordkeeping, reporting, and compliance certification requirements of 40 CFR 70.6. *See* 66 FR at 19. EPA will therefore be addressing this deficiency in Washington's IEU regulations in another context. On December 11, 2000 (65 FR 77376), EPA published a **Federal Register** notice notifying the public of the opportunity to submit comments identifying any programmatic or implementation deficiencies in state title V programs that had received interim or full approval. In that notice, EPA committed to respond to the merits of any such claims of deficiency on or before December 1, 2001, for those states, such as Washington, that have received interim approval and on or before April 1, 2002, for states that have received full approval. In response to that December 11, 2000, **Federal Register** notice, a commenter identified Washington's IEU regulations as deficient because Washington exempts IEUs subject to generally applicable requirements from monitoring, recordkeeping, reporting, and compliance certification requirements. Therefore, if the deficiencies in Washington's IEU regulations are not promptly addressed, EPA will respond to the deficiencies in Washington's IEU regulations and those of any other states identified by the *WSPA* Court that have not already been addressed in accordance with the time frames set forth in the December 11, 2000, **Federal Register** notice.

III. Final Action

EPA is granting full approval of the State of Washington's operating permits program implemented by Ecology, EFSEC, and the seven local air authorities in Washington. Except with respect to non-trust lands within the 1873 Survey Area of the Puyallup Reservation,[1] this approval does not extend to ''Indian Country'', as defined in 18 U.S.C. 151. *See* 64 FR 8247, 8250–8251 (February 19, 1999); 59 FR at 55815, 55818; 59 FR 42552, 42554 (August 18, 1994).

[1] These terms are defined in the Agreement among the Puyallup Tribe of Indians, local governments in Pierce County, the State of Washington, the United States, and certain private property owners dated August 27, 1988.

IV. Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this final approval is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any

collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. 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.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program , to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective September 12, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 12, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: July 31, 2001.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In appendix A to part 70, the entry for Washington is amended by revising paragraphs (a), (b), (c), (d), (e), (f), (g), (h), and (i) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Washington

(a) Department of Ecology (Ecology): submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001.

(b) Energy Facility Site Evaluation Council (EFSEC): submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001.

(c) Benton County Clean Air Authority (BCCAA): submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001.

(d) Northwest Air Pollution Authority (NWAPA): submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001.

(e) Olympic Air Pollution Control Authority (OAPCA): submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001.

(f) Puget Sound Clean Air Agency (PSCAA): submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001.

(g) Spokane County Air Pollution Control Authority (SCAPCA): submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001.

(h) Southwest Clean Air Agency (SWCAA): submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001.

(i) Yakima Regional Clean Air Authority (YRCAA): submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001.

* * * * *

[FR Doc. 01–20217 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[FRL–7033–4]

RIN 2090–AA18

Project XL Site-specific Rulemaking for Yolo County Landfill, Davis, Yolo County, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating today a site-specific rule proposed on May 9, 2001 to implement a project under the Project XL program, an EPA initiative to allow regulated entities to achieve better environmental results at decreased costs. Today's rule provides site-specific regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), as amended, for the Yolo County Landfill, Davis, Yolo County, California. The terms of the XL project are defined in a Final Project Agreement (FPA) signed by Yolo County, California Regional Water Quality Control Board, Yolo-Solano Air Quality Management District, the Solid Waste Association of North America, Institute for Environmental Management, and EPA on September 14, 2000. Today's rule is applicable only to the Yolo County Central Landfill, to facilitate implementation of the XL project to use certain bioreactor techniques at its municipal solid waste landfill (MSWLF), specifically the addition of bulk or non-containerized liquid wastes

into the landfill to accelerate the biodegradation of landfill waste and decrease the time it takes for the waste to stabilize in the landfill. The principal objective of this bioreactor XL project is to evaluate waste decomposition rates when leachate is supplemented with other liquid additions. In order to carry out this project, EPA is giving Yolo County relief from certain requirements in EPA regulations which set forth operating criteria for MSWLFs and preclude the addition of bulk or non-containerized liquid wastes. To achieve the objectives of the project, today's rule provides regulatory flexibility from Liquid Restrictions, which precludes the addition of bulk or non-containerized liquid wastes. The Yolo County bioreactor project is one of several bioreactor XL projects EPA is in the process of implementing.

DATES: This final rule is effective on August 13, 2001.

ADDRESSES: Docket: Three dockets contain supporting information used in developing this final rule, and are available for public inspection and copying at the RCRA Information Center (RIC) located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RIC is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding federal holidays. The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603–9230. Refer to RCRA Docket Number F–2000–YCLP–FFFFF. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies are $0.15 per page. Project materials are also available for review for today's action on the world wide web at *http://www.epa.gov/projectxl/*.

A duplicate copy of the docket is available for inspection and copying at the regional office in which the landfill project is located.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Samolis, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street (SPE–1), San Francisco, CA 94105 or Ms. Sherri Walker, Office of Environmental Policy Innovation, U.S. EPA, 1200 Pennsylvania Ave., NW (1807), Washington DC 20460. Further information on today's action may also be obtained on the world wide web at *http://www.epa.gov/projectxl/*. Questions to EPA regarding today's action can be directed to Mr. Samolis at (415) 744–2331 *samolis.mark@epa.gov* or Ms. Walker at (202) 260–4295, *walker.sherri@epa.gov*.

SUPPLEMENTARY INFORMATION: This rule amends 40 CFR 258.28(a) by adding a new 40 CFR 258.28(a)(3) and creates a new section, 40 CFR 258.41. Section 258.28(a) currently prohibits application of bulk or noncontainerized liquid waste into a municipal solid waste landfill unit unless: (1) The waste is household waste other than septic waste; or (2) leachate or gas condensate derived from the landfill unit and the unit is designed with a specific composite liner meeting the requirements of 40 CFR 258.40(b), as incorporated by 40 CFR 258.40(a)(2). The rule creates a third exception to the prohibition pertaining to the application of bulk or noncontainerized liquid waste by referring to the new section 40 CFR 258.41, pertaining to Project XL Bioreactor Landfills and the owner or operator places documentation of the landfill design in the operating record and so notifies the State Director.

This rule adds a new section 40 CFR 258.41. Section 258.41(b) applies only to Module D of the Yolo County Landfill in Davis, California. Currently, Module D of the Yolo County Landfill, which otherwise conforms to the requirements of 40 CFR 258.40(a)(2), has a composite liner which not only meets, but exceeds the requirements set forth at 40 CFR 258.40(b). Thus, Module D of this Landfill can, under EPA's regulations, not only currently add household liquid waste, other than septic waste, but can also recirculate leachate or condensate gas derived from the landfill unit. Today's rule allows the owner/operator of the Yolo County Landfill to add other types of liquid waste to Module D of the Landfill as well.

This final rule allowing for addition of other types of liquid waste into Module D of the Yolo County Landfill requires compliance with the specific design, monitoring, recordkeeping, reporting, and operational requirements set forth in the rule. It is also ''conditional'' on the issuance of a permit executed by the local air quality management district under the Clean Air Act, 42 U.S.C. 7401 et seq., as set forth in the rule. These requirements and conditions are enforceable in the same way that current RCRA standards for solid waste landfills are enforceable to ensure that management of nonhazardous solid waste is performed in a manner that is protective of human health and the environment.

EPA is allowing Yolo County to undertake this XL Project with the requested regulatory flexibility to determine if the addition of other types of liquid wastes will result in superior environmental performance and significant costs savings while remaining protective of human health and the environment.

Today's rule will not affect the provisions or applicability of any other existing or future regulations.

Outline of Today's Document

The information presented in this preamble is arranged as follows:

I. Authority
II. Background
A. What did EPA Propose and What Comments were Received?
B. What is Project XL?
C. What are Bioreactor Landfills?
III. Overview of the Yolo County Landfill XL Project
A. What Kind of Liner Is Required by Current Federal Regulations?
B. What Is Being Tested in this Project?
C. What Regulatory Changes Are Being Made to Implement this Project?
1. Existing Liquid Restrictions for MSWLFs (40 CFR 258.28)
2. Site-Specific Rule
D. How Have Various Stakeholders Been Involved in this Project?
E. How Will this Project Result in Cost Savings and Paperwork Reduction?
F. How Long Will this Project Last and When Will it be Complete?
IV. Additional Information
A. Why is this Rule Immediately Effective?
B. How Does this Rule Comply With Executive Order 12866: Regulatory Planning and Review?
C. Is a Regulatory Flexibility Analysis Required?
D. Is an Information Collection Request Required for this Rule Under the Paperwork Reduction Act?
E. Does This Rule Trigger the Requirements of the Unfunded Mandates Reform Act?
F. How Does the Congressional Review Act Apply to this Rule?
G. How Does this Rule Comply with Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks?
H. How Does this Rule Comply With Executive Order 13132: Federalism?
I. How Does this Rule Comply with Executive Order 13175: Consultation and Coordination with Indian Tribal Governments ?
J. Does this Rule Comply with the National Technology Transfer and Advancement Act?
K. Does this Rule Comply with Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use?

I. Authority

This rule is promulgated under the authority of sections 1008, 2002, 4004, and 4010 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6907, 6912, 6945, and 6949).

II. Background

A. What did EPA Propose and What Comments were Received?

EPA proposed to amend 40 CFR 258.28(a) by adding a new paragraph § 258.28(a)(3) to refer to a new section of the rules, § 258.41, (66 FR 23652, May 9, 2001). Section 258.41(b) applies only to Module D of the Yolo County Landfill in Davis, California. Currently, Module D of the Yolo County Landfill, which otherwise conforms to the requirements of 40 CFR 258.40(a)(2), has a composite liner which not only meets, but exceeds the requirements set forth at 40 CFR 258.40(b). Module D of this Landfill can, under federal law, not only currently add household liquid waste, other than septic waste, but can also recirculate leachate or condensate gas derived from the landfill unit. Today's rule will allow the owner/operator of the Yolo County Landfill to also add other types of liquid waste to Module D of the Landfill. See Section III.C of this preamble for a full description of the regulatory relief provided for this project.

EPA received one comment letter from the California Integrated Waste Management Board (CIWMB). The letter stated that CIWMB, along with the California Water Resources Board and Regional Water Quality Control Board implement California's RCRA Subtitle D program, and they will provide regulatory oversight of this project. CIWMB stated that this project is of particular interest to California's energy crisis as anaerobic bioreactor conversion technology has the potential to significantly increase renewable electricity production from landfill gas. CIWMB further stated that they have facilitated resolution of all local and state approvals of this project. No other comments were received on the proposed rule. No changes have been made to the proposed rule.

B. What is Project XL?

Project XL is an EPA initiative to allow regulated entities to achieve better environmental results at less cost. Project XL—''eXcellence and Leadership''—was announced on March 16, 1995 as a central part of the National Performance Review and EPA's efforts to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). Specifically, Project XL gives a limited number of regulated entities the opportunity to develop their own pilot projects and alternative strategies to achieve environmental performance that is superior to what would be achieved through compliance with current and reasonably anticipated future regulations. These efforts are crucial to the Agency's ability to test new regulatory strategies that reduce regulatory burden and promote economic growth while achieving better environmental and public health protection. The Agency intends to evaluate the results of this and other XL projects to determine which specific elements of the projects, if any, should be more broadly applied to other regulated entities for the benefit of both the economy and the environment.

Project XL is intended to allow EPA to experiment with untried, potentially promising regulatory approaches, both to assess whether they provide benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects allow EPA to proceed more quickly than would be possible when undertaking changes on a nationwide basis. EPA may modify rules, on a site- or state-specific basis, that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute.

Adoption of such alternative approaches or interpretations in the context of a given XL project is not an indication that EPA plans to adopt that interpretation as a general matter or even in the context of other XL projects. It would be inconsistent with the forward-looking nature of these pilot projects to adopt such innovative approaches prematurely on a widespread basis without first determining whether or not they are viable in practice and successful for the particular projects that embody them. These pilot projects are not intended to be a means for piecemeal revision of entire programs.

EPA believes that adopting alternative policy approaches and/or interpretations, on a limited, site- or state-specific basis and in connection with a carefully selected pilot project, is consistent with the expectations of Congress about EPA's role in implementing the environmental statutes (so long as EPA acts within the discretion allowed by the statute). Congress' recognition that there is a need for experimentation and research, as well as ongoing reevaluation of environmental programs, is reflected in a variety of statutory provisions, e.g., section 8001 of RCRA, (42 U.S.C. 6981).

Under Project XL, participants in four categories (facilities, industry sectors, governmental agencies, and communities) are offered the opportunity to develop common sense, cost-effective strategies that will replace or modify specific regulatory requirements on the condition that they produce and demonstrate superior environmental performance. To participate in Project XL, applicants must develop alternative pollution reduction strategies pursuant to eight criteria: (1) superior environmental performance; (2) cost savings and paperwork reduction; (3) stakeholder involvement and support; (4) test of an innovative strategy; (5) transferability; (6) feasibility; (7) identification of monitoring, reporting, and evaluation methods; and (8) avoidance of shifting risk burden. The project must have the full support of affected federal, state, and tribal agencies to be selected. For more information about the XL criteria, readers should refer to two descriptive documents published in the **Federal Register** (60 FR 27282, published May 23, 1995 and 62 FR 19872, published April 23, 1997) and the document entitled ''Principles for Development of Project XL Final Project Agreements,'' dated December 1, 1995.

Development of a Project has four basic phases: the initial pre-proposal phase where the project sponsor comes up with an innovative concept that it would like EPA to consider as an XL pilot; the second phase where the project sponsor works with EPA and interested stakeholders in developing its XL proposal; the third phase where EPA, local regulatory agencies, and other interested stakeholders review the XL proposal; and the fourth phase where the project sponsor works with EPA, local regulatory agencies, and interested stakeholders in developing the Final Project Agreement and legal mechanisms. The XL pilot proceeds into the implementation phase and evaluation phase after promulgation of the required federal, state and local legal mechanisms and after the designated participants sign the FPA.

The FPA is a non-binding written agreement between the project sponsor and regulatory agencies. The FPA contains a detailed description of the proposed pilot project. It addresses the eight Project XL criteria and discusses how EPA expects the project to meet that criteria. The FPA identifies performance goals and indicators which will enable the project sponsor to demonstrate superior environmental benefits. The FPA also discusses administration of the agreement, including dispute resolution and conditions for termination of the agreement. On September 14, 2000, EPA, Yolo County Planning and Public Works, California Regional Water Quality Control Board, Yolo-Solano Air Quality Management District, Solid Waste Association of North America,

and the Institute for Environmental Management signed the FPA for the Yolo County bioreactor landfill XL Project. In the event that Yolo County, EPA Region 9's Regional Administrator and the state of California agree to extend this rule beyond Phase I of Module D, another Final Project Agreement will be entered into.

C. What Are Bioreactor Landfills?

A bioreactor landfill is generally defined as a landfill operated to transform and stabilize the readily and moderately decomposable organic constituents of the waste stream by purposeful control to enhance microbiological processes. Bioreactor landfills often employ liquid addition including leachate recirculation. A byproduct of the decomposition process is landfill gas, which includes methane, carbon dioxide, and volatile organic compounds (VOC's). Landfill gases are produced sooner in a bioreactor than in a conventional landfill. Therefore, bioreactors often incorporate state-of-the-art landfill gas collection systems.

On April 6, 2000, EPA published a document in the **Federal Register** requesting information on bioreactor landfills, because the Agency is considering whether and to what extent the Criteria for Municipal Solid Waste Landfills, 40 CFR part 258, should be revised to allow for leachate recirculation over alternative liners in MSWLFs. (65 FR 18015). EPA is seeking information about liquid additions and leachate recirculation in MSWLFs to the extent currently allowed, i.e., in MSWLFs designed and constructed with a composite liner as specified in 40 CFR 258.40(a)(2).

Proponents of bioreactor technology note that operation of MSWLFs as bioreactors provide a number of environmental benefits, including: (1) increasing the rate of waste decomposition, which in turn would extend the operating life of the landfill and lessen the need for additional landfill space or other disposal options; (2) decreasing, or even eliminating, the quantity, and increasing the quality, of leachate requiring treatment and offsite disposal, leading to decreased risks and costs associated with leachate management, treatment and disposal; (3) reduced post-closure care costs and risks, due to the accelerated, controlled settlement of the solid waste during landfill operation; (4) lower long term potential for leachate migration into the subsurface environment; and (5) opportunity for recovery of methane gas for energy production.

EPA is also in the process of implementing several other XL pilot projects involving operation of landfills as bioreactors throughout the country. These landfill projects will enable EPA to evaluate benefits of different alternative liners and leachate recirculation systems under various terrains and operating conditions. As expressed in the above-referenced April 2000 **Federal Register** document, EPA is interested in assessing the performance of landfills operated as bioreactors, and these XL projects are expected to contribute valuable data.

The Yolo County XL project and other XL projects are expected to provide additional information on the performance of MSWLFs when liquids are added to the landfill. The Agency is also interested in determining whether and which types of alternative liners are capable of meeting the design performance standard including maintaining a hydraulic head at acceptable levels.

The terms of the Yolo County bioreactor project are contained in the FPA. The FPA is available to the public at the EPA RCRA Docket in Washington, D.C., in the EPA Region 9 library, and on the world wide web at http://www.epa.gov/projectxl/.

III. Overview of the Yolo County Landfill XL Project

The Yolo County Central Landfill (YCCL) is an existing non-hazardous municipal waste landfill with two surface impoundments for disposal of selected non-hazardous liquid wastes. This site encompasses 722 acres and is owned and operated by Yolo County. It is located at the intersection of Road 104 and Road 28H, 2 miles northeast of the City of Davis, California. The YCCL was opened in 1975 for the disposal of non-hazardous solid waste, construction debris, and non-hazardous liquid waste. Existing on-site operations include an eleven-year old landfill methane gas recovery and energy generation facility, a drop-off area for recyclables, a metal recovery facility, a wood and yard waste recovery and processing area, and a concrete recycling area.

Adjacent land uses include the City of Davis Wastewater Treatment Plant lagoons located immediately east and south of the landfill and the Willow Slough By-pass which runs parallel to the southern boundary of the site. The remainder of land uses adjacent to the site are agricultural (row crops).

Groundwater levels at the facility fluctuate 8 to 10 feet during the year, rising from the lowest in September to the highest around March. Water level data indicate that the water level table is typically 4 to 10 feet below ground surface during the winter and spring months. During the summer and fall months, the water table is typically 5 to 15 feet below ground surface. In January 1989, the County of Yolo constructed a soil/bentonite slurry cutoff wall to retard groundwater flow to the landfill site from the north. The cutoff wall was constructed along portions of the northern and western boundaries of the site to a maximum depth of 44 feet and has a total length of 3,680 feet, 2,880 feet along the north side and 800 feet along the west. In the fall of 1990, irrigation practices to the north of the landfill site were altered to minimize the infiltration of water. Additionally, sixteen groundwater extraction wells were installed south of the cutoff wall in order to lower the water table south and east of the wall. The purpose was to depress the water table to provide vertical separation between the base of the landfill and the groundwater.

Yolo County proposes to operate the next phase of its landfill module (Module D) as both an anaerobic and aerobic bioreactor. Twelve acres of the 20-acre module have been constructed (Phase I). Ten acres would be operated as a full scale anaerobic bioreactor, while the remaining two acres would be operated as an aerobic pilot demonstration cell.

A. What Kind of Liner Is Required by Current Federal Regulations?

Currently, the Federal regulations outline two methods for complying with liner requirements for municipal solid waste landfills. The first method is a performance standard set out under 40 CFR 258.40(a)(1). This standard allows installation of any liner configuration provided the liner design is approved by an EPA-approved state and the design ensures that certain constituent concentrations are not exceeded in the uppermost aquifer underlying the landfill facility at the point of compliance.

The second method is set out in 40 CFR 258.40(a)(2) and (b). Section 258.40(b) specifies a liner design which consists of two components: (1) an upper component comprising a minimum of 30 mil flexible membrane liner (60 mil if High Density Polyethylene (HDPE) is used); and (2) a lower component comprising at least two feet of compacted soil with a hydraulic conductivity no greater than $1x10^{-7}$ cm/sec.

B. What Is Being Tested in This Project?

The bottom liner system of Module D was designed to exceed the requirements of Subtitle D of the Federal guidelines and was upgraded from other liner systems used

previously at the site. The County believes and EPA agrees that, given the constructed configuration and the stringent monitoring and operational requirements established for Module D, the liner system will be suitable for use in the bioreactor operations.

The Module D liner and leachate collection system consists, from top to bottom, of a 2 foot thick chipped tire operations/drainage layer (k> 1 cm/sec), a blanket geocomposite drainage layer, a 60-milliliter (mil) High Density Polyethylene (HDPE) liner, 2 feet of compacted clay ($k<6\times10^{-9}$ cm/sec), 3 feet of compacted earth fill ($k< 1\times10^{-8}$ cm/sec), and a 40 mil HDPE vapor barrier layer.[1]

The permeability (k) of the clay liner, as constructed, is on the average about 6×10^{-9} cm/sec and the earth fill averaged about 1×10^{-8} cm/sec. These two layers in effect provide a 5 foot thick composite liner. It is anticipated that this liner system, coupled with the lower permeability, will result in a significantly more effective barrier to leachate migration than the prescriptive liner system.

The liner system within the collection trenches and sump areas was upgraded further to a double composite liner to account for infringement on the 5 foot groundwater offset and to minimize potential leakage in these critical collection areas where head on the primary liner will be at its greatest. Specifically, the liner and leachate collection system in the collection trenches and sumps consists, from top to bottom, of a minimum of 2 feet of gravel drainage material, a protective geotextile layer, a blanket geocomposite drainage layer, a primary 60-mil HDPE liner, a geosynthetic clay liner (GCL) ($k< 5\times10^{-9}$ cm/sec), a secondary 60-mil HDPE liner, 2 feet of compacted clay ($k< 6\times10^{-9}$ cm/sec), a minimum of 0.5 feet of compacted earth fill ($k< 1\times10^{-8}$ cm/sec), and a 40-mil HDPE vapor barrier layer. The thickness of the compacted earth fill actually varies from a minimum at the south end of the trench of 0.5 feet to a maximum of about 2.5 feet at the upper, north end of the leachate collection trench. Leachate collection pipes were also placed in the collection trench and at other locations on top of the primary liner to transport leachate immediately to the sumps for recovery, removal, and recirculation, as needed.

As described above, the more rigorous Module D leachate collection and recovery system (LCRS) and liner system is expected to outperform the Subtitle D liner design requirements. The LCRS has been designed and constructed to be free-draining throughout the life of the module and will maintain less head over the primary liner system than the type of liner prescribed by Subtitle D.

For the anaerobic operation, it is estimated that during peak liquid additions, up to 10 gallons per minute (gpm) of liquid per 10,000 square feet (.1 gpm per 100 square feet) of disposal area will typically be delivered to the waste once the module has reached its design height. Based on a previous smaller scale demonstration cell, the amount of liquid added would be in the range of 30 to 50 gallons per ton of waste. According to results of the bioreactor demonstration project by Moore et al.[2], the average leachate generated during liquid introduction peaked at about 47% of the liquid delivery rate, which would equate to approximately 20 gpm per acre for the proposed program. Given a 10 acre drainage area, the total anticipated flow into any given sump would be approximately 200 gpm (288,000 gallons per day) assuming there will be no preferred pathways within the waste mass.

For the aerobic operation, liquid will be added to waste at a faster rate since the aerobic reaction causes much of the liquid to evaporate. It is estimated that the range of liquid used will be 200 to 400 gallons of liquid per ton of waste.

Liquid will be applied during strategic periods to temporarily raise the moisture content of the waste to provide optimum conditions for rapid degradation and improved gas production. This liquid will initially consist of a mixture of leachate and condensate from other Waste Management Units and ground water (from the extraction wells) delivered through a series of pipes, drip irrigation, or other application systems either after the landfill reaches its design height or after an interim cover and gas collection system has been constructed to control the landfill gases generated. The liquid will continually be introduced (as needed) to raise the moisture content within the waste to near its field capacity. The liquid application system will be constructed such that the solution can be applied or discontinued at designated locations to raise and lower the moisture within the waste.

Yolo County will monitor moisture content throughout the life of the module through the use of a network of moisture sensors to be installed during waste placement. A moisture sensor system used during a bioreactor demonstration project in Module B proved to be very effective and will be the basis for the layout in Module D. Specifically, the moisture sensors will be installed at 20-foot increments of depth at a spacing of about 100 feet on center. Using these sensors, the County can determine where liquid application can be increased or decreased to optimize the effectiveness of the system and to prevent build-up of head over the liner.

The County will measure the quantity of leachate and applied liquid throughout the life of the module. Once leachate is produced, it will supplement the system and be re-circulated, thereby reducing the amount of clean water used. Liquid will be quantified using flow sensors installed on the leachate discharge line, re-circulation line, and liquid application line. These sensors will provide direct flow readout for determining flow rates in the pipelines and the total flow of all the liquid used and leachate produced.

The County will also monitor the head over the liner after waste placement using a network of pressure transducers and sensors. These devices will be installed on the primary liner, immediately before waste placement, to provide measurements of the leachate depth. Several of these transducers were installed in the LCRS during the Module D construction.

In the event that the transducers indicate that the head is going to exceed the allowable value, the system will automatically start pumps to reduce the liquid level and shut-off valves to reduce the liquid application rate. These measures would be used to reduce the liquid application rate across the entire module or specifically, in the area of head build-up. Generally, the County will only continue to apply the liquid until the gas generation phase of the unit is complete, at which time leachate production is anticipated to continually decrease until conclusion of the post-closure period. The County will also closely monitor the quality of the leachate to evaluate the system, determine the methods for future leachate treatment, and provide a basis for future use of similar bioreactors at the site or elsewhere.

Finally, the degradation and gas production of the waste is also related to the temperature within the

[1] Golder Associates, ''Final Report, Construction Quality Assurance, Yolo County Central Landfill, WMU 6, Module D, Phase 1 Expansion'', December 1999.

[2] Moore et al., ''Hydraulic Characteristics of Municipal Solid Waste Findings of the Yolo County Bioreactor Landfill Project.'', Thirteenth International Conference on Solid Waste Technology and Management, Philadelphia, PA, November 1997.

decomposing waste. The effectiveness of both aerobic and anaerobic bioreactors is dependent on keeping within an optimum temperature range; therefore, the County will install temperature gauges to aid in the operation of the system. The temperature gauge network will be placed in a similar pattern to the moisture sensors at designated intervals throughout the waste mass.

For the Yolo County bioreactor landfill proposal, the superior environmental benefits include: (a) maximizing landfill gas control and minimizing fugitive methane and VOC emissions; (b) greater recovery of landfill methane; (c) landfill life extension and/or reduced landfill use; and (d) minimizing leachate-associated concerns.

a. *Maximizing landfill gas control and minimizing fugitive methane and VOC emissions.* Landfill gas contains roughly 50% methane, a potent greenhouse gas. In terms of climate effects, methane is second in importance only to carbon dioxide. Landfill gas also contains volatile organic compounds (VOC's) that are air pollutants of local concern. Yolo County will immediately begin collecting landfill gas by installing a gas collection system consisting of a surface permeable gas collection layer overlain by a cover of soil with an embedded membrane. Gas will be withdrawn such that this permeable layer beneath surface containment will be at a slight vacuum. This system will minimize the amount of landfill gas emitted to the environment.

b. *Expedited methane generation/recovery.* In the Yolo bioreactor, the majority of the methane will be generated over a much earlier and shorter time period than a conventional landfill. This is expected to minimize the long-term low-rate methane generation often lost in conventional landfill practices.

c. *Landfill life extension and/or reduced landfill use.* The more rapid conversion of greater quantities of solid waste to gas reduces the volume of the waste. Settlement in the Yolo test cell is already over 18% in three years. Volume reduction translates into either landfill life extension and/or less landfill use. Thus, this bioreactor landfill will be able to accept more waste over its working lifetime. Additionally, fewer landfills may be needed to accommodate the same inflows of waste from a given population

d. *Minimizing leachate-associated concerns.* The bioreactor processes, both anaerobic and aerobic, have been shown in studies at many scales to reduce the concentration of many leachate pollutants. These include organic acids and other soluble organic pollutants. Since a bioreactor operation brings pH to near-neutral conditions, metals of concern are largely precipitated and immobilized in the waste.

C. What Regulatory Changes Are Being Made To Implement This Project?

1. Existing Liquids Restriction for MSWLFs (40 CFR 258.28)

Today's site specific rule grants regulatory flexibility from 40 CFR 258.28 Liquid Restrictions, which precludes the addition of bulk or noncontainerized liquid waste. In its XL project, the County will add ground water from its extraction wells as a liquid amendment, as well as other liquids such as gray-water from the local waste water treatment plant, septic waste, and food-processing waste that is currently being land applied. Liquid wastes such as these, which normally have no beneficial use, may beneficially enhance the biodegradation of solid waste in the landfill which is the subject of this project.

2. Site-Specific Rule

Today's rule amends 40 CFR 258.28(a) by adding a new paragraph § 258.28(a)(3) to refer to a new section of the rules, § 258.41. The new § 258.41(b) specifically applies to the Yolo County Landfill in Davis, California only and will allow Module D of that landfill to receive bulk or non-containerized liquid wastes as long as that module meets the design criteria set forth in § 258.41(b). Additionally, today's rule imposes certain minimum monitoring and reporting requirements on Yolo County, which, among other things, will facilitate EPA's evaluation of the project.

The reason that the existing regulation requires a leachate collection system and a composite liner design as specified in 40 CFR 258.40(a)(2) is to ensure that contaminant migration to the aquifer is controlled (56 FR 50978, 51056, Oct. 9, 1991). Today's rule does not change the requirement in § 258.28(a)(2) that a leachate collection system as described in § 258.40(a)(2) be in place in order for leachate to be recirculated in the landfill unit. Yolo County's design for Module D is required to have leachate collection systems designed to maintain leachate over the liner at a depth of less than 30 cm. In addition, since Yolo County's design of its liner goes beyond the requirements of Subtitle D of the Federal Regulations, EPA believes that adding additional liquid wastes into Module D will not result in any increased leakage to groundwater from the bioreactor cells.

D. How Have Various Stakeholders Been Involved in This Project?

Stakeholder involvement and support has already been demonstrated by previous federal, state, and local support of this bioreactor concept. For example, in 1994, the Yolo County Planning and Public Works Department, initiated a demonstration project (Module B) to evaluate the Bioreactor Landfill concept for its Central Landfill near Davis, California. The construction phase of the project was funded by Yolo and Sacramento Counties ($125,000 each), the California Energy Commission ($250,000), and the California Integrated Waste Management Board ($63,000). More recent grant funding for the monitoring phase of the project has been received from the U. S. Department of Energy through the Urban Consortium Energy Task Force ($110,000), and the Western Regional Biomass Energy Program ($50,000). Greenhouse gas and emission abatement cost-effectiveness studies have recently been completed with $48,000 in support from the Federal Energy Technology Center/National Energy Technology Laboratory (hereafter, NETL). Further support, $462,000 recently committed by NETL, is enabling operation of the test cells for approximately 2 more years as well as helping prepare for the larger module operation. Furthermore, on January 26, 2000, the California Integrated Waste Management Board granted Yolo County $400,000 for the construction and testing of this full-scale bioreactor demonstration project.

Concerning local involvement for this XL project, Yolo County held a stakeholder meeting on June 5th, 2000 for the full-scale demonstration project. Other informational meetings have been held during the regular Waste Advisory Committee meetings to keep the community informed on the project. The County will also convene periodic meetings of the stakeholder group to provide updates on the project's progress during the duration of the XL agreement. A public file on this XL project has been maintained at the website throughout project development, and the EPA will continue to update it as the project is implemented. Additional information is available at EPA's website at *http://www.epa.gov/projectxl.*

A detailed description of this program and the stakeholder support for this project is included in the Final Project Agreement, which is available through the docket or through EPA's Project XL

site on the Internet (see **ADDRESSES** section of this preamble).

Yolo County has preliminarily identified the following stakeholders:

Direct Participants:

U.S. Environmental Protection Agency
Solid Waste Association of North America (SWANA)
Institute for Environmental Management (IEM)
California State Regional Water Quality Control Board, Central Valley Region 5
Yolo County Department of Environmental Health
Yolo-Solano Air Quality Management District

Commentors:

California Integrated Waste Management Board
California State Water Resources Control Board
California Air Resources Board
National Energy Technology Laboratory (NETL, previously FETC), U.S. Department of Energy
SWANA–California Gold Rush Chapter and Southern California Chapter
Yolo County Waste Advisory Committee
University of California at Davis
Geosynthetic Institute, Drexel University

Members of the General Public:

Yolo County Citizens
Natural Resources Commission
Sacramento County Public Works Department, Solid Waste Management Division
California Energy Commission

E. How Will This Project Result in Cost Savings and Paperwork Reduction?

As stated earlier, this project is expected to result in cost savings by virtue of assisting in an increased rate of decomposition of the waste placed in Module D of the landfill. The increased decomposition rate is, in turn, expected to extend the life of the landfill, and, potentially, result in direct cost savings to Yolo County. In addition, the methane generation and recovery operations are expected to yield increased methane recovery over a shorter time period, thereby resulting in increased energy generation for Yolo County beyond what would otherwise occur in a conventional landfill. Finally, no appreciable reduction in paperwork is anticipated.

F. How Long Will This Project Last and When Will It Be Complete?

As with all XL projects testing alternative environmental protection strategies, the term of this XL Project is one of limited duration. Today's rule will be in effect for five years. In the event that EPA determines that this project should be terminated before the end of the five year period and that the site-specific rule should be rescinded, the Agency would withdraw this rule through a subsequent rulemaking. This will afford all interested persons and entities the opportunity to comment on the proposed early termination and withdrawal of regulatory authority, and the proposed termination would also include any proposal for an interim compliance period while Yolo County returned to full compliance with the existing requirements of 40 CFR part 258.

The FPA allows any party to the agreement to withdraw from the agreement at any time before the end of the five year period. It also sets forth several conditions that could trigger an early termination of the project, as well as procedures to follow in the event that EPA, the State or the local agency seeks to terminate the project.

For example, an early conclusion would be warranted if the project's environmental benefits do not meet the Project XL requirement for the achievement of superior environmental results. In addition, new laws or regulations may become applicable during the project term which might render the project impractical, or might contain regulatory requirements that supersede the superior environmental benefits that are being achieved under this XL Project. Or, during the project duration, EPA may decide to change the federal rule allowing recirculation over alternative liners and the addition of outside bulk liquids for all Subtitle D landfills. In that event, the FPA and site-specific rule for this project would no longer be needed.

IV. Additional Information

A. Why Is This Rule Immediately Effective?

Under 5. U.S.C. 553(d), the rulemaking section of the Administrative Procedure Act, EPA is making this rule effective upon publication. Under 5 U.S.C. 553(d)(1), EPA is making this rule immediately effective because the rule relieves a restriction in that it allows the Yolo County Central Landfill to add to the landfill additional types of liquid waste beyond what is currently allowed under 40 CFR 258.28(a)(1) and (2). In addition, under 5. U.S.C. 553(d)(3), EPA finds good cause exists to make this rule effective immediately because Yolo County is the only regulated entity affected by the rule, sought the conditional relief provided in this rule, and has had full notice of the rule. Making the rule immediately effective will allow Yolo County to proceed sooner with the bioreactor project.

B. How Does This Rule Comply With Executive Order 12866: Regulatory Planning and Review ?

Because this rule affects only one facility, it is not a rule of general applicability and therefore not subject to OMB review and Executive Order 12866. In addition, OMB has agreed that review of site-specific rules under Project XL is not necessary.

C. Is a Regulatory Flexibility Analysis Required?

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and public 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. Only the definition of ''small governmental jurisdiction'' is relevant here. 5 U.S.C. 601(5) defines ''small governmental jurisdiction'' to mean governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand. According to Yolo County officials, the county population in 1990 exceeded 150,000; thus, Yolo County does not qualify as ''small governmental jurisdiction'' within the meaning of 5 U.S.C. 601(5).

After considering the economic impacts of today's final rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Is an Information Collection Request Required for this Rule Under the Paperwork Reduction Act?

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* The requirements of this rule do not apply to 10 or more entities, therefore the PRA does not apply.

E. Does This Rule Trigger the Requirements of the Unfunded Mandates Reform Act?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public

Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments in the aggregate or to the private sector of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposal with significant Federal mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. As used here, ''small government'' has the same meaning as that contained under 5 U.S.C. 601(5), that is, governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.

As discussed above, this rule has limited application. It applies only to the Yolo County landfill. This rule will result in a cost savings for Yolo County when compared with the costs it would have had to incur if required to adhere to the requirements contained in the current rule. As such, this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for state, local, or tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of section 202 and 205 of the UMRA. EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

F. How Does the Congressional Review Act Apply to this Rule?

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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

G. How Does this Rule Comply with Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks?

Executive Order 13045, ''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 in Executive Order 12886; 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 potentially effective and feasible alternatives considered by the Agency.

This rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This rule will allow the addition of bulk or non-containerized liquid amendments over a liner that not only meets but exceeds the design requirements in 40 CFR 258.40(b). Modeling results predict that this liner is more protective than the prescribed composite liner. Therefore, no additional risk to public health, including children's health, is expected to result from this rule.

H. How Does This Rule Comply With Executive Order 13132: Federalism?

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' The phrase, ''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 rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule will only affect one local governmental entity and state, and will provide regulatory flexibility for the state and local governmental entity concerned. Thus, Executive Order 13132 does not apply to this rule.

I. How Does This Rule Comply With Executive Order 13175: Consultation and Coordination With Indian Tribal Governments?

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 rule does not have tribal implications within the meaning of Executive Order 13175. 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. The rule would impose no new

requirements or costs on tribal governments, nor does it alter the relationship or distribution of power or responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

However, EPA identified two Native American communities in the vicinity of the Yolo County Landfill, the Rumsey and Cortina Rancherias. EPA notified the governments of both tribes of this project and site-specific rule, and both tribes expressed interest in being kept informed of the project as it progresses.

J. Does this Rule Comply with the National Technology Transfer and Advancement Act?

As noted in the proposed rules, 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) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, material specifications, test methods, sampling procedures, and business practices) developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. EPA did not identify any applicable voluntary consensus standards related to this rule.

K. Does this Rule Comply With Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use?

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 258

Environmental protection, Landfill, Solid waste.

Dated: August 7, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set forth, part 258 of title 40 Chapter I of the Code of Federal Regulations is amended as follows:

PART 258—CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS

1. The authority citation for part 258 continues to read as follows:

Authority: 33 U.S.C. 1345(d) and (e); 42 U.S.C. 6902(a), 6907, 6912(a), 6944, 6945(c) and 6949a(c).

Subpart C—Operating Criteria

2. Amend § 258.28 to remove ''or'' at the end of paragraph (a)(1), remove the period and add ''; or'' in its place at the end of paragraph (a)(2), and add paragraph (a)(3) to read as follows:

§ 258.28 Liquid restrictions.

(a) * * *

(3) The MSWLF unit is a Project XL MSWLF and meets the applicable requirements of § 258.41. The owner or operator must place documentation of the landfill design in the operating record and notify the State Director that it has been placed in the operating record.

* * * * *

Subpart D—Design Criteria

3. Subpart D is amended by adding a new § 258.41 to read as follows:

§ 258.41 Project XL Bioreactor Landfill Projects.

(a) [Reserved]

(b) This section applies solely to Module D of the Yolo County Central Landfill owned and operated by the County of Yolo, California, or its successors. It allows the Yolo County Central Landfill to add bulk or noncontainerized liquid wastes to Module D under the following conditions:

(1) Module D shall be designed and constructed with a composite liner as defined in § 258.40(b) and a leachate collection system that functions and continuously monitors to ensure that less than 30 centimeters depth of leachate is maintained over the liner.

(2) The owner or operator of the Yolo County Central Landfill must ensure that the concentration values listed in Table 1 of § 258.40 are not exceeded in the uppermost aquifer at the relevant point of compliance for the landfill as specified by the State Director under § 258.40(d).

(3) The owner or operator of the Yolo County Central Landfill shall demonstrate that the addition of any liquids to Module D does not result in an increased leakage rate, and does not result in liner slippage, or otherwise compromise the integrity of the landfill and its liner system, as determined by the State Director.

(4) The owner or operator of the Yolo County Central Landfill must ensure that Module D is operated in such a manner so as to prevent any landfill fires from occurring.

(5) The owner or operator of the Yolo County Central Landfill shall submit an annual report to the EPA Regional Administrator and the State Director. The first report is due within 18 months after August 13, 2001. The report shall state what progress the Project is making towards the superior environmental performance as stated in the Final Project Agreement. The data in paragraphs (b)(5)(i) through (xvi) of this section may be summarized, but, at a minimum, shall contain the minimum, maximum, median, and average data points as well as the frequency of monitoring, as applicable. These reporting provisions shall remain in effect for as long as the owner or operator of the Yolo County Central Landfill continues to add liquid waste to Module D. Additional monitoring, record keeping and reporting requirements related to landfill gas will be contained in a permit executed by the local air quality management district pursuant to the Clean Air Act, 42 U.S.C. 7401 *et seq.* Application of this site-specific rule to the Yolo County Central Landfill is conditioned upon the issuance of such permit. The annual report will include, at a minimum, the following data:

(i) Amount of landfill gas generated;
(ii) Percent capture of landfill gas;
(iii) Quality of the landfill gas;
(iv) Amount and type of liquids applied to the landfill;
(v) Method of liquids application to the landfill;
(vi) Quantity of waste placed in the landfill;
(vii) Quantity and quality of leachate collected, including at least the following parameters, monitored, at a minimum, on an annual basis:
  (A) pH;
  (B) Conductivity;
  (C) Dissolved oxygen;
  (D) Dissolved solids;
  (E) Biochemical oxygen demand;
  (F) Chemical oxygen demand;
  (G) Organic carbon;
  (H) Nutrients, (including ammonia [''NH_3''], total kjeldahl nitrogen [''TKN''], and total phosphorus [''TP'']);
  (I) Common ions;
  (J) Heavy metals;
  (K) Organic priority pollutants; and
  (L) Flow rate;
(viii) Quantity of leachate recirculated back into the landfill;
(ix) Information on the pretreatment of solid and liquid waste applied to the landfill;

(x) Landfill temperature;
(xi) Landfill moisture content;
(xii) Data on the leachate pressure (head) on the liner; (xiii) The amount of aeration of the waste;
(xiv) Data on landfill settlement;
(xv) Any information on the performance of the landfill cover; and
(xvi) Observations, information, or studies made on the physical stability of the landfill.

(6) This section will remain in effect until August 13, 2006. By August 13, 2006, Yolo County Central Landfill shall return to compliance with the regulatory requirements which would have been in effect absent the flexibility provided through this Project XL site-specific rule. This section applies to Phase I of Module D. This section also will apply to any phase of Module D beyond Phase I only if a second Final Project Agreement that describes the additional phase has been signed by representatives of EPA Region 9, Yolo County, and the State of California. Phase I of Module D is defined as the operation of twelve acres of the twenty acre Module D.

[FR Doc. 01–20261 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL SCIENCE FOUNDATION

45 CFR Parts 672 and 673

RIN 3145–AA36

Antarctic Non-Governmental Expeditions

AGENCY: National Science Foundation (NSF).

ACTION: Final rule.

SUMMARY: NSF is issuing a final rule that implements the amendments to the Antarctic Conservation Act of 1978 contained in the Antarctic Science, Tourism, and Conservation Act of 1996. These regulations require that U.S. non-governmental expeditions using non-U.S. flagged vessels for Antarctic voyages ensure that the vessel has an emergency response plan. The regulation also requires that U.S. non-governmental expeditions doing business in the United States notify passengers and crew of their Antarctic Conservation Act obligations.

DATES: Effective Date: NSF is publishing this rule to become effective September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Anita Eisenstadt, Assistant General Counsel, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230.

SUPPLEMENTARY INFORMATION: On June 4, 1998, the National Science Foundation (NSF) published a proposed rule to implement emergency response plan and environmental protection information requirements contained in the Antarctic Conservation Act of 1978, as amended by the Antarctic Science, Tourism, and Conservation Act of 1996 (ASTCA), and invited public comment on the proposed rule (63 FR 30438). NSF received written comments from the International Association of Antarctica Tour Operators (IAATO) and the U.S. Environmental Protection Agency (EPA).

IAATO expressed uncertainty as to whether NSF is the appropriate Federal agency to issue a rule implementing Article 15 of the Protocol on Environmental Protection to the Antarctic Treaty (the Protocol) with respect to vessels. In enacting ASTCA, Congress reaffirmed NSF's role as the lead Federal agency in Antarctica with longstanding responsibility for ensuring that U.S. scientific activities and tourism are conducted with an eye to preserving the unique values of the Antarctic region. (16 U.S.C. 2401(a)(3)). Article 15 of the Protocol requires that the U.S. Government provide for prompt and effective response action to environmental emergencies arising from scientific research programs, tourism and non-governmental activities in Antarctica. The U.S. Coast Guard has issued regulations which implement this obligation with respect to U.S. flagged vessels. However, many U.S. non-governmental expeditions charter non-U.S. flagged vessels. To ensure that the U.S. obligation to comply with Article 15 is met for all activities in Antarctica for which advance notice is required under Article VII of the Antarctic Treaty, it was necessary to have a regulation addressing Article 15 obligations for those U.S. non-governmental expeditions which charter non-U.S. flagged vessels. Section 6(a) of the Antarctic Conservation Act, as amended by ASTCA, authorizes NSF to issue such regulations as are necessary and appropriate to implement the Protocol and the ACA. It is under this authority, and to fully meet the U.S. obligations under Article 15, that NSF is issuing this regulation.

IAATO also suggested that the proposed rule could be interpreted as an attempt to govern the operations of foreign flag vessels. The U.S. obligation under the Protocol is to ensure that all expeditions for which advance notice is required by the United States under the Treaty are prepared to provide for prompt and effective response actions to environmental emergencies, regardless of the flag state or the state of registry of the vessel being used for the expedition. This regulation regulates the U.S. expedition organizer rather than the foreign flagged vessel by requiring the expedition organizer to make provision for prompt and effective response action as required under Article 15. The expedition organizer may do so by contract. NSF has revised the language in § 673.1, Purpose of Regulations, of the final rule to provide clarification in this respect.

IAATO also noted that different national authorities may impose different rules to implement Article 15 and that amending Shipboard Oil Pollution Emergency Plans (''SOPEPs'') will be an iterative process. IAATO commented that the regulatory requirements should be flexible enough to accommodate varying approaches to response plans. IAATO sought clarification as to whether the preamble language, stating that a plan which met Coast Guard's rule implementing Article 15 would also meet the requirements of this regulation, would limit such flexibility. NSF agrees that a flexible approach is necessary. The regulation does not dictate the detailed content of the response plan and the reference to the Coast Guard regulation was merely intended to provide consistent guidance on one acceptable approach to the content of an effective response plan.

EPA also submitted written comments on the proposed rule. EPA expressed concern with the language in § 673.4 which limited the requirement for providing environmental protection information to persons organizing non-governmental expeditions ''who do business'' in the United States. The limitation to an entity who ''does business in the United States'' reflects the specific statutory language contained in section 4(a)(6) of the ACA, as amended by ASTCA. The scope of coverage for the response action provisions in the rule is not limited to organizers ''who do business'' in the United States.

EPA also expressed concern that the proposed rule appeared to be limited to tour operators rather than all non-governmental operators. Of course, the majority of non-governmental operators are tour operators. However, to the extent that any language contained in the preamble to the proposed rule would have given the impression that the rule is limited to tour operators, NSF wishes to clarify that the rule applies to all categories of non-governmental expeditions organized in or proceeding from the United States and required to give notice under Article VII(5) of the Antarctic Treaty. In order to avoid any

misperception about the scope of the rule, NSF is changing the title of part 673 to Antarctic Non-Governmental Expeditions. However, as noted above, the environmental protection information provision is limited in applicability to expedition organizers who do business in the United States as provided in section 4(a)(6) of the ACA.

EPA also raised concerns that the preamble to the proposed rule gave the impression that requirements to amend SOPEPs were being levied on non-U.S. flagged vessels. However, the rule regulates the U.S. expedition organizer rather than the foreign flagged vessel by requiring the expedition organizer who uses non-U.S. flagged vessels to ensure that the vessel owner or operator has an emergency response plan.

EPA suggested that NSF might wish to incorporate preamble language in the final rule stating that ''* * * any plan which satisfies the requirements contained in 33 CFR 151.26 of the Coast Guard regulations will also satisfy the requirements of this rule.'' NSF's reference to the Coast Guard regulation was intended to provide consistent guidance to Antarctic expedition organizers. NSF considered EPA's suggestion and has modified the final rule to incorporate this provision.

EPA also suggested that NSF add definitions to its final rule found in EPA's interim final rule for environmental impact assessment of non-governmental activities in Antarctica. Specifically, EPA suggested adding definitions for Antarctic Treaty area and operator. Since NSF has defined ''Antarctica'' as the area south of 60 degrees south latitude which is also the Antarctic Treaty area, NSF will consistently use the single term ''Antarctica'' throughout the regulation. NSF does not believe that the addition of the term ''operator'' to the regulation would provide any additional clarification to the rule.

Finally, EPA recommends that NSF change the term ''tour operators'' to ''nongovernmental operators'' in § 673.4(b). This provision in the rule preserves the option for NSF to prepare educational information at its discretion for dissemination to passengers aboard tourist vessels. Since the vast majority of nongovernmental expeditions to Antarctic are tourist expeditions, NSF is limiting the mandatory distribution of such materials to tour operators. This information could certainly be provided to other non-governmental expeditions but mandatory dissemination is not needed.

Determinations:

A. Executive Order 12866

NSF has determined, under the criteria set forth in Executive Order 12866, that this rule is not a significant regulatory action requiring review by the Office of Information and Regulatory Affairs.

B. Regulatory Flexibility Act

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is hereby certified this rule will not have significant impact on a substantial number of small businesses.

C. Paperwork Reduction Act

For purposes of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the collection of information requirements have been approved by the Office of Management and Budget (OMB No. 3145–0180).

D. Unfunded Mandates Act

The Unfunded Mandates Act of 1995 (Pub. L. 104–4) requires agencies to prepare several analytic statements before proposing any rule that may result in annual expenditures of $100 million by State, local, Indian Tribal governments, or the private sector. Since this rule will not result in expenditures of this magnitude, it is hereby certified that such statements are not necessary.

E. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 804). The rule will not result in an annual effect on the economy of $100 million or more; result in a major increase in cost or prices; or have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

F. Executive Order 13132: Federalism

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

G. Executive Order 12988: Civil Justice Reform

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

H. Executive Order 13175: Tribal Consultation

This rule does not have tribal implications.

I. The Congressional Review Act

The Congressional Review Act (5 U.S.C. 801 *et seq.*), provides that agencies shall submit a report, including a copy of all final rules, to each House of Congress and the Comptroller General of the United States. The Foundation has submitted this report, identifying this rule as non-major.

List of Subjects

45 CFR Part 672

Administrative practice and procedure, Antarctica.

45 CFR Part 673

Administrative practice and procedure, Antarctica, Oil pollution, Vessels.

Dated: August 7, 2001.

Lawrence Rudolph,

General Counsel, National Science Foundation.

The National Science Foundation hereby amends 45 CFR part 672, and adds 45 CFR part 673 as follows:

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 2401 *et. seq.*

2. The part heading to part 672 is revised to read as follows:

PART 672—ENFORCEMENT AND HEARING PROCEDURES

§ 672.3 [Amended]

3. In § 672.3, remove and reserve paragraph (h) and redesignate paragraph (i) as (h).

4. Part 673 is added to read as follows:

PART 673—ANTARCTIC NON-GOVERNMENTAL EXPEDITIONS

Sec.

673.1 Purpose of regulations.
673.2 Scope.
673.3 Definitions.
673.4 Environmental protection information.
673.5 Emergency response plan.

Authority: 16 U.S.C. 2401 *et. seq.*

§ 673.1 Purpose of regulations.

The purpose of the regulations in this part is to implement the Antarctic Conservation Act of 1978, Public Law

95–541, as amended by the Antarctic Science, Tourism and Conservation Act of 1996, Public Law 104–227, and Article 15 of the Protocol on Environmental Protection to the Antarctic Treaty done at Madrid on October 4, 1991. Specifically, this part requires that all non-governmental expeditions, for which advance notice by the United States is required under the Antarctic Treaty, who use non-flagged vessels ensure that the vessel owner or operator has an appropriate emergency response plan. This part is also designed to ensure that expedition members are informed of their environmental protection obligations under the Antarctic Conservation Act.

(Approved by the Office of Management and Budget under control number 3145–0180).

§ 673.2 Scope.

The requirements in this part apply to non-governmental expeditions to or within Antarctica for which the United States is required to give advance notice under Paragraph (5) of Article VII of the Antarctic Treaty.

§ 673.3 Definitions.

In this part:

Antarctica means the area south of 60 degrees south latitude.

Expedition means an activity undertaken by one or more non-governmental persons organized within or proceeding from the United States to or within Antarctica for which advance notification is required under Paragraph 5 of Article VII of the Antarctic Treaty.

Person has the meaning given that term in section 1 of title 1, United States Code, and includes any person subject to the jurisdiction of the United States except that the term does not include any department, agency, or other instrumentality of the Federal Government.

§ 673.4 Environmental protection information.

(a) Any person who organizes a non-governmental expedition to Antarctica and who does business in the United States shall notify expedition members of the environmental protection obligations of the Antarctic Conservation Act.

(b) The National Science Foundation's Office of Polar Programs may prepare for publication and distribution explanation of the prohibited acts set forth in the Antarctic Conservation Act, as well as other appropriate educational material for tour operators, their clients, and employees. Such material provided to tour operators for distribution to their passengers and crew shall be disseminated prior to or during travel to the Antarctic.

§ 673.5 Emergency response plan.

Any person organizing a non-governmental expedition to or within Antarctica who is transporting passengers aboard a non-U.S. flagged vessel shall ensure that:

(a) The vessel owner's or operator's shipboard oil pollution emergency plan, prepared and maintained according to Regulation 26 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), has provisions for prompt and effective response action to such emergencies as might arise in the performance of the vessel's activities in Antarctica. Any emergency response plan which satisfies the requirements contained in 33 CFR 151.26 of the U.S. Coast Guard regulations will also satisfy the requirements of this paragraph. If the vessel owner or operator does not have a shipboard oil pollution emergency plan, a separate plan for prompt and effective response action is required.

(b) The vessel owner or operator agrees to take all reasonable measures to implement the plan for a prompt and effective response action in the event of an emergency, taking into account considerations of risk to human life and safety.

[FR Doc. 01–20274 Filed 8–10–01; 8:45 am]

BILLING CODE 7555–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA 01–1844]

Freedom of Information Act

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission is modifying a section of the Commission's rules that implements the Freedom of Information Act (FOIA) Fee Schedule. This modification pertains to the charge for recovery of the full, allowable direct costs of searching for and reviewing records requested under the FOIA and the Commission's rules, unless such fees are restricted or waived. The fees are being revised to correspond to modifications in the rate of pay approved by Congress.

DATES: Effective September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Kathryn Abbate, Freedom of Information Act Officer, Office of Performance Evaluation and Records Management, Room 1A827, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418–0440 or via Internet at kabbate@fcc.gov.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission is modifying § 0.467(a) of the Commission's rules. This rule pertains to the charges for searching and reviewing records requested under the FOIA. The FOIA requires federal agencies to establish a schedule of fees for the processing of requests for agency records in accordance with fee guidelines issued by the Office of Management and Budget (OMB). In 1987, OMB issued its Uniform Freedom of Information Act Fee Schedule and Guidelines. However, because the FOIA requires that each agency's fees be based upon its direct costs of providing FOIA services, OMB did not provide a unitary, government-wide schedule of fees. The Commission based its FOIA Fee Schedule on the grade level of the employee who processes the request. Thus, the Fee Schedule was computed at a Step 5 of each grade level based on the General Schedule effected January 1987. The revisions correspond to modifications in the rate of pay recently approved by Congress.

Regulatory Procedures

This proposed rule has been reviewed under Executive Order No. 12866 and has been determined not to be a ''significant rule'' since it will not have an annual effect on the economy of $100 million or more.

In addition, it has been determined that this proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 47 CFR Part 0

Freedom of information.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 0 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

1.The authority citation for Part 0 continues to read as follows:

Authority: 47 U.S.C. 155, unless otherwise noted.

2. Section 0.467(a)(1) is amended by revising the last sentence, the table in

paragraph (a)(1) and its note, and paragraph (a)(2) to read as follows:

§ 0.467 Search and review fees.

(a)(1) * * * The fee is based on the grade level of the employee(s) who conduct(s) the search or review, as specified in the following schedule:

Grade	Hourly fee
GS–1	10.22
GS–2	11.14
GS–3	12.55
GS–4	14.09
GS–5	15.77
GS–6	17.57
GS–7	19.52
GS–8	21.62
GS–9	23.88
GS–10	26.30
GS–11	28.90
GS–12	34.64
GS–13	41.20
GS–14	48.67
GS–15	57.25

Note: These fees will be modified periodically to correspond with modifications in the rate of pay approved by Congress.

(2) The fees in paragraph (a)(1) of this section were computed at Step 5 of each grade level based on the General Schedule effective January 2001 and include 20 percent for personnel benefits.

* * * * *

[FR Doc. 01–20154 Filed 8–10–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010502110–1110–01; I.D. 070501C]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Actions for the Recreational, Commercial, and Tribal Salmon Seasons from the U.S.-Canada Border to the Oregon-California Border

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

ACTION: Inseason closure, adjustment, and two corrections to the 2001 annual management measures for the ocean salmon fishery; request for comments.

SUMMARY: NMFS announces the following inseason actions for the ocean salmon fishery: Closure of the commercial fishery for all salmon except coho in the area from the U.S.-Canada Border to Cape Falcon, OR, on June 15, 2001, at 2359 hours local time (l.t.), and modification of the weekly opening period for the commercial fishery for all salmon (except coho) in the area from Humbug Mountain to the Oregon-California Border, to be open 7 days per week effective June 15, 2001, at 0001 hours l.t. through June 30, 2001 at 2359 hours l.t. This document also contains corrections to the 2001 annual management measures for the ocean salmon fishery, which were published on May 8, 2001, and amended June 29, 2001, and July 11, 2001.

DATES: Closure in the area from the U.S.-Canada Border to Cape Falcon, OR—effective 2359 hours l.t., June 15, 2001, until the effective date of the 2002 management measures, as published in the **Federal Register**. Adjustment in the area from Humbug Mountain to Oregon-California Border—effective 0001 hours l.t., June 15, 2001, through the earlier of June 30, 2001, or a 1,500-chinook quota. Correction for the recreational salmon fishery from Cape Alava to Queets River—effective May 2, 2001, until the effective date of the 2002 management measures, as published in the **Federal Register**. Correction for the all-species treaty troll fishery for the Quinault Tribe—effective July 1, 2001, until the effective date of the 2002 management measures, as published in the **Federal Register**. Comments on this action will be accepted through August 28, 2001.

ADDRESSES: Submit comments to Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; fax 206–526–6376; or Rebecca Lent, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132; fax 562–980–4018. Comments will not be accepted if submitted via e-mail or the Internet. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140, Northwest Region, NMFS, NOAA.

SUPPLEMENTARY INFORMATION:

Closure From the U.S.-Canada Border to Cape Falcon, OR

The Northwest Regional Administrator, NMFS (Regional Administrator), determined that the guideline of 17,000 chinook for the area from the U.S.-Canada Border to Cape Falcon, OR, had been reached and closed the fishery for all salmon except coho on June 15, 2001. Regulations governing the ocean salmon fisheries at 50 CFR 660.409(a)(1) state that, when a quota for any salmon species in any portion of the fishery management area is projected by the Regional Administrator to be reached on or by a certain date, NMFS will, by notification issued under 50 CFR 660.411(a)(2), close the fishery for all salmon species in the portion of the fishery management area to which the quota applies, as of the date the quota is projected to be reached.

In the 2001 annual management measures for ocean salmon fisheries (66 FR 23185, May 8, 2001), NMFS announced that the commercial fishery for all salmon except coho in the area from U.S.-Canada Border to Cape Falcon, OR would open May 1, 2001, through the earlier of June 30, 2001, or a 17,000-chinook guideline.

The Washington Department of Fish and Wildlife (WDFW) reported the landed catch, as of June 10, 2001, for the commercial fishery in the area from U.S.-Canada Border to Cape Falcon, OR, was 14,300 chinook salmon. The rate of landed catch was estimated to be 500 chinook per day. Accordingly, the WDFW projected the area to reach the 17,000-chinook guideline on June 15, 2001, and recommended that NMFS close the area effective midnight on that date.

Adjustment in the Area From Humbug Mountain to the Oregon-California Border

Modification of fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i).

In the 2001 annual management measures for ocean salmon fisheries (66 FR 23185, May 8, 2001), NMFS announced that the commercial fishery for all salmon except coho in the area from Humbug Mountain to Oregon-California Border would open June 3, 2001, through the earlier of June 30, 2001, or a 1,500-chinook quota. The fishery was to follow a cycle of 2 days open/2 days closed, with a provision that it may be adjusted inseason to match management needs.

The Oregon Department of Fish and Wildlife (ODFW) reported that, as of June 13, 2001, both fishing effort and landed catch had been low due to poor weather conditions. Better catches in the area to the north of the area from Humbug Mountain to Oregon-California Border resulted in reduced effort in the restricted fishery. Oregon reported the catch landed in the area to date was only 37 chinook salmon. Therefore, the

ODFW recommended that the weekly opening period for commercial fishing from Humbug Mountain to Oregon-California Border be adjusted to open 7 days per week effective June 15, 2001, at 0001 hours l.t. through June 30, 2001, or the 1500-chinook quota.

Corrections to the 2001 Annual Management Measures

The 2001 annual management measures for the ocean salmon fishery were published in the **Federal Register** on May 8, 2001 (66 FR 23185), and amended at 66 FR 34582 (June 29, 2001, and at 66 FR 36212 (July 11, 2001).

NMFS announced in the 2001 annual management measures that the recreational fishery in the area from Cape Alava to Queets River (La Push Area) would open July 1 through earlier of September 23 or subarea sub-quota of 5,350 coho; September 24 through earlier of October 21 or overall subarea quota of 5,850 (500 set-aside) coho. All salmon (7 days per week), 2 fish per day, but only 1 chinook, and all retained coho must have a healed adipose fin clip. Inseason management measure C.4 may be used to sustain season length and keep harvest within a guideline of 1,000 chinook for the general season and 100 chinook for the set-aside season. However, the late season fishery that begins September 24 was planned preseason as a geographically limited bubble fishery off the mouth of the Quillayute River and totally within 3 miles of shore.

The recreational management measures for the State of Washington included an area description for the late season bubble fishery (La Push Late Season). However, the limiting area restriction was inadvertently omitted from the 2001 annual management measures that currently allow for fishing throughout the Cape Alava to Queets River area. To rectify the inconsistency, WDFW requested that NMFS amend the 2001 annual management measures by restricting the late season fishery to the Washington State La Push Late Season Area.

The opening date for the all-species treaty troll fishery for the Quinault tribal fishery was announced in the 2001 management measures for ocean salmon fisheries as starting August 1, 2001. This was an error. The opening date should have been July 1, the same as for the other coastal treaty tribes, and as indicated in ≥Preseason Report III Analysis of Council-Adopted Management Measures for 2001 Ocean Salmon Fisheries.≥ Therefore, the Quinault Tribe requested that NMFS correct the 2001 annual management measures with a July 1 opening date for the all-species treaty troll fishery.

Corrections

In the rule FR Doc. 01-11444, in the issue of May 8, 2001 (66 FR 23185), the following corrections are made:

1. On page 23191, in the first column, the first full paragraph is corrected to read as follows:

Cape Alava to Queets River (La Push Area)

July 1 through earlier of September 23 or subarea sub-quota of 5,350 coho; September 24 through earlier of October 21 or overall subarea quota of 5,850 (500 set-aside) coho (La Push Late Season). The La Push Late Season Area is limited to an area defined by a line from Teahwhit Head northwesterly to ''Q'' buoy to Cake Rock then true east to the shoreline. All salmon (7 days per week), 2 fish per day, but only 1 chinook, and all retained coho must have a healed adipose fin clip. Inseason management (C.4) may be used to sustain season length and keep harvest within a guideline of 1,000 chinook for the general season and 100 chinook for the set-aside season.

2. On page 23193, the second column in the table, in the last line, the description of the Open Seasons for the Quinault Tribe is corrected to read as follows: ''July 1 through earliest of September 15 or chinook or coho quota.''

The Regional Administrator consulted with representatives of the Council, WDFW, ODFW, and the California Department of Fish and Game regarding the two above-described inseason actions and two corrections at the June 2001 Council meeting in California. The best available information on June 13, 2001, indicated that the catch and effort data and catch projections supported the commercial fishery closure and the season modification. The two corrections were made with concurrence of the Council and the affected State and tribe. The states will manage the fisheries in state waters adjacent to the areas of the exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishermen of the closure in the area from U.S.-Canada Border to Cape Falcon, Oregon, effective 2359 hours l.t., June 15, 2001, and the adjustment in the area from Humbug Mountain to Oregon-California Border effective 0001 hours l.t., June 15, 2001, were given prior to the effective dates by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF–FM and 2182 kHz. The Quinault Tribe was notified of the correction to the all-species treaty troll fishery by letter prior to July 1, 2001.

Because of the need for immediate action to stop the fishery upon achievement of the quota for the area from the U.S.-Canada Border to Cape Falcon, OR, and for the modification of the weekly opening period for the area from Humbug Mountain to the Oregon-California Border, NMFS has determined that good cause exists for this notification to be issued without affording a prior opportunity for public comment because such notification would be unnecessary, impracticable, and contrary to the public interest. Moreover, because of the immediate need to stop the fishery upon achievement of the quota and modify the weekly opening period, the Assistant Administrator for Fisheries, NOAA (AA), finds, for good cause, under 5 U.S.C. 553(d)(3), that delaying the effectiveness of this rule for 30 days is impracticable and contrary to public interest. These actions do not apply to other fisheries that may be operating in other areas.

Furthermore, because of the need to ensure that harvest specifications are accurate, NMFS has determined that good cause exists for this notification to be issued without affording a prior opportunity for public comment because such notification would be unnecessary, impracticable, and contrary to the public interest. Moreover, because of the immediate need to correct errors, the AA finds, for good cause, under 5 U.S.C. 553(d)(3), that delaying the effectiveness of this rule for 30 days is impracticable and contrary to public interest. These actions do not apply to other fisheries that may be operating in other areas.

Classification

These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: August 7, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–20280 Filed 8–10–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 080601A]

Fisheries of the Exclusive Economic Zone Off Alaska; Other Rockfish in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of ''other rockfish'' in the Western Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catch of ''other rockfish'' in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the allocation of the ''other rockfish'' 2001 total allowable catch (TAC) in this area has been achieved.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 8, 2001, until 2400 hrs, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

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

The 2001 TAC allocation of ''other rockfish'' for the Western Regulatory Area of the GOA was established as 20 metric tons (mt) by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001 and 66 FR 37167, July 17, 2001). ''Other rockfish'' in the Western Regulatory Area means slope rockfish and demersal shelf rockfish.

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the allocation of the ''other rockfish'' TAC in the Western Regulatory Area of the GOA has been achieved. Therefore, NMFS is requiring that further catches of ''other rockfish'' in the Western Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent overharvesting the allocation of the ''other rockfish'' TAC in the Western Regulatory Area of the GOA constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent overharvesting the allocation of the ''other rockfish'' TAC for the Western Regulatory Area of the GOA constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 7, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–20259 Filed 8–8–01; 4:48 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 156
Monday, August 13, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 56 and 70

[Docket No. PY–01–005]

RIN 0581–AB99

Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to increase the fees and charges for Federal voluntary egg, poultry, and rabbit grading. These fees and charges need to be increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs.

DATES: Comments must be received on or before September 12, 2001.

ADDRESSES: Send written comments to David Bowden, Jr., Chief, Standardization Branch, Poultry Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0259, room 3944–South, 1400 Independence Avenue, SW, Washington, DC 20250. Comments may be faxed to (202) 690–0941.

State that your comments refer to Docket No. PY–01–005 and note the date and page number of this issue of the **Federal Register**.

Comments received may be inspected at the above location between 8:00 a.m. and 4:30 p.m., Eastern Time, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Rex A. Barnes, Chief, Grading Branch, (202) 720–3271.

SUPPLEMENTARY INFORMATION:

Background and Proposed Changes

The Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621 *et seq.*) authorizes official voluntary grading and certification on a user-fee basis of eggs, poultry, and rabbits. The AMA provides that reasonable fees be collected from users of the program services to cover, as nearly as practicable, the costs of services rendered.

The AMS regularly reviews these programs to determine if fees are adequate and if costs are reasonable. This action would amend the schedule for fees and charges for grading services rendered to the egg, poultry, and rabbit industries to reflect the costs currently associated with them.

A recent review of the current fee schedule, effective October 1, 2000, revealed that anticipated revenue will not adequately cover increasing program costs. Without a fee increase, FY 2002 revenues for grading services are projected at $24.1 million, costs are projected at $26.0 million, and trust fund balances would be $14.8 million. With a fee increase, FY 2002 revenues are projected at $25.3 million, costs are projected at $26.0 million, and trust fund balances would be $16.0 million.

Employee salaries and benefits account for approximately 81 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 3.56 to 4.46 percent, depending on locality, became effective in January 2001 and has materially affected program costs. Another general and locality salary increase estimated at 3.6 percent is expected in January 2002. Also, from October 2000 through September 2001, salaries and fringe benefits of federally licensed State employees will have increased by about 6.0 percent.

The impact of these cost increases was determined for resident, nonresident, and fee services. To offset projected cost increases, the hourly resident and nonresident rate would be increased by approximately 5 percent and the fee rate would be increased by approximately 6 percent. The hourly rate for resident and nonresident service covers graders' salaries and benefits. The hourly rate for fee service covers graders' salaries and benefits, plus the cost of travel and supervision.

Administrative charges that cover the cost of supervision for resident poultry and shell egg grading would also be increased as shown in the table below. Administrative charges for resident rabbit grading and nonresident services would not be changed.

The following table compares current fees and charges with proposed fees and charges for egg, poultry, and rabbit grading as found in 7 CFR parts 56 and 70:

Service	Current	Proposed
Resident Service (egg, poultry, rabbit grading)		
Inauguration of service	310	310
Hourly charges:		
Regular hours	29.96	31.52
Administrative charges—Poultry grading:		
Per pound of poultry	.00035	.00036
Minimum per month	225	250
Maximum per month	2,625	2,650
Administrative charges—Shell egg grading:		
Per 30-dozen case of shell eggs	.044	.046
Minimum per month	225	250
Maximum per month	2,625	2,650
Administrative charges—Rabbit grading:		
Based on 25% of grader's salary.		
Minimum per month	260	260

Service	Current	Proposed
Nonresident Service (egg, poultry grading)		
Hourly charges:		
Regular hours	29.96	31.52
Administrative charges:		
Based on 25% of grader's salary.		
Minimum per month	260	260
Fee and Appeal Service (egg, poultry, rabbit grading)		
Hourly charges:		
Regular hours	51.32	54.40
Weekend and holiday hours	59.12	62.76

Executive Order 12866

This action has been determined to be not significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 *et seq.*), the AMS has considered the economic impact of this action on small entities. It is determined that its provisions would not have a significant economic impact on a substantial number of small entities.

There are about 400 users of Poultry Programs' grading services. These official plants can pack eggs, poultry, and rabbits in packages bearing the USDA grade shield when AMS graders are present to certify that the products meet the grade requirements as labeled. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.201). These entities are under no obligation to use grading services as authorized under the Agricultural Marketing Act of 1946.

The AMS regularly reviews its user fee financed programs to determine if the fees are adequate. The most recent review determined that the existing fee schedule will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance. Without a fee increase, FY 2002 revenues for grading services are projected at $24.1 million, costs are projected at $26.0 million, and trust fund balances would be $14.8 million. With a fee increase, FY 2002 revenues are projected at $25.3 million, costs are projected at $26.0 million, and trust fund balances would be $16.0 million.

This action would raise the fees charged to users of grading services. The AMS estimates that overall, this rule would yield an additional $1.2 million during FY 2002. The hourly rate for resident and nonresident service would increase by approximately 5 percent and the fee rate would increase by approximately 6 percent. The impact of these rate changes in a poultry plant would range from less than 0.006 to 0.02 cents per pound of poultry handled. In a shell egg plant, the range would be less than 0.028 to 0.033 cents per dozen eggs handled.

Civil Justice Reform

This action has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Paperwork Reduction

The information collection requirements that appear in the sections to be amended by this action have been previously approved by OMB and assigned OMB Control Numbers under the Paperwork Reduction Act (44 U.S.C. Chapter 35) as follows: § 56.52(a)(4)—No. 0581–0128; and § 70.77(a)(4)—No. 0581–0127.

A thirty-day comment period is provided for interested persons to comment on this proposed rule. This period is appropriate in order to implement, as early as possible in fiscal year 2002, any fee changes adopted as a result of this rulemaking action.

List of Subjects

7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, it is proposed that Title 7, Code of Federal Regulations, parts 56 and 70 be amended as follows:

PART 56—GRADING OF SHELL EGGS

1. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. In § 56.46, paragraphs (b) and (c) are revised to read as follows:

§ 56.46 On a fee basis.

(a) * * *

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $54.40 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $62.76 per hour. Information on legal holidays is available from the Supervisor.

3. In § 56.52, paragraph (a)(4) is revised to read as follows:

§ 56.52 Continuous grading performed on resident basis.

* * * * *

(a) * * *

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $0.046, except that the minimum charge per billing period shall be $250 and the maximum charge shall be $2,650. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

4. The authority citation for part 70 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

5. In § 70.71, paragraphs (b) and (c) are revised to read as follows:

§ 70.71 On a fee basis.

(a) * * *

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $54.40 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $62.76 per hour. Information on legal holidays is available from the Supervisor.

6. In § 70.77, paragraph (a)(4) is revised to read as follows:

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(a) * * *

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by $0.00036, except that the minimum charge per billing period shall be $250 and the maximum charge shall be $2,650. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

Dated: August 7, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–20246 Filed 8–10–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

[DA–99–04]

RIN 0581–AB59

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service (General Specifications) by reducing the maximum allowable bacterial estimate and somatic cell count in producer herd milk, by reducing the maximum allowable bacterial estimate in commingled milk, and by modifying the follow-up procedures when producer herd milk exceeds the maximum allowable bacterial estimate. These changes would align the General Specifications with model regulations relating to quality and sanitation requirements of the production and processing of manufacturing grade milk. In addition, this document proposes to revise the process by which drug residue test methods are evaluated and accepted to provide greater consistency with the Grade A milk program and proposes certain other changes to the regulations for clarity and consistency.

DATES: Comments must be submitted on or before October 12, 2001.

ADDRESSES: Written comments may be submitted to: Duane R. Spomer, Chief, Dairy Standardization Branch, Dairy Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2946–S, South Building, P.O. Box 96456, Washington, DC 20090–6456. Comments may also be faxed to (202) 720–2643 or e-mailed to Duane.Spomer@usda.gov.

Comments should reference the date and page of this issue of the **Federal Register**. All comments received will be available for public inspection at the above address during regular business hours (8 a.m.–4:30 p.m.).

The current General Specifications for Dairy Plants Approved for USDA Inspection and Grading are available either through the above address or by accessing AMS' Home Page on the Internet at www.ams.usda.gov/dairy/stand.htm.

FOR FURTHER INFORMATION CONTACT: Susan Sausville, Dairy Products Marketing Specialist, Dairy Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2746, South Building, P.O. Box 96456, Washington, D.C. 20290–6456, (202) 720–7473, Susan.Sausville@usda.gov.

SUPPLEMENTARY INFORMATION:

A. Executive Order 12866 and Regulatory Flexibility Act

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

The proposed rule has been reviewed in accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), and AMS has considered the economic impact of this action on small entities. It is determined that its provisions would not have a significant economic impact on a substantial number of small entities.

AMS provides, under the authority of the Agricultural Marketing Act of 1946, voluntary, user-fee funded inspection and grading services to approximately 400 dairy manufacturing plants. All of the dairy manufacturing plants utilizing the program would be considered small businesses under the criteria established by the Small Business Administration (13 CFR 121.201).

The proposed amendments would not have a significant economic impact because many State regulatory agencies have already incorporated these changes into State laws and regulations governing dairy manufacturing plants. The proposed changes would more closely align the General Specifications with mandatory State regulatory requirements in a number of areas including:

- The reduction of producer herd milk somatic cell count,
- The reduction of producer herd milk bacterial estimate,
- The follow-up protocol for producers whose herd milk exceeds the permitted bacterial estimate,
- The reduction in the bacterial estimate for commingled milk counts,
- The laboratory procedures that determine somatic cell content of producer herd milk, and
- The drug residue monitoring program.

Furthermore, the proposed amendments would not have a significant economic impact since participation in the USDA-approved plant program is voluntary and the cost

to those utilizing the program would not increase.

C. Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations or policies, unless they represent an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

D. Paperwork Reduction Act

The information collection requirements that appear in Part 58 of the regulations have been previously approved by OMB and assigned OMB Control Number 0581–0110 under the Paperwork Reduction Act (44 U.S.C. chapter 35). This action will not impose any additional reporting or recordkeeping requirements on large or small dairy processors.

Background and Proposed Changes

Under provisions of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), the United States Department of Agriculture maintains a set of model regulations relating to quality and sanitation requirements for the production and processing of manufacturing grade milk. The Recommended Requirements are a separate document developed by AMS and recommended for State adoption and enforcement by the various States that regulate manufacturing grade milk. The purpose of the model requirements is to promote, through State adoption and enforcement, uniformity in State dairy laws and regulations relating to manufacturing grade milk. The Recommended Requirements are available from the Dairy Standardization Branch at the address provided in the **ADDRESSES** Section of this proposal. Additionally, the Recommended Requirements are available by accessing AMS' Home Page on the Internet at *www.ams.usda.gov/dairy/stand.htm.*

On November 12, 1996, AMS reduced the somatic cell count and the bacterial estimate provisions in the Recommended Requirements (61 FR 48120). This reduction was requested by the National Association of State Departments of Agriculture (NASDA) and was developed in cooperation with NASDA, dairy trade associations, and producer groups. Now that State regulatory agencies have had an opportunity to implement these new limits and the dairy industry has had time to adapt to this new level, the Department is recommending similar changes be made in the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service. This alignment is needed in order to support the reduced levels of somatic cells and bacteria in the USDA Recommended Requirements and to promote improvements in the quality of raw milk utilized by USDA approved plants.

In addition, AMS has also identified additional areas where changes can be made to improve the regulations. All of the changes are explained in further detail below. AMS is proposing to amend the General Specifications as follows:

1. *Reduce the maximum bacterial estimate permitted in producer herd milk and modify the follow-up procedures when herd milk exceeds the maximum allowable bacterial estimate.*

Current § 58.135 provides for a maximum permissible bacteria count in producer herd milk of 1,000,000 per milliliter. We are proposing to revise § 58.135 by reducing the maximum bacteria estimate permitted in producer herd milk to 500,000 per milliliter for the following reasons:

The number of bacteria present in milk increases when the equipment and utensils used to collect and store the milk are improperly cleaned and sanitized. This number increases rapidly in milk that is not cooled promptly or that is not maintained at refrigerated temperatures throughout storage. Enhanced milk quality can be attained when dairy equipment is properly cleaned and sanitized and when milk is promptly cooled and stored at refrigerated temperatures. Improvements in sanitation practices and milk cooling equipment have resulted in enhanced milk quality. Therefore, to reflect these improvements in enhanced milk quality, this proposal would reduce the maximum permissible bacteria count in producer herd milk from 1,000,000 to 500,000 per ml. This and additional changes to § 58.135 are proposed as follows:

Current § 58.135(a) references ''Standard Methods for the Examination of Dairy Products,'' for test methods that may be used to determine the bacterial estimate of the milk from individual producers. This proposal would identify this reference as a publication of the American Public Health Association and provide the following list of acceptable methods for determining the bacterial estimate of milk from individual producers: Direct Microscopic Clump Count, Standard Plate Count, Plate Loop Count, Pectin Gel Plate Count, Petrifilm Aerobic Count, Spiral Plate Count, Hydrophobic Grid Membrane Filter Count, Impedence/Conductance Count, and Reflectance Calorimetry.

Current § 58.135(b) provides bacterial estimate classifications for milk from individual producers of: No. 1 (Not over 500,000 per ml.), No. 2 (Not over 1,000,000 per ml.) and Undergrade (Over 1,000,000 per ml.). This proposal would lower the maximum allowable bacteria estimate in milk from individual producers to a maximum of 500,000 per ml., thus eliminating the need to classify milk as No.1, No. 2, or Undergrade. Therefore, this proposal would delete all information currently contained in § 58.135(b).

Current § 58.135(c) establishes the frequency at which individual producer milk is to be tested for bacterial estimate. This proposal maintains the current frequency, adds a provision that the samples be analyzed in accordance with State regulations, and redesignates this information to § 58.135(b).

Current § 58.135(d) provides for the acceptance of milk based on information previously contained in § 58.135(b). This proposal would establish new procedures for individual producer's milk that exceeds the maximum allowable bacterial estimate to provide consistency with the Recommended Requirements and many State regulations. This new procedure would require that the producer be notified of all bacterial estimates exceeding the maximum permitted. In addition, when two of the last four consecutive bacterial estimates exceed the maximum permitted, the appropriate regulatory authority would be notified. The producer would be provided a written notice that two of the last four bacterial estimates exceed the maximum permitted. When two out of the last four bacterial estimates exceed the maximum permitted, the proposal provides that an additional sample be taken, the result of which determines the acceptability of milk from a producer. These proposed changes will provide increased uniformity with producer herd milk bacteria and somatic cell follow-up procedures and provide greater adaptability to computer-based recordkeeping. This revised section will now appear as § 58.135(c). Information contained in proposed § 58.135(b) and § 58.135(c) provides the information necessary to determine the acceptability of milk for bacterial content. Accordingly, § 58.135(d) is no longer needed and is being removed.

Current § 58.135(e) provides for retests based on information previously contained in § 58.135(b) and § 58.135(c). Information contained in proposed

§ 58.135(b) and § 58.135(c) provides the information necessary to determine the acceptability of milk for bacterial content. Accordingly, § 58.135(e) is no longer needed and is being removed.

2. *Reduce the maximum somatic cell count permitted in producer herd milk and delete the laboratory screening tests for somatic cells (no changes are being proposed for goat milk).*

Current § 58.133(b)(5), § 58.133(b)(5)(ii) and § 58.133(b)(6) provides for a maximum somatic cell count in producer herd milk of 1,000,000 per milliliter. We are proposing to revise these sections by reducing the maximum allowable somatic cell count in producer herd cow's milk to 750,000 per milliliter for the following reasons:

The number of leukocytes (somatic cells) present in milk increases as a result of mammary gland infection (mastitis) and provides information regarding the health of the dairy herd. Through effective herd management, dairy farmers have reduced the number of somatic cells present in raw milk. Identification and treatment of infected animals and improved milking techniques are two examples of herd management tools being used to reduce somatic cell counts. Therefore, to reflect these improvements in enhanced milk quality, this proposal would reduce the maximum permissible somatic cells in producer herd milk from 1,000,000 to 750,000 per ml. Because the number of somatic cells found in milk produced from healthy goats is normally higher than the number found in cow's milk, similar reductions are not being proposed for goat milk. Research indicates that physiological and microbiological differences exist in goat and cow milk independent of disease status which justify different standards between the two species.[1]

Current § 58.133(b)(2) lists the California Mastitis Test (CMT) and the Wisconsin Mastitis Test (WMT) as acceptable screening tests for somatic cells in producer herd milk samples. We are proposing to revise § 58.133(b)(2) by limiting the California Mastitis Test (CMT) and Wisconsin Mastitis Test (WMT) as screening tests for somatic cells in goat herd milk samples for the following reasons:

The CMT and the WMT are used as screening tests for somatic cells. However, these screening tests are reliable for samples containing 1,000,000 or more somatic cells per milliliter. Since this action would reduce the maximum somatic cell count in cow's milk to 750,000 per ml., the CMT and WMT tests are not accurate enough to screen cow milk at the reduced level. Since the maximum somatic cell count for goat milk remains at 1,000,000 per ml., the CMT and WMT tests may continue to be used to screen goat milk. Since screening tests would no longer apply to cow's milk, the proposed changes would revise § 58.133(b)(3) to indicate that the listed tests are only considered confirmatory when performed on goat's milk. The proposal lists in § 58.133(b)(3), the Direct Microscopic Somatic Cell Count, the Electronic Somatic Cell Count (particle counter), and the Electronic Somatic Cell Count (fluorescent dye) as tests that may be used to determine somatic cell count. In addition, this proposal provides for additional methods that may later be included in the latest edition of ''Standard Methods for the Examination of Dairy Products,'' a publication of the American Public Health Association. A copy of this document is available from the American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005.

3. *Reduce the maximum permitted bacterial estimate in commingled milk.*

Current § 58.143(b) provides for a maximum allowable bacterial estimate in commingled milk in storage tanks of 3,000,000 per milliliter. This proposal would revise § 58.143(b) by reducing the maximum allowable bacterial estimate in commingled milk in storage tanks to 1,000,000 per milliliter for the following reasons:

Commingled milk is the combined milk from more than one producer. Farm improvements in sanitation practices and milk cooling equipment have resulted in enhanced milk quality. Therefore, to reflect these improvements and the resulting improvements of enhanced commingled milk quality, this proposal would reduce the maximum permissible bacterial estimate in commingled milk from 3,000,000 to 1,000,000 per milliliter.

4. *Update procedures for excluding milk.*

Current § 58.137(b) provides for the exclusion of milk that has been classified as Undergrade for bacterial estimate for more than four successive weeks. Proposed changes to § 58.135 would eliminate the bacterial based classification of milk (No.1, No.2, or Undergrade). Therefore, we are proposing to revise § 58.137(b) to follow the protocol proposed in § 58.135(c)(3) and exclude milk when three of the last five milk samples have exceeded the maximum bacterial estimate of 500,000 per ml.

Current § 58.137(c) provides for milk to be excluded when three out of the last five milk samples have exceeded the maximum somatic cell count level of 1,000,000 per ml. This proposal would lower the maximum somatic cell count level to 750,000 per ml. Therefore, we are proposing to revise § 58.137(c) to exclude milk when three out of the last five milk samples have exceeded the maximum somatic cell count level of 750,000 per ml.

5. *Update the Drug Residue Testing Program.*

We are proposing to revise § 58.133(c) to provide greater consistency with current Grade A milk requirements. When the General Specifications were revised in 1993, provisions detailing a drug residue testing program were added. At that time, those provisions were consistent with the drug residue program developed by the National Conference for Interstate Milk Shipment and used to monitor drug residues in Grade A milk. When the Grade A milk drug residue monitoring program was developed, the program allowed for the approval of test methods by the Virginia Polytechnic Institute and State University. Since that time, the Grade A milk program has changed to allow further independent evaluations and not specifically limited to the Virginia Polytechnic Institute and State University. The proposed changes would revise § 58.133(c) to provide greater consistency in the methods used to analyze samples for drug residues, and test methods would now be independently evaluated or evaluated by the Food and Drug Administration (FDA) and accepted by FDA as effective to detect drug residues at current safe or tolerance levels.

6. *Update of 3–A Sanitary Standards References.*

This proposal would update the 3–A Sanitary Standard references in § 58.131(a)(2) to properly reflect the title of the two standards for dairy farm cooling and storage tanks. Therefore, we are proposing to revise § 58.131(a)(2) to reference the 3–A Sanitary Standard for Farm Cooling and Holding Tanks and the 3–A Sanitary Standard for Farm Milk Storage Tanks. In addition, this proposal would reflect a change in the title of the document detailing methods to produce culinary steam in § 58.127(d). The current title is the 3–A Accepted Practices for a Method of Producing Steam of Culinary Quality. Copies of each of these documents are available from the International Association for Food Protection, 6200

[1] G.F. Haenlein, L.S. Hinckley, ''Goat Milk Somatic Cell Count Situation in the United States'', Goat Management: (http://bluehen.ags.udel.edu/deces/goatmgt/gm-11.htm).

Aurora Ave., Suite 200 W, Des Moines, Iowa 50322–2863.

7. *Inclusion of USDA Equipment Guidelines.*

The proposed change would reference the ''USDA Guidelines for the Sanitary Design and Fabrication of Dairy Processing Equipment'' in § 58.128(o). The Guidelines address design and fabrication requirements for dairy processing equipment not covered by an existing 3–A Sanitary Standard.

8. *Increase the Keeping Quality Test Temperature of Whipped Butter.*

Currently, § 58.346(b)(1) provides for a keeping quality test temperature for whipped butter of 70° F. We are proposing to revise § 58.346(b)(1) by raising the keeping quality test temperature of whipped butter from 70° F to 72° F. This proposal would provide consistent keeping quality test temperature requirements for butter and whipped butter. Agricultural Marketing Service graders have confirmed that accurate keeping quality results can be achieved for both butter and whipped butter when using 72° F. Alignment of this temperature requirement would allow the storage of both butter and whipped butter samples in the same temperature controlled keeping quality cabinet.

9. *Addition of Reduced Fat, Light, and Fat Free Cottage Cheese and Ice Cream.*

Current § 58.505(b)(3) provides for the term lowfat cottage cheese. We are proposing to revise § 58.505(b)(3) by including terms consistent with FDA labeling requirements such as ''reduced fat,'' ''light,'' and ''fat free'' cottage cheese.

Current § 58.605(c) provides for the term ice milk. We are proposing to revise § 58.605(c) by replacing the term ice milk with terms consistent with FDA labeling requirements such as ''reduced fat,'' ''light,'' and ''fat free'' ice cream. The proposed changes would also add the following CFR references to the General Specifications: ''Nutrient content claims for fat, fatty acid, and cholesterol content of foods,'' (21 CFR 101.62), and ''Requirements for foods named by use of a nutrient content claim and a standardized term,'' (21 CFR 130.10).

10. *Other Changes.*

• The proposed changes would correct § 58.124 by revising (j) and adding (k). These errors were inadvertent and occurred when the section was printed in the **Federal Register** and reproduced in the Code of Federal Regulations. A portion of the information in paragraphs (j) and (k) was inadvertently dropped from the CFR. Section 58.124(j) incorrectly contains the following wording: ''(j) proper storage conditions for ingrpackaging methods and materials.'' This proposal would correct this error by revising the information to read ''(j) proper storage conditions for ingredients and dairy products, or (k) suitable and effective packaging methods and materials.''

• The proposed changes would update citations made to CFR references in § 58.101(e), § 58.405(a), § 58.505, § 58.605, § 58.705(a), § 58.905, § 58.915, and § 58.938 to provide accurate information.

• The proposed changes would update Dairy Division to Dairy Programs in § 58.245 and § 58.812 and would update AMS Science Division to AMS Science and Technology Programs in § 58.126(e)(5)(ii) to reflect the name changes.

• The proposed changes would update the compositional standards in § 58.905 for evaporated milk, concentrated milk, and sweetened condensed milk to reflect compositional changes in the FDA Standards of Identity for evaporated milk (21 CFR 131.130), concentrated milk (21 CFR 131.115), and sweetened condensed milk (21 CFR 131.120).

• The proposed changes would update the association names and addresses in § 58.101 for the Association of Official Analytical Chemists, the American Public Health Association, and the International Association for Food Protection.

• The proposed changes would improve the current definition of a sanitizing treatment in § 58.101(e) and provide a definition consistent with terminology currently used in the dairy industry.

• The proposed changes in § 58.134(a) would provide information on how to obtain sediment standards.

• The proposed changes in § 58.245 would include DA Instruction 918–RL as a reference for methods of laboratory analysis and delete DA Instructions 918–103, 918–109–1, and 918–109–3. These DA instructions have been combined into 918–RL and no longer exist.

AMS is publishing this proposed rule with a 60-day comment period in order to provide sufficient time for interested persons to comment on the revisions.

List of Subjects in 7 CFR Part 58

Dairy Products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 58, Subpart B, be amended to read as follows:

PART 58—[AMENDED]

1. The authority citation for 7 CFR part 58, Subpart B, continues to read as follows:

Authority: Agricultural Marketing Act of 1946, 7 U.S.C. 1621–1627.

2. Amend § 58.101 by revising paragraphs (e), (m), (v), and (w) to read as follows:

§ 58.101 Meaning of words.

* * * * *

(e) *Sanitizing treatment.* Subjection of a clean product contact surface to steam, hot water, hot air, or an acceptable sanitizing solution for the destruction of most human pathogens and other vegetative microorganisms to a level considered safe for product production. Such treatment shall not adversely affect the equipment, the milk or the milk product, or the health of consumers. Sanitizing solutions shall comply with 21 CFR 178.1010.

* * * * *

(m) *Official Methods of Analysis of the Association of Official Analytical Chemists.* ''Official Methods of Analysis of the Association of Official Analytical Chemists,'' a publication of the Association of Official Analytical Chemists International, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

* * * * *

(v) *Standard Methods for the Examination of Dairy Products.* ''Standard Methods for the Examination of Dairy Products,'' a publication of the American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005.

(w) *3–A Sanitary Standards and Accepted Practice.* The latest standards for dairy equipment and accepted practices formulated by the 3–A Sanitary Standards Committees representing the International Association for Food Protection, the Food and Drug Administration, and the Dairy Industry Committee. Published by the International Association for Food Protection, 6200 Aurora Avenue, Suite 200 W, Des Moines, Iowa 50322–2863.

* * * * *

3. Amend § 58.124 by revising (j) and adding (k) to read as follows:

§ 58.124 Denial or suspension of plant approval.

* * * * *

(j) proper storage conditions for ingredients and dairy products, or (k) suitable and effective packaging methods and material.

4. Amend § 58.126 by revising paragraph (e)(5)(ii) to read as follows:

§ 58.126 Buildings.

* * * * *

(e) * * *

(5) * * *

(ii) Approved laboratories shall be supervised by the USDA resident inspector in all aspects of official testing and in reporting results. Plant laboratory personnel in such plants may be authorized by USDA to perform official duties. The AMS Science and Technology Programs will provide independent auditing of laboratory analysis functions.

* * * * *

5. Amend § 58.127 by revising paragraph (d) to read as follows:

§ 58.127 Facilities.

* * * * *

(d) *Steam.* Steam shall be supplied in sufficient volume and pressure for satisfactory operation of each applicable piece of equipment. Culinary steam used in direct contact with milk or dairy products shall be free from harmful substances or extraneous material and only those boiler water additives that meet the requirements of 21 CFR 173.310 shall be used, or a secondary steam generator shall be used in which soft water is converted to steam and no boiler compounds are used. Steam traps, strainers, and condensate traps shall be used wherever applicable to insure a satisfactory and safe steam supply. Culinary steam shall comply with the 3–A Accepted Practices for a Method of Producing Steam of Culinary Quality, number 609. This document is available from the International Association for Food Protection, 6200 Aurora Avenue, Suite 200 W, Des Moines, Iowa 50322–2863.

* * * * *

6. Amend § 58.128 by revising paragraph (o) to read as follows:

§ 58.128 Equipment and utensils.

* * * * *

(o) *New replacement or modified equipment, processing system, or utensils.* All new, replacement or modified equipment and all processing systems, cleaning systems, utensils, or replacement parts shall comply with the most current, appropriate 3–A Sanitary Standards or 3–A Accepted Practices. If 3–A Sanitary Standards or 3–A Accepted Practices are not available, such equipment and replacements shall meet the general criteria of this section and the USDA Guidelines for the Sanitary Design and Fabrication of Dairy Processing Equipment available from USDA, Agricultural Marketing Service, Dairy Programs, Dairy Grading Branch, or by accessing the Internet at www.ams.gov/dairy/grade.htm.

* * * * *

7. Amend § 58.131 by revising the first sentence of paragraph (a)(2) to read as follows:

§ 58.131 Equipment and facilities.

* * * * *

(a)(2) *Farm bulk tanks.* Farm bulk tanks shall comply with 3–A Sanitary Standards for Farm Cooling and Holding Tanks or 3–A Sanitary Standards for Farm Milk Storage Tanks, as applicable. * * *

* * * * *

8. Amend § 58.133 by revising paragraphs (b)(2), (b)(3), (b)(4), (b)(5) introductory text, (b)(5)(ii), (b)(6), and (c)(1) to read as follows:

* * * * *

§ 58.133 Methods for quality and wholesomeness determination.

* * * * *

(b) * * *

(2) A screening test may be conducted on goat herd milk. When a goat herd screening sample test exceeds either of the following results, a confirmatory test identified in paragraph (b)(3) of this section shall be conducted.

* * * * *

(3) Milk shall be tested for somatic cell content by using one of the following procedures or by any other method approved by Standard Methods for the Examination of Dairy Products, (confirmatory test for somatic cells in goat milk):

(i) Direct Microscopic Somatic Cell Count (Single Strip Procedure). Pyronin Y-methyl green stain or ''New York'' modification shall be used as the confirmatory test for goat's milk.

(ii) Electronic Somatic Cell Count (particle counter).

(iii) Electronic Somatic Cell Count (fluorescent dye).

(4) The somatic cell test identified in paragraph (b)(3) of this section shall be considered as the official results.

(5) Whenever the official test indicates the presence of more than 750,000 somatic cells per ml. (1,000,000 per ml. for goat milk), the following procedures shall be applied:

(i) * * *

(ii) Whenever two out of the last four consecutive somatic cell counts exceed 750,000 per ml. (1,000,000 per ml. for goat milk), the appropriate State regulatory authority shall be notified and a written notice given to the producer. This notice shall be in effect as long as two of the last four consecutive samples exceed 750,000 per ml. (1,000,000 per ml. for goat milk).

(6) An additional sample shall be taken after a lapse of 3 days but within 21 days of the notice required in paragraph (b) (5) (ii) of this section. If this sample also exceeds 750,000 per ml. (1,000,000 per ml. for goat milk), subsequent milkings shall not be accepted for market until satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the producer by the appropriate State regulatory agency when an additional sample of herd milk is tested and found satisfactory. The producer may be assigned a full reinstatement status when three out of four consecutive somatic cell count tests do not exceed 750,000 per ml. (1,000,000 per ml. for goat milk). The samples shall be taken at a rate of not more than two per week on separate days within a 3-week period.

(c) *Drug residue level.* (1) USDA-approved plants shall not accept for processing any milk testing positive for drug residue. All milk received at USDA-approved plants shall be sampled and tested, prior to processing, for beta lactam drug residue. When directed by the regulatory agency, additional testing for other drug residues shall be performed. Samples shall be analyzed for beta lactams and other drug residues by methods which have been independently evaluated or evaluated by the Food and Drug Administration (FDA) and have been accepted by the (FDA) as effective to detect drug residues at current safe or tolerance levels. Safe and tolerance levels for particular drugs are established by the FDA and can be obtained from the U.S. Food and Drug Administration Center for Food Safety and Applied Nutrition, 200 C Street SW., Washington, DC 20204.

* * * * *

9. Amend § 58.134 by revising paragraph (a) to read as follows:

§ 58.134 Sediment content.

(a) *Method of testing.* Methods for determining the sediment content of the milk of individual producers shall be those described in the latest edition of Standard Methods for the Examination of Dairy Products. Sediment content shall be based on comparison with applicable charts of the United States Sediment Standards for Milk and Milk Products, available from USDA, AMS, Dairy Programs, Dairy Standardization Branch.

* * * * *

10. Revise § 58.135 to read as follows:

§ 58.135 Bacterial estimate.

(a) *Methods of testing.* Milk shall be tested for bacterial estimate by using

one of the following methods or by any other method approved by Standard Methods for the Examination of Dairy Products.

(1) Direct microscopic clump count;
(2) Standard plate count;
(3) Plate loop count;
(4) Pectin gel plate count;
(5) Petrifilm aerobic count;
(6) Spiral plate count;
(7) Hydrophobic grid membrane filter count;
(8) Impedance/conductance count;
(9) Reflectance calorimetry.

(b) *Frequency of testing.* A laboratory examination to determine the bacterial estimate shall be made on a representative sample of each producer's milk at least once each month at irregular intervals. Samples shall be analyzed at a laboratory in accordance with State regulations.

(c) *Acceptance of milk.* The following procedures shall be applied with respect to bacterial estimates:

(1) Whenever the bacterial estimate indicates the presence of more than 500,000 bacteria per ml., the producer shall be notified with a warning of the excessive bacterial estimate.

(2) Whenever two of the last four consecutive bacterial estimates exceed 500,000 per ml., the appropriate regulatory authority shall be notified and a written warning notice given to the producer. The notice shall be in effect so long as two out of the last four consecutive samples exceed 500,000 per ml.

(3) An additional sample shall be taken after a lapse of 3 days but within 21 days of the notice required in paragraph (c) (2) of this section. If this sample also exceeds 500,000 per ml., subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed when an additional sample of herd milk is tested and found satisfactory.

11. Amend § 58.137 by revising paragraphs (b) and (c) to read as follows:

§ 58.137 Excluded milk.

* * * * *

(b) Three of the last five milk samples have exceeded the maximum bacterial estimate of 500,000 per ml. (§ 58.135 (c)(3)).

(c) Three of the last five milk samples have exceeded the maximum somatic cell count level of 750,000 per ml. (1,000,000 per ml. for goat milk) (§ 58.133 (b)(6)); or

* * * * *

12. Amend § 58.143 by revising paragraph (b) to read as follows:

§ 58.143 Raw product storage.

* * * * *

(b) The bacteriological quality of commingled milk in storage tanks shall not exceed 1,000,000/ml.

13. Revise § 58.245 to read as follows:

§ 58.245 Method of sample analysis.

Samples shall be tested according to the applicable methods of laboratory analysis contained in either DA Instruction 918–RL as issued by the USDA, Agricultural Marketing Service, Dairy Programs, or Official Methods of Analysis of the Association of Analytical Chemists or Standard Methods for the Examination of Dairy Products.

14. Amend § 58.346 by revising paragraph (b)(1) to read as follows:

§ 58.346 Whipped butter.

* * * * *

(b) * * *

(1) Proteolytic count, not more than 50 per gram; yeast and mold count, not more than 10 per gram; coliform count, not more than 10 per gram; and keeping-quality test, satisfactory after 7 days at 72° F.

* * * * *

15. Amend § 58.405 by revising paragraph (a) to read as follows:

§ 58.405 Meaning of words.

* * * * *

(a) *Cheese.* The fresh or matured product obtained by draining after coagulation of milk, cream, skimmed, or partly skimmed milk or a combination of some or all of these products and including any cheese that conforms to the requirements of the Food and Drug Administration for cheeses and related cheese products (21 CFR part 133).

* * * * *

16. Amend § 58.505 by revising paragraphs (b), (c), and (d), and the last sentence of paragraph (f) to read as follows:

§ 58.505 Meaning of Words.

* * * * *

(b) *Cottage cheese.* (1) *Cottage cheese dry curd.* The soft uncured cheese meeting the requirements of the Food and Drug Administration for dry curd cottage cheese (21 CFR 133.129).

(2) *Cottage cheese.* The soft uncured cheese meeting the requirements of the Food and Drug Administration for cottage cheese (21 CFR 133.128).

(3) *Reduced Fat, Light, and Fat Free Cottage cheese.* The products conforming to all applicable Federal Regulations including ''Cottage cheese,'' Food and Drug Administration (21 CFR 133.128), ''Dry curd cottage cheese,'' Food and Drug Administration (21 CFR 133.129), ''Nutrient content claims for fat, fatty acid, and cholesterol content of foods,'' Food and Drug Administration (21 CFR 101.62), and ''Requirements for foods named by use of a nutrient content claim and a standardized term,'' Food and Drug Administration (21 CFR 130.10).

(c) *Direct acidification.* The production of cottage cheese, without the use of bacterial starter cultures, through the use of approved food grade acids. This product shall be labeled according to the requirements of the Food and Drug Administration, 21 CFR 133.128 or 133.129, as appropriate.

(d) *Cottage cheese with fruits, nuts, chives, or other vegetables.* Shall consist of cottage cheese to which has been added fruits, nuts, chives and other vegetables. The finished cheese shall comply with the requirements of the Food and Drug Administration for cottage cheese (21 CFR 133.128).

(e) * * *

(f) * * * The creaming mixture in its final form may or may not be homogenized and shall conform to the requirements of the Food and Drug Administration (21 CFR 133.128(b)).

17. Amend § 58.605 by revising paragraphs (a), (b), (c), (d) and (e).

§ 58.605 Meaning of words.

* * * * *

(a) *Ice cream.* The product conforming to the requirements of the Food and Drug Administration for ice cream (21 CFR 135.110).

(b) *Frozen custard.* The product conforming to the requirements of the Food and Drug Administration for frozen custard (21 CFR 135.110).

(c) *Reduced Fat, Light, or Fat Free ice cream.* The products conforming to all applicable Federal Regulations including ''Ice cream and frozen custard,'' Food and Drug Administration (21 CFR 135.110), ''Nutrient content claims for fat, fatty acid, and cholesterol content of foods,'' Food and Drug Administration (21 CFR 101.62), and ''Requirements for foods named by use of a nutrient content claim and a standardized term,'' Food and Drug Administration (21 CFR 130.10).

(d) *Sherbet.* The product conforming to the requirements of the Food and Drug Administration for sherbet (21 CFR 135.140).

(e) *Mellorine.* The product conforming to the requirements of the Food and Drug Administration for mellorine (21 CFR 135.130).

* * * * *

18. Remove and reserve § 58.651.

19. Amend § 58.705 by revising paragraph (a) to read as follows:

§ 58.705 Meaning of words.

(a) *Pasteurized process cheese and related products.* Pasteurized process

cheese and related products are the foods which conform to the applicable requirements of the Food and Drug Administration for cheeses and related cheese products (21 CFR part 133).

* * * * *

20. Amend § 58.812 to read as follows:

§ 58.812 Methods of sample analysis.

Samples shall be tested according to the applicable methods of laboratory analysis contained in either DA Instruction 918–RL, as issued by the USDA, Agricultural Marketing Service, Dairy Programs, or the Official Methods of Analysis of the Association of Official Analytical Chemists, or Standard Methods for the Examination of Dairy Products.

* * * * *

21. Amend § 58.905 by revising paragraphs (a), (b), and (c) to read as follows:

§ 58.905 Meaning of words.

* * * * *

(a) *Evaporated milk.* The liquid food made by evaporating sweet milk to such point that it contains not less than 6.5 percent of milkfat and not less than 16.5 percent of the total milk solids. The finished product shall conform to the requirements of the Food and Drug Administration for evaporated milk (21 CFR 131.130).

(b) *Concentrated milk, plain condensed milk.* The product which conforms to the standard of identity for evaporated milk except that it is not processed by heat to prevent spoilage. The container may be unsealed, and stabilizing ingredients are not used. The finished product shall conform to the requirements of the Food and Drug Administration for concentrated milk (21 CFR 131.115).

(c) *Sweetened condensed milk.* The liquid or semi-liquid food made by evaporating a mixture of sweet milk and refined sugar (sucrose) or any combination of refined sugar (sucrose) and refined corn sugar (dextrose) to such point that the finished sweetened condensed milk contains not less than 28.0 percent of total milk solids and not less than 8.0 percent of milkfat. The quantity of sugar used is sufficient to prevent spoilage. The finished product shall conform to the requirements of the Food and Drug Administration for sweetened condensed milk (21 CFR 131.120).

* * * * *

22. Revise § 58.915 to read as follows:

§ 58.915 Batch or continuous in-container thermal processing equipment.

Batch or continuous in-container thermal processing equipment shall meet the requirements of the Food and Drug Administration for thermally processed low-acid foods packaged in hermetically sealed containers (21 CFR part 113). The equipment shall be maintained in such a manner as to assure control of the length of processing and to minimize the number of damaged containers.

23. Amend § 58.938 by revising paragraph (g) to read as follows:

§ 58.938 Physical requirements and microbiological limits for sweetened condensed milk

* * * * *

(g) *Composition.* Shall meet the minimum requirements of the Food and Drug Administration for sweetened condensed milk (21 CFR 131.120). In addition, the quantity of refined sugar used shall be sufficient to give a sugar-in-water ratio of not less than 61.5 percent.

* * * * *

Authority (7 U.S.C. 1621–1627).

Dated: August 7, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–20189 Filed 8–10–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[CN–01–001]

2001 Proposed Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment on Imports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to amend the Cotton Board Rules and Regulations by raising the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. An adjustment is required on an annual basis to ensure that the assessments collected on imported cotton and the cotton content of imported products remain similar to those paid on domestically produced cotton.

DATE: Comments must be received on or before September 12, 2001.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments may be mailed to USDA, AMS, Cotton Program, STOP 0224, 1400 Independence Avenue, SW, Washington, DC 20250–0224 or Email *cottoncomments@usda.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection at this address during the hours of 8:00 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Whitney Rick, (202) 720–2259.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be ''not significant'' for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12988

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

The Cotton Research and Promotion Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry of ruling.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

There are an estimated 10,000 importers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order. This proposed rule would affect importers of cotton and cotton-containing products. The majority of these importers are small businesses under the criteria established by the Small Business Administration. This proposed rule would raise the assessments paid by the importers under the Cotton Research and Promotion Order. Even though the assessment would be raised, the increase is small and will not significantly affect small businesses.

The current assessment on imported cotton is $0.009833 per kilogram of imported cotton. The proposed assessment is $0.009965, an increase of $0.000132 or a 1.34 percent increase from the current assessment. From January through December 2000 approximately $20 million was collected at the $0.009833 per kilogram rate. Should the volume of cotton products imported into the U.S. remain at the same level in 2001, one could expect the increased assessment to generate approximately $20.2 million or a 1.34 percent increase from 2000.

Paperwork Reduction

In compliance with Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) the information collection requirements contained in the regulation to be amended have been previously approved by OMB and were assigned control number 0581–0093.

Background

The Cotton Research and Promotion Act Amendments of 1990 enacted by Congress under Subtitle G of Title XIX of the Food, Agriculture, Conservation and Trade Act of 1990 on November 28, 1990, contained two provisions that authorized changes in the funding procedures for the Cotton Research and Promotion Program.

These provisions are: (1) The assessment of imported cotton and cotton products; and (2) termination of the right of cotton producers to demand a refund of assessments.

An amended Cotton Research and Promotion Order was approved by producers and importers voting in a referendum held July 17–26, 1991, and the amended Order was published in the **Federal Register** on December 10, 1991, (56 FR 64470). Proposed rule implementing the amended Order were published in the **Federal Register** on December 17, 1991, (56 FR 65450). Implementing rules were published on July 1 and 2, 1992, (57 FR 29181) and (57 FR 29431), respectively.

This proposed rule would increase the value assigned to imported cotton in the Cotton Board Rules and Regulations (7 CFR 1205.510(b)(2)). This value is used to calculate supplemental assessments on imported cotton and the cotton content of imported products. Supplemental assessments are the second part of a two-part assessment. The first part of the assessment is levied on the weight of cotton produced or imported at a rate of $1 per bale of cotton which is equivalent to 500 pounds or $1 per 226.8 kilograms of cotton.

Supplemental assessments are levied at a rate of five-tenths of one percent of the value of domestically produced cotton, imported cotton, and the cotton content of imported products. The agency has adopted the practice of assigning the calendar year weighted average price received by U.S. farmers for Upland cotton to represent the value of imported cotton. This is done so that the assessment on domestically produced cotton and the assessment on imported cotton and the cotton content of imported products remain similar. The source for the average price statistic is ''Agricultural Prices'', a publication of the National Agricultural Statistics Service (NASS) of the Department of Agriculture. Use of the weighted average price figure in the calculation of supplemental assessments on imported cotton and the cotton content of imported products yields an assessment that approximates assessments paid on domestically produced cotton in the prior calendar year.

The current value of imported cotton as published in the **Federal Register** (65 FR 25236) on May 1, 2000, for the purpose of calculating supplemental assessments on imported cotton is $1.0847 per kilogram. This number was calculated using the annual weighted average price received by farmers for Upland cotton during the calendar year 1999 which was $0.492 per pound and multiplying by the conversion factor 2.2046. Using the Average Weighted Price Received by U.S. farmers for Upland cotton for the calendar year 2000, which is $0.504 per pound, the new value of imported cotton is $1.1111 per kilogram. The proposed value is $.0264 per kilogram more than the previous value.

An example of the complete assessment formula and how the various figures are obtained is as follows:

One bale is equal to 500 pounds.

One kilogram equals 2.2046 pounds.

One pound equals 0.453597 kilograms.

One Dollar Per Bale Assessment Converted to Kilograms

A 500 pound bale equals 226.8 kg. (500 x .453597).

$1 per bale assessment equals $0.002000 per pound (1 ÷ 500) or $0.004409 per kg. (1 ÷ 226.8).

Supplemental Assessment of 5/10 of One Percent of the Value of the Cotton Converted to Kilograms.

The 2000 calendar year weighted average price received by producers for Upland cotton is $0.504 per pound or $1.1111 per kg. (0.504 x 2.2046) = 1.1111.

Five tenths of one percent of the average price in kg. equals $0.005556 per kg. (1.1111 x .005).

Total Assessment

The total assessment per kilogram of raw cotton is obtained by adding the $1 per bale equivalent assessment of $0.004409 per kg. and the supplemental assessment $0.005556 per kg. which equals $0.009965 per kg.

The current assessment on imported cotton is $0.009833 per kilogram of imported cotton. The proposed assessment is $0.009965, an increase of $0.000132 per kilogram. This increase reflects the increase in the Average Weighted Price of Upland Cotton Received by U.S. Farmers during the period January through December 2000.

Since the value of cotton is the basis of the supplemental assessment calculation and the figures shown in the right hand column of the Import Assessment Table 1205.510(b)(3) are a result of such a calculation, the figures in this table have been revised. These figures indicate the total assessment per kilogram due for each Harmonized Tariff Schedule (HTS) number subject to assessment.

One HTS number subject to assessment pursuant to this regulation and found in the assessment table has been changed. In order to maintain consistency between the HTS and the assessment table, the changes to this one number have been incorporated into the assessment table. The last two digits of this number were changed to provide for statistical reporting purposes and involve no physical change to the products they represent. The assessment rate for the one number has been applied to each of the new replacement numbers in the assessment table. The following table represents the changes:

Old No.	New No.	Conversion factor	Assessment cents/kg.
6303910000	6303910010 6303910020	0.6429 0.6429	0.6406 0.6406

A thirty day comment period is provided to comment on the changes to the Cotton Board Rules and Regulations proposed herein. This period is deemed appropriate because this proposal would slightly raise the assessments paid by importers under the Cotton Research and Promotion Order and would ensure that the measurements collected for imported cotton content products remain similar to those paid on domestically produced cotton. Accordingly, the change proposed in this rule, if adopted, should be implemented as soon as possible.

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 1205 be amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority citation for Part 1205 continues to read as follows:

Authority: 7 U.S.C. 2101–2118.

2. In § 1205.510, paragraph (b)(2) and the table in paragraph (b)(3)(ii) are revised to read as follows:

§ 1205.510 Levy of assessments.

* * * * *

(b) * * *

(2) The 12-month average of monthly weighted average prices received by U.S. farmers will be calculated annually. Such weighted average will be used as the value of imported cotton for the purpose of levying the supplemental assessment on imported cotton and will be expressed in kilograms. The value of imported cotton for the purpose of levying this supplemental assessment is $0.9965 per kilogram.

(3) * * *

(ii) * * *

IMPORT ASSESSMENT TABLE

[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/ kg.
5201000500	0	0.9965
5201001200	0	0.9965
5201001400	0	0.9965
5201001800	0	0.9965
5201002200	0	0.9965
5201002400	0	0.9965

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/ kg.
5201002800	0	0.9965
5201003400	0	0.9965
5201003800	0	0.9965
5204110000	1.1111	1.1072
5204200000	1.1111	1.1072
5205111000	1.1111	1.1072
5205112000	1.1111	1.1072
5205121000	1.1111	1.1072
5205122000	1.1111	1.1072
5205131000	1.1111	1.1072
5205132000	1.1111	1.1072
5205141000	1.1111	1.1072
5205210020	1.1111	1.1072
5205210090	1.1111	1.1072
5205220020	1.1111	1.1072
5205220090	1.1111	1.1072
5205230020	1.1111	1.1072
5205230090	1.1111	1.1072
5205240020	1.1111	1.1072
5205240090	1.1111	1.1072
5205310000	1.1111	1.1072
5205320000	1.1111	1.1072
5205330000	1.1111	1.1072
5205340000	1.1111	1.1072
5205410020	1.1111	1.1072
5205410090	1.1111	1.1072
5205420020	1.1111	1.1072
5205420090	1.1111	1.1072
5205440020	1.1111	1.1072
5205440090	1.1111	1.1072
5206120000	0.5556	0.5537
5206130000	0.5556	0.5537
5206140000	0.5556	0.5537
5206220000	0.5556	0.5537
5206230000	0.5556	0.5537
5206240000	0.5556	0.5537
5206310000	0.5556	0.5537
5207100000	1.1111	1.1072
5207900000	0.5556	0.5537
5208112020	1.1455	1.1415
5208112040	1.1455	1.1415
5208112090	1.1455	1.1415
5208114020	1.1455	1.1415
5208114060	1.1455	1.1415
5208114090	1.1455	1.1415
5208118090	1.1455	1.1415
5208124020	1.1455	1.1415
5208124040	1.1455	1.1415
5208124090	1.1455	1.1415
5208126020	1.1455	1.1415
5208126040	1.1455	1.1415
5208126060	1.1455	1.1415
5208126090	1.1455	1.1415
5208128020	1.1455	1.1415
5208128090	1.1455	1.1415
5208130000	1.1455	1.1415
5208192020	1.1455	1.1415
5208192090	1.1455	1.1415
5208194020	1.1455	1.1415
5208194090	1.1455	1.1415
5208196020	1.1455	1.1415
5208196090	1.1455	1.1415

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/ kg.
5208224040	1.1455	1.1415
5208224090	1.1455	1.1415
5208226020	1.1455	1.1415
5208226060	1.1455	1.1415
5208228020	1.1455	1.1415
5208230000	1.1455	1.1415
5208292020	1.1455	1.1415
5208292090	1.1455	1.1415
5208294090	1.1455	1.1415
5208296090	1.1455	1.1415
5208298020	1.1455	1.1415
5208312000	1.1455	1.1415
5208321000	1.1455	1.1415
5208323020	1.1455	1.1415
5208323040	1.1455	1.1415
5208323090	1.1455	1.1415
5208324020	1.1455	1.1415
5208324040	1.1455	1.1415
5208325020	1.1455	1.1415
5208330000	1.1455	1.1415
5208392020	1.1455	1.1415
5208392090	1.1455	1.1415
5208394090	1.1455	1.1415
5208396090	1.1455	1.1415
5208398020	1.1455	1.1415
5208412000	1.1455	1.1415
5208416000	1.1455	1.1415
5208418000	1.1455	1.1415
5208421000	1.1455	1.1415
5208423000	1.1455	1.1415
5208424000	1.1455	1.1415
5208425000	1.1455	1.1415
5208430000	1.1455	1.1415
5208492000	1.1455	1.1415
5208494020	1.1455	1.1415
5208494090	1.1455	1.1415
5208496010	1.1455	1.1415
5208496090	1.1455	1.1415
5208498090	1.1455	1.1415
5208512000	1.1455	1.1415
5208516060	1.1455	1.1415
5208518090	1.1455	1.1415
5208523020	1.1455	1.1415
5208523045	1.1455	1.1415
5208523090	1.1455	1.1415
5208524020	1.1455	1.1415
5208524045	1.1455	1.1415
5208524065	1.1455	1.1415
5208525020	1.1455	1.1415
5208530000	1.1455	1.1415
5208592025	1.1455	1.1415
5208592095	1.1455	1.1415
5208594090	1.1455	1.1415
5208596090	1.1455	1.1415
5209110020	1.1455	1.1415
5209110035	1.1455	1.1415
5209110090	1.1455	1.1415
5209120020	1.1455	1.1415
5209120040	1.1455	1.1415
5209190020	1.1455	1.1415
5209190040	1.1455	1.1415
5209190060	1.1455	1.1415

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
5209190090	1.1455	1.1415
5209210090	1.1455	1.1415
5209220020	1.1455	1.1415
5209220040	1.1455	1.1415
5209290040	1.1455	1.1415
5209290090	1.1455	1.1415
5209313000	1.1455	1.1415
5209316020	1.1455	1.1415
5209316035	1.1455	1.1415
5209316050	1.1455	1.1415
5209316090	1.1455	1.1415
5209320020	1.1455	1.1415
5209320040	1.1455	1.1415
5209390020	1.1455	1.1415
5209390040	1.1455	1.1415
5209390060	1.1455	1.1415
5209390080	1.1455	1.1415
5209390090	1.1455	1.1415
5209413000	1.1455	1.1415
5209416020	1.1455	1.1415
5209416040	1.1455	1.1415
5209420020	1.0309	1.0273
5209420040	1.0309	1.0273
5209430030	1.1455	1.1415
5209430050	1.1455	1.1415
5209490020	1.1455	1.1415
5209490090	1.1455	1.1415
5209516035	1.1455	1.1415
5209516050	1.1455	1.1415
5209520020	1.1455	1.1415
5209590025	1.1455	1.1415
5209590040	1.1455	1.1415
5209590090	1.1455	1.1415
5210114020	0.6873	0.6849
5210114040	0.6873	0.6849
5210116020	0.6873	0.6849
5210116040	0.6873	0.6849
5210116060	0.6873	0.6849
5210118020	0.6873	0.6849
5210120000	0.6873	0.6849
5210192090	0.6873	0.6849
5210214040	0.6873	0.6849
5210216020	0.6873	0.6849
5210216060	0.6873	0.6849
5210218020	0.6873	0.6849
5210314020	0.6873	0.6849
5210314040	0.6873	0.6849
5210316020	0.6873	0.6849
5210318020	0.6873	0.6849
5210414000	0.6873	0.6849
5210416000	0.6873	0.6849
5210418000	0.6873	0.6849
5210498090	0.6873	0.6849
5210514040	0.6873	0.6849
5210516020	0.6873	0.6849
5210516040	0.6873	0.6849
5210516060	0.6873	0.6849
5211110090	0.6873	0.6849
5211120020	0.6873	0.6849
5211190020	0.6873	0.6849
5211190060	0.6873	0.6849
5211210025	0.6873	0.6849
5211210035	0.4165	0.415
5211210050	0.6873	0.6849
5211290090	0.6873	0.6849
5211320020	0.6873	0.6849
5211390040	0.6873	0.6849
5211390060	0.6873	0.6849
5211490020	0.6873	0.6849

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
5211490090	0.6873	0.6849
5211590025	0.6873	0.6849
5212146090	0.9164	0.9132
5212156020	0.9164	0.9132
5212216090	0.9164	0.9132
5509530030	0.5556	0.5537
5509530060	0.5556	0.5537
5513110020	0.4009	0.3995
5513110040	0.4009	0.3995
5513110060	0.4009	0.3995
5513110090	0.4009	0.3995
5513120000	0.4009	0.3995
5513130020	0.4009	0.3995
5513210020	0.4009	0.3995
5513310000	0.4009	0.3995
5514120020	0.4009	0.3995
5516420060	0.4009	0.3995
5516910060	0.4009	0.3995
5516930090	0.4009	0.3995
5601210010	1.1455	1.1415
5601210090	1.1455	1.1415
5601300000	1.1455	1.1415
5602109090	0.5727	0.5707
5602290000	1.1455	1.1415
5602906000	0.526	0.5242
5604900000	0.5556	0.5537
5607902000	0.8889	0.8858
5608901000	1.1111	1.1072
5608902300	1.1111	1.1072
5609001000	1.1111	1.1072
5609004000	0.5556	0.5537
5701104000	0.0556	0.055
5701109000	0.1111	0.1107
5701901010	1.0444	1.0407
5702109020	1.1	1.0962
5702312000	0.0778	0.078
5702411000	0.0722	0.072
5702412000	0.0778	0.078
5702421000	0.0778	0.078
5702913000	0.0889	0.089
5702991010	1.1111	1.1072
5702991090	1.1111	1.1072
5703900000	0.4489	0.4473
5801210000	1.1455	1.1415
5801230000	1.1455	1.1415
5801250010	1.1455	1.1415
5801250020	1.1455	1.1415
5801260020	1.1455	1.1415
5802190000	1.1455	1.1415
5802300030	0.5727	0.5707
5804291000	1.1455	1.1415
5806200010	0.3534	0.3522
5806200090	0.3534	0.3522
5806310000	1.1455	1.1415
5806400000	0.4296	0.4281
5808107000	0.5727	0.5707
5808900010	0.5727	0.5707
5811002000	1.1455	1.1415
6001106000	1.1455	1.1415
6001210000	0.8591	0.8561
6001220000	0.2864	0.2854
6001910010	0.8591	0.8561
6001910020	0.8591	0.8561
6001920020	0.2864	0.2854
6001920030	0.2864	0.2854
6001920040	0.2864	0.2854
6002203000	0.8681	0.8651
6002206000	0.2894	0.2884
6002420000	0.8681	0.8651

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6002430010	0.2894	0.2884
6002430080	0.2894	0.2884
6002921000	1.1574	1.1533
6002930040	0.1157	0.1153
6002930080	0.1157	0.1153
6101200010	1.0094	1.0059
6101200020	1.0094	1.0059
6102200010	1.0094	1.0059
6102200020	1.0094	1.0059
6103421020	0.8806	0.8775
6103421040	0.8806	0.8775
6103421050	0.8806	0.8775
6103421070	0.8806	0.8775
6103431520	0.2516	0.2507
6103431540	0.2516	0.2507
6103431550	0.2516	0.2507
6103431570	0.2516	0.2507
6104220040	0.9002	0.897
6104220060	0.9002	0.897
6104320000	0.9207	0.9175
6104420010	0.9002	0.897
6104420020	0.9002	0.897
6104520010	0.9312	0.9279
6104520020	0.9312	0.9279
6104622006	0.8806	0.8775
6104622011	0.8806	0.8775
6104622016	0.8806	0.8775
6104622021	0.8806	0.8775
6104622026	0.8806	0.8775
6104622028	0.8806	0.8775
6104622030	0.8806	0.8775
6104622060	0.8806	0.8775
6104632006	0.3774	0.3761
6104632011	0.3774	0.3761
6104632026	0.3774	0.3761
6104632028	0.3774	0.3761
6104632030	0.3774	0.3761
6104632060	0.3774	0.3761
6104692030	0.3858	0.3844
6105100010	0.985	0.9816
6105100020	0.985	0.9816
6105100030	0.985	0.9816
6105202010	0.3078	0.3067
6105202030	0.3078	0.3067
6106100010	0.985	0.9816
6106100020	0.985	0.9816
6106100030	0.985	0.9816
6106202010	0.3078	0.3067
6106202030	0.3078	0.3067
6107110010	1.1322	1.1282
6107110020	1.1322	1.1282
6107120010	0.5032	0.5014
6107210010	0.8806	0.8775
6107220015	0.3774	0.3761
6107220025	0.3774	0.3761
6107910040	1.2581	1.2537
6108210010	1.2445	1.2401
6108210020	1.2445	1.2401
6108310010	1.1201	1.1162
6108310020	1.1201	1.1162
6108320010	0.2489	0.248
6108320015	0.2489	0.248
6108320025	0.2489	0.248
6108910005	1.2445	1.240
6108910015	1.2445	1.2401
6108910025	1.2445	1.2401
6108910030	1.2445	1.2401
6108920030	0.2489	0.248
6109100005	0.9956	0.9921

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6109100007	0.9956	0.9921
6109100009	0.9956	0.9921
6109100012	0.9956	0.9921
6109100014	0.9956	0.9921
6109100018	0.9956	0.9921
6109100023	0.9956	0.9921
6109100027	0.9956	0.9921
6109100037	0.9956	0.9921
6109100040	0.9956	0.9921
6109100045	0.9956	0.9921
6109100060	0.9956	0.9921
6109100065	0.9956	0.9921
6109100070	0.9956	0.9921
6109901007	0.3111	0.31
6109901009	0.3111	0.31
6109901049	0.3111	0.31
6109901050	0.3111	0.31
6109901060	0.3111	0.31
6109901065	0.3111	0.31
6109901090	0.3111	0.31
6110202005	1.1837	1.1796
6110202010	1.1837	1.1796
6110202015	1.1837	1.1796
6110202020	1.1837	1.1796
6110202025	1.1837	1.1796
6110202030	1.1837	1.1796
6110202035	1.1837	1.1796
6110202040	1.1574	1.1533
6110202045	1.1574	1.1533
6110202065	1.1574	1.1533
6110202075	1.1574	1.1533
6110909022	0.263	0.2621
6110909024	0.263	0.2621
6110909030	0.3946	0.3932
6110909040	0.263	0.2621
6110909042	0.263	0.2621
6111201000	1.2581	1.2537
6111202000	1.2581	1.2537
6111203000	1.0064	1.0029
6111205000	1.0064	1.0029
6111206010	1.0064	1.0029
6111206020	1.0064	1.0029
6111206030	1.0064	1.0029
6111206040	1.0064	1.0029
6111305020	0.2516	0.2507
6111305040	0.2516	0.2507
6112110050	0.7548	0.7522
6112120010	0.2516	0.2507
6112120030	0.2516	0.2507
6112120040	0.2516	0.2507
6112120050	0.2516	0.2507
6112120060	0.2516	0.2507
6112390010	1.1322	1.1282
6112490010	0.9435	0.9402
6114200005	0.9002	0.897
6114200010	0.9002	0.897
6114200015	0.9002	0.897
6114200020	1.286	1.2815
6114200040	0.9002	0.897
6114200046	0.9002	0.897
6114200052	0.9002	0.897
6114200060	0.9002	0.897
6114301010	0.2572	0.2563
6114301020	0.2572	0.2563
6114303030	0.2572	0.2563
6115198010	1.0417	1.0381
6115929000	1.0417	1.0381
6115936020	0.2315	0.2307
6116101300	0.3655	0.3642

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6116101720	0.8528	0.8498
6116926420	1.0965	1.0927
6116926430	1.2183	1.214
6116926440	1.0965	1.0927
6116928800	1.0965	1.0927
6117809510	0.9747	0.9713
6117809540	0.3655	0.3642
6201121000	0.948	0.9447
6201122010	0.8953	0.8922
6201122050	0.6847	0.6823
6201122060	0.6847	0.6823
6201134030	0.2633	0.2624
6201921000	0.9267	0.9235
6201921500	1.1583	1.1542
6201922010	1.0296	1.026
6201922021	1.2871	1.2826
6201922031	1.2871	1.2826
6201922041	1.2871	1.2826
6201922051	1.0296	1.026
6201922061	1.0296	1.026
6201931000	0.3089	0.3078
6201933511	0.2574	0.2565
6201933521	0.2574	0.2565
6201999060	0.2574	0.2565
6202121000	0.9372	0.9339
6202122010	1.1064	1.1025
6202122025	1.3017	1.2971
6202122050	0.8461	0.8431
6202122060	0.8461	0.8431
6202134005	0.2664	0.2655
6202134020	0.333	0.3318
6202921000	1.0413	1.0377
6202921500	1.0413	1.0377
6202922026	1.3017	1.2971
6202922061	1.0413	1.0377
6202922071	1.0413	1.0377
6202931000	0.3124	0.3113
6202935011	0.2603	0.2594
6202935021	0.2603	0.2594
6203122010	0.1302	0.1297
6203221000	1.3017	1.2971
6203322010	1.2366	1.2323
6203322040	1.2366	1.2323
6203332010	0.1302	0.1297
6203392010	1.1715	1.1674
6203399060	0.2603	0.2594
6203422010	0.9961	0.9926
6203422025	0.9961	0.9926
6203422050	0.9961	0.9926
6203422090	0.9961	0.9926
6203424005	1.2451	1.2407
6203424010	1.2451	1.2407
6203424015	0.9961	0.9926
6203424020	1.2451	1.2407
6203424025	1.2451	1.2407
6203424030	1.2451	1.2407
6203424035	1.2451	1.2407
6203424040	0.9961	0.9926
6203424045	0.9961	0.9926
6203424050	0.9238	0.9206
6203424055	0.9238	0.9206
6203424060	0.9238	0.9206
6203431500	0.1245	0.1241
6203434010	0.1232	0.1228
6203434020	0.1232	0.1228
6203434030	0.1232	0.1228
6203434040	0.1232	0.1228
6203498045	0.249	0.2481
6204132010	0.1302	0.1297

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6204192000	0.1302	0.1297
6204198090	0.2603	0.2594
6204221000	1.3017	1.2971
6204223030	1.0413	1.0377
6204223040	1.0413	1.0377
6204223050	1.0413	1.0377
6204223060	1.0413	1.0377
6204223065	1.0413	1.0377
6204292040	0.3254	0.3243
6204322010	1.2366	1.2323
6204322030	1.0413	1.0377
6204322040	1.0413	1.0377
6204423010	1.2728	1.2683
6204423030	0.9546	0.9513
6204423040	0.9546	0.9513
6204423050	0.9546	0.9513
6204423060	0.9546	0.9513
6204522010	1.2654	1.261
6204522030	1.2654	1.261
6204522040	1.2654	1.261
6204522070	1.0656	1.0619
6204522080	1.0656	1.0619
6204533010	0.2664	0.2655
6204594060	0.2664	0.2655
6204622010	0.9961	0.9926
6204622025	0.9961	0.9926
6204622050	0.9961	0.9926
6204624005	1.2451	1.2407
6204624010	1.2451	1.2407
6204624020	0.9961	0.9926
6204624025	1.2451	1.2407
6204624030	1.2451	1.2407
6204624035	1.2451	1.2407
6204624040	1.2451	1.2407
6204624045	0.9961	0.9926
6204624050	0.9961	0.9926
6204624055	0.9854	0.982
6204624060	0.9854	0.982
6204624065	0.9854	0.982
6204633510	0.2546	0.2537
6204633530	0.2546	0.2537
6204633532	0.2437	0.2428
6204633540	0.2437	0.2428
6204692510	0.249	0.2481
6204692540	0.2437	0.2428
6204699044	0.249	0.2481
6204699046	0.249	0.2481
6204699050	0.249	0.2481
6205202015	0.9961	0.9926
6205202020	0.9961	0.9926
6205202025	0.9961	0.9926
6205202030	0.9961	0.9926
6205202035	1.1206	1.1167
6205202046	0.9961	0.9926
6205202050	0.9961	0.9926
6205202060	0.9961	0.9926
6205202065	0.9961	0.9926
6205202070	0.9961	0.9926
6205202075	0.9961	0.9926
6205302010	0.3113	0.3102
6205302030	0.3113	0.3102
6205302040	0.3113	0.3102
6205302050	0.3113	0.3102
6205302070	0.3113	0.3102
6205302080	0.3113	0.3102
6206100040	0.1245	0.1241
6206303010	0.9961	0.9926
6206303020	0.9961	0.9926
6206303030	0.9961	0.9926

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6206303040	0.9961	0.9926
6206303050	0.9961	0.9926
6206303060	0.9961	0.9926
6206403010	0.3113	0.3102
6206403030	0.3113	0.3102
6206900040	0.249	0.2481
6207110000	1.0852	1.0814
6207199010	0.3617	0.3604
6207210010	1.1085	1.1046
6207210030	1.1085	1.1046
6207220000	0.3695	0.3682
6207911000	1.1455	1.1415
6207913010	1.1455	1.1415
6207913020	1.1455	1.1415
6208210010	1.0583	1.0546
6208210020	1.0583	1.0546
6208220000	0.1245	0.1241
6208911010	1.1455	1.1415
6208911020	1.1455	1.1415
6208913010	1.1455	1.1415
6209201000	1.1577	1.1536
6209203000	0.9749	0.9715
6209205030	0.9749	0.9715
6209205035	0.9749	0.9715
6209205040	1.2186	1.2143
6209205045	0.9749	0.9715
6209205050	0.9749	0.9715
6209303020	0.2463	0.2454
6209303040	0.2463	0.2454
6210109010	0.2291	0.2283
6210403000	0.0391	0.039
6210405020	0.4556	0.454
6211111010	0.1273	0.1269
6211111020	0.1273	0.1269
6211118010	1.1455	1.1415
6211118020	1.1455	1.1415
6211320007	0.8461	0.8431
6211320010	1.0413	1.0377
6211320015	1.0413	1.0377
6211320030	0.9763	0.9729
6211320060	0.9763	0.9729
6211320070	0.9763	0.9729
6211330010	0.3254	0.3243
6211330030	0.3905	0.3891
6211330035	0.3905	0.3891
6211330040	0.3905	0.3891
6211420010	1.0413	1.0377
6211420020	1.0413	1.0377
6211420025	1.1715	1.1674
6211420060	1.0413	1.0377
6211420070	1.1715	1.1674
6211430010	0.2603	0.2594
6211430030	0.2603	0.2594
6211430040	0.2603	0.2594
6211430050	0.2603	0.2594
6211430060	0.2603	0.2594
6211430066	0.2603	0.2594
6212105020	0.2412	0.2404
6212109010	0.9646	0.9612
6212109020	0.2412	0.2404
6212200020	0.3014	0.3003
6212900030	0.1929	0.1922
6213201000	1.1809	1.1768
6213202000	1.0628	1.0591
6213901000	0.4724	0.4707
6214900010	0.9043	0.9011
6216000800	0.2351	0.2343
6216001720	0.6752	0.6728
6216003800	1.2058	1.2016

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6216004100	1.2058	1.2016
6217109510	1.0182	1.0146
6217109530	0.2546	0.2537
6301300010	0.8766	0.8735
6301300020	0.8766	0.8735
6302100005	1.1689	1.1648
6302100008	1.1689	1.1648
6302100015	1.1689	1.1648
6302215010	0.8182	0.8153
6302215020	0.8182	0.8153
6302217010	1.1689	1.1648
6302217020	1.1689	1.1648
6302217050	1.1689	1.1648
6302219010	0.8182	0.8153
6302219020	0.8182	0.8153
6302219050	0.8182	0.8153
6302222010	0.4091	0.4077
6302222020	0.4091	0.4077
6302313010	0.8182	0.8153
6302313050	1.1689	1.1648
6302315050	0.8182	0.8153
6302317010	1.1689	1.1648
6302317020	1.1689	1.1648
6302317040	1.1689	1.1648
6302317050	1.1689	1.1648
6302319010	0.8182	0.8153
6302319040	0.8182	0.8153
6302319050	0.8182	0.8153
6302322020	0.4091	0.4077
6302322040	0.4091	0.4077
6302402010	0.9935	0.99
6302511000	0.5844	0.5824
6302512000	0.8766	0.8735
6302513000	0.5844	0.5824
6302514000	0.8182	0.8153
6302600010	1.1689	1.1648
6302600020	1.052	1.0483
6302600030	1.052	1.0483
6302910005	1.052	1.0483
6302910015	1.1689	1.1648
6302910025	1.052	1.0483
6302910035	1.052	1.0483
6302910045	1.052	1.0483
6302910050	1.052	1.0483
6302910060	1.052	1.0483
6303110000	0.9448	0.9415
6303910010	0.6429	0.6406
6303910020	0.6429	0.6406
6304111000	1.0629	1.0592
6304190500	1.052	1.0483
6304191000	1.1689	1.1648
6304191500	0.4091	0.4077
6304192000	0.4091	0.4077
6304910020	0.9351	0.9318
6304920000	0.9351	0.9318
6505901540	0.181	0.1804
6505902060	0.9935	0.99
6505902545	0.5844	0.5824

* * * * *

Dated: August 7, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–20188 Filed 8–10–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1230

[No. LS–01–02]

Pork Promotion, Research, and Consumer Information Order—Increase in Importer Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Pursuant to the Pork Promotion, Research, and Consumer Information Act of 1985 (Act) and the Pork Promotion, Research, and Consumer Information Order (Order) issued thereunder, this proposed rule would increase by seven-hundredths to one-tenth of a cent per pound the amount of the assessment per pound due on imported pork and pork products to reflect an increase in the 2000 average price for domestic barrows and gilts. This proposed action would bring the equivalent market value of the live animals from which such imported pork and pork products were derived in line with the market values of domestic porcine animals. These proposed changes will facilitate the continued collection of assessments on imported porcine animals, pork, and pork products.

DATES: Comments must be received by September 12, 2001.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2627–S; Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250–0251. Comments will be available for public inspection during regular business hours at the above office in Room 2627 South Building; 14th and Independence Avenue, SW.; Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720–1115.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12988 and Regulatory Flexibility Act

This proposed rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposal is not intended to have a retroactive effect.

The Act states that the statute is intended to occupy the field of promotion and consumer education involving pork and pork products and of obtaining funds thereof from pork producers and that the regulation of such activity (other than a regulation or requirement relating to a matter of public health or the provision of State or local funds for such activity) that is in addition to or different from the Act may not be imposed by a State.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1625 of the Act, a person subject to an order may file a petition with the Secretary stating that such order, a provision of such order or an obligation imposed in connection with such order is not in accordance with the law; and requesting a modification of the order or an exemption from the order. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in the district in which a person resides or does business has jurisdiction to review the Secretary's determination, if a complaint is filed not later than 20 days after the date such person receives notice of such determination.

This action also was reviewed under the Regulatory Flexibility Act (RFA) (5 United States Code (U.S.C.) 601 *et seq.*). The effect of the Order upon small entities initially was discussed in the September 5, 1986, issue of the **Federal Register** (51 FR 31898). It was determined at that time that the Order would not have a significant effect upon a substantial number of small entities. Many of the estimated 500 importers may be classified as small entities under the Small Business Administration definition (13 CFR 121.201).

This proposed rule would increase the amount of assessments on imported pork and pork products subject to assessment by seven-hundredths to one-tenth of a cent per pound, or as expressed in cents per kilogram, fifteen-hundredths to twenty-two-hundredths of a cent per kilogram. This increase is consistent with the increase in the annual average price of domestic barrows and gilts for calendar year 2000. The average annual market price increased from $31.46 in 1999 to $42.70 in 2000, an increase of about 36 percent. Adjusting the assessments on imported pork and pork products would result in an estimated increase in assessments of $713,000 over a 12-month period. Assessments collected on imported hogs, pork, and pork products for 2000 were $3,384,096. Accordingly, the Acting Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

The Act (7 U.S.C. 4801–4819) approved December 23, 1985, authorized the establishment of a national pork promotion, research, and consumer information program. The program was funded by an initial assessment rate of 0.25 percent of the market value of all porcine animals marketed in the United States and on imported porcine animals with an equivalent assessment on pork and pork products. However, that rate was increased to 0.35 percent in 1991 (56 FR 51635) and to 0.45 percent effective September 3, 1995 (60 FR 29963). The final Order establishing a pork promotion, research, and consumer information program was published in the September 5, 1986, issue of the **Federal Register** (51 FR 31898; as corrected, at 51 FR 36383 and amended at 53 FR 1909, 53 FR 30243, 56 FR 4, 56 FR 51635, 60 FR 29963, 61 FR 29002, 62 FR 26205, 63 FR 45936, and 64 FR 44643) and assessments began on November 1, 1986.

The Order requires importers of porcine animals to pay U.S. Customs Service (USCS), upon importation, the assessment of 0.45 percent of the animal's declared value and importers of pork and pork products to pay USCS, upon importation, the assessment of 0.45 percent of the market value of the live porcine animals from which such pork and pork products were produced. This proposed rule would increase the assessments on all of the imported pork and pork products subject to assessment as published in the **Federal Register** as a final rule August 17, 1999, and effective on September 16, 1999 (64 FR 44643). This increase is consistent with the increase in the annual average price of domestic barrows and gilts for calendar year 2000 as calculated by the Department of Agriculture's (Department), AMS, Livestock and Grain Market News (LGMN) Branch. This increase in assessments would make the equivalent market value of the live porcine animal from which the imported pork and pork products were derived reflect the recent increase in the market value of domestic porcine animals, thereby promoting comparability between importer and domestic assessments. This proposed rule would not change the current assessment rate of 0.45 percent of the market value.

The methodology for determining the per pound amount of assessments for imported pork and pork products was described in the Supplementary Information accompanying the Order and published in the September 5, 1986, **Federal Register** at 51 FR 31901. The weight of imported pork and pork products is converted to a carcass weight equivalent by utilizing conversion factors that are published in the Department's Statistical Bulletin No. 697 ''Conversion Factors and Weights and Measures.'' These conversion factors take into account the removal of bone, weight lost in cooking or other processing, and the nonpork components of pork products. Secondly, the carcass weight equivalent is converted to a live animal equivalent weight by dividing the carcass weight equivalent by 70 percent, which is the average dressing percentage of porcine animals in the United States. Thirdly, the equivalent value of the live porcine animal is determined by multiplying the live animal equivalent weight by an annual average market price for barrows and gilts as calculated by LGMN Branch. Finally, the equivalent value is multiplied by the applicable assessment rate of 0.45 percent due on imported pork and pork products. The end result is expressed in an amount per pound for each type of pork or pork product. To determine the amount per kilogram for pork and pork products subject to assessment under the Act and Order, the cent per pound assessments are multiplied by a metric conversion factor 2.2046 and carried to the sixth decimal.

Since 1999 when the last adjustment was made in the amount of the assessment due on live hogs and imported pork and pork products (64 FR 44643), there has been a change in the way LGMN Branch reports hog prices. For calendar year 1998, the annual average price for barrows and gilts was based on the average price for barrows and gilts at five terminal markets. LGMN Branch no longer reports the average price at terminal markets. When the Order was published on September 5, 1986, LGMN Branch reported an annual average price of barrows and gilts based on the seven major markets (East St. Louis, Illinois; Omaha, Nebraska; Peoria, Illinois; St. Joseph, Missouri; South St. Paul, Minnesota; Sioux City, Iowa; and Sioux Falls, South Dakota) and that price was used to calculate the equivalent live animal value of imported pork and pork products. In 1991, one of the seven markets, Peoria, Illinois, closed and LGMN Branch changed its report to include the annual average price from only six markets. Again in 1994, another market, East St. Louis, Illinois, closed and LGMN began reporting annual average price for barrows and gilts based

on five markets. In December 1998, two more of the original seven markets, Sioux City, Iowa, and Omaha, Nebraska, closed and LGMN Branch discontinued reporting market prices based on the three remaining markets because these markets did not have a sufficient volume of sales to accurately reflect a national average price for barrows and gilts.

In 1999, LGMN Branch replaced the five-market report with the Iowa-Southern Minnesota hog report as the source for the national average price for barrows and gilts. This average price, comparable to the former five-market annual average price, was quoted for 49–52 percent lean yield barrows and gilts weighing an average of 240–280 pounds live weight. LGMN Branch reported these prices daily as well as publishing a monthly average price in the ''Livestock, Meat and Wool Weekly Summary and Statistics.'' While LGMN Branch discontinued publishing an annual average price of barrows and gilts in the ''Livestock, Meat and Wool Weekly Summary and Statistics,'' they had calculated the annual average price for barrows and gilts based on the 12 monthly average prices in the Iowa-Southern Minnesota hog reports. This annual average price was used in the calculations for determining the per pound amount of assessments for imported pork and pork products. Further changes are anticipated in the future due to implementation of the Livestock Mandatory Price Reporting program (65 FR 75464) on April 2, 2001.

The formula in the preamble for the Order at 51 FR 31901 contemplated that it would be necessary to recalculate the equivalent live animal value of imported pork and pork products to reflect changes in the annual average price of domestic barrows and gilts to maintain equity of assessments between domestic porcine animals and imported pork and pork products.

The last time the cent per pound assessments for imported pork and pork products listed in the table in § 1230.110(b) were adjusted was for calendar year 1998 (64 FR 44643). The equivalent live animal value of imported pork and pork products was recalculated for calendar year 1999 and when compared to the equivalent live animal value for calendar year 1998, no adjustments in the cents per pound assessments were necessary for imported pork and pork products subject to assessment under the Act and Order. In 1999 the average annual price for barrows and gilts was $31.46 per hundredweight as determined by LGMN Branch based on monthly average prices for barrows and gilts published in the ''Livestock, Meat and Wool Weekly Summary and Statistics.'' The 1998 average price for barrows and gilts was $31.82 per hundredweight. The cents per pound assessments for calendar year 1999 remained the same as calendar year 1998.

The average annual market price increased from $31.46 per hundredweight in 1999 to $42.70 per hundredweight in 2000, an increase of about 36 percent. This increase would result in a corresponding increase in assessments for all HTS numbers listed in the table in § 1230.110(b), 64 FR 44643; August 17, 1999, of an amount equal to seven-hundredths to one-tenth of a cent per pound, or as expressed in cents per kilogram, fifteen-hundredths to twenty-two hundredths of a cent per kilogram. Based on the most recent available Department of Commerce, Bureau of Census, data on the volume of imported pork and pork products available for the period January 1, 2000, through September 30, 2000, the proposed increase in assessment amounts would result in an estimated $713,000 increase in assessments over a 12-month period. The assessment rate for imported live hogs is not affected by the change in the cents per pound assessment rate for imported pork and pork products.

This proposed rule provides for a 30-day comment period. This comment period is appropriate because the proposed rule simply provides for an adjustment in the per pound assessment levels on imported pork and pork products to reflect changes in live hog prices which occurred from 1999 to 2000. These live hog prices form the basis for the assessments. This adjustment, if adopted, should be made effective as soon as possible to promote optimum equity.

List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreement, Meat and meat products, Pork and pork products.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1230 be amended as follows:

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

Subpart B—[Amended]

2. In Subpart B—Rules and Regulations, § 1230.110 is revised to read as follows:

§ 1230.110 Assessments on imported pork and pork products.

(a) The following HTS categories of imported live porcine animals are subject to assessment at the rate specified.

Live porcine animals	Assessment
0103.10.0000	0.45 percent Customs Entered Value.
0103.91.0000	0.45 percent Customs Entered Value.
0103.92.0000	0.45 percent Customs Entered Value.

(b) The following HTS categories of imported pork and pork products are subject to assessment at the rates specified.

Pork and Pork Products	Assessment	
	cents/lb	cents/kg
0203.11.0000	.27	.595242
0203.12.1010	.27	.595242
0203.12.1020	.27	.595242
0203.12.9010	.27	.595242
0203.12.9020	.27	.595242
0203.19.2010	.32	.705472
0203.19.2090	.32	.705472
0203.19.4010	.27	.595242
0203.19.4090	.27	.595242
0203.21.0000	.27	.595242
0203.22.1000	.27	.595242
0203.22.9000	.27	.595242
0203.29.2000	.32	.705472
0203.29.4000	.27	.595242
0206.30.0000	.27	.595242
0206.41.0000	.27	.595242
0206.49.0000	.27	.595242
0210.11.0010	.27	.595242
0210.11.0020	.27	.595242
0210.12.0020	.27	.595242
0210.12.0040	.27	.595242
0210.19.0010	.32	.705472
0210.19.0090	.32	.705472
1601.00.2010	.38	.837748
1601.00.2090	.38	.837748
1602.41.2020	.41	.903886
1602.41.2040	.41	.903886
1602.41.9000	.27	.595242
1602.42.2020	.41	.903886
1602.42.2040	.41	.903886
1602.42.4000	.27	.595242
1602.49.2000	.38	.837748
1602.49.4000	.32	.705472

Dated: August 3, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–20097 Filed 8–10–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 327

[Docket No. 99–018P]

Addition of Slovakia to the List of Countries Eligible To Export Meat Products Into the United States

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to add Slovakia to the list of countries eligible to export meat and meat products to the United States. Reviews by FSIS of Slovakia's laws, regulations, and other written materials show that its meat processing system meets requirements that are equivalent to the relevant provisions of the Federal Meat Inspection Act (FMIA) and its implementing regulations.

Under this proposal, meat products processed in certified establishments in Slovakia will be permitted to be exported to the United States if these products are derived from cattle, sheep, swine, and goats slaughtered in federally inspected establishments in the United States, or in certified slaughter establishments in other countries eligible to export meat to the United States. All meat products exported from Slovakia to the United States will be reinspected at the U.S. ports-of-entry by FSIS inspectors as required by law.

DATES: Comments must be received on or before October 12, 2001.

ADDRESSES: Send an original and two copies of comments to:

FSIS Docket Clerk, Docket #99–018P, Room 102, Cotton Annex, 300 C Street, SW., Washington, DC 20250–3700. Reference materials cited in this document and any comments received will be available for public inspection in the FSIS Docket Room from 8:30 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Sally Stratmoen, Acting Director, International Policy Development Staff, Office of Policy, Program Development and Evaluation; (202) 720–6400.

SUPPLEMENTARY INFORMATION:

Background

FSIS is proposing to amend the Federal meat inspection regulations to add Slovakia to the list of countries eligible to export meat and meat products to the United States. In 1972, the country formerly known as Czechoslovakia completed the eligibility process for exportation of meat products to the United States. The country maintained its eligibility until it split into two separate countries, the Czech Republic and Slovakia, on January 1, 1993. The part of the country that became the Czech Republic continued to maintain a meat inspection system under the same laws and regulations that existed when it was part of Czechoslovakia. Since FSIS had previously determined that these laws and regulations were equivalent to the meat inspection standards applied to products produced in the United States, the Agency determined that the newly formed Czech Republic would continue to be eligible to export meat and meat products to the United States. On February 24, 1995, FSIS published a direct final rule to amend section 327 of the meat inspection regulations (9 CFR part 327) to remove ''Czechoslovakia'' and add the ''Czech Republic'' to the list of countries eligible to export meat products to the United States (60 FR 10306).

The part of former Czechoslovakia that became Slovakia had never had any certified meat inspection plants, nor had it exported any meat products to the United States. Given this history and the lack of information about the Slovakian meat inspection system, FSIS was not certain that Slovakia's meat inspection system was equivalent to that of the United States. Therefore, FSIS decided to require that Slovakia request and receive approval from FSIS before it could be deemed eligible to have its meat products exported to the United States.

Section 20 of the FMIA (21 U.S.C. 620) prohibits the importation into the United States of carcasses, parts of carcasses, meat, or meat food products of cattle, sheep, swine, goats, horses, mules, or other equines that are capable for use as human food that are adulterated or misbranded. Imported meat products must be in compliance with the Federal meat inspection regulations to ensure that they meet the standards provided in the FMIA. 9 CFR 327.2 establishes the procedures by which foreign countries that want to export meat or meat products to the United States may become eligible to do so.

Section 327.2(a) requires that authorities in a foreign country's meat inspection system certify that (1) the system provides standards equivalent to those of the United States and (2) the legal authority for the system and its implementing regulations are equivalent to those of the United States. Specifically, a country's regulations must impose requirements that are equivalent to those of the United States in the following areas: (1) Ante-mortem and post-mortem inspection; (2) official controls by the national government over plant construction, facilities, and equipment; (3) direct and continuous supervision of slaughter activities, where applicable, and product preparation by official inspection personnel; (4) separation of establishments certified to export from those not certified; (5) maintenance of a single standard of inspection and sanitation throughout certified establishments; and (6) official controls over condemned product.

Section 327.2 also requires that a meat inspection system maintained by a foreign country, with respect to establishments that prepare products in that country for export to the United States, ensure that those establishments and their meat products comply with requirements that are equivalent to the provisions of the FMIA and the meat inspection regulations. Foreign country authorities must be able to ensure that all certifications required under Part 327 of the meat inspection regulations (Imported Products) can be relied upon before approval to export meat products to the United States will be granted by FSIS. Besides relying on its initial determination of a country's eligibility, coupled with ongoing reviews to ensure that products shipped to the United States are safe, wholesome, and properly labeled and packaged, FSIS randomly samples imported meat and meat products for reinspection as they enter the United States.

In addition to meeting the certification requirements, a foreign country's inspection system must be evaluated by FSIS before it will be granted eligibility to export meat products to the United States. This evaluation consists of two processes: a document review and an on-site review. The document review is an evaluation of the laws, regulations, and other written materials used by the country to operate its inspection program. To help the country organize its materials, FSIS gives the country questionnaires that ask for detailed information about the country's inspection practices and procedures in five risk areas. These five risk areas, which are the focus of the evaluation, are sanitation, animal disease, slaughter/processing, residues, and enforcement. FSIS evaluates the information to verify that the critical points in the five risk areas are addressed satisfactorily with respect to standards, activities, resources, and enforcement. If the document review is satisfactory, an on-site review is

scheduled using a multi-disciplinary team to evaluate all aspects of the country's inspection program, including laboratories and individual establishments within the country.

Evaluation of the Slovakian Inspection System

In response to a request from Slovakia for approval to export meat and meat products to the United States, FSIS conducted a review of the Slovakian meat inspection system to determine if it is equivalent to the U.S. meat inspection system. First, FSIS compared Slovakia's meat inspection laws and regulations with U.S. requirements. The study concluded that the requirements contained in Slovakia's meat inspection laws and regulations are equivalent to those mandated by the FMIA and its implementing regulations. FSIS then conducted an on-site review of the Slovakian meat inspection system in operation. The FSIS review team concluded that Slovakia's implementation of meat processing standards and procedures is equivalent to that of the United States, and that Slovakia's official residue control laboratory is fully capable of testing meat products.

If this proposal is adopted by FSIS, meat products exported to the United States from Slovakia will be reinspected at the ports-of-entry for transportation damage, labeling, proper certification, general condition, and accurate count. Other types of inspection will also be conducted, including examining the product for defects and performing laboratory analyses to detect chemical residues in the product or to determine whether the product is microbiologically contaminated.

Products that pass reinspection will be stamped with the official mark of inspection and allowed to enter U.S. commerce. If they do not meet U.S. requirements, they will be stamped ''U.S. Refused Entry'' and re-exported, destroyed, or converted to animal food.

Accordingly, FSIS is proposing to amend section 327 of the meat inspection regulations to add Slovakia as a country from which meat and meat products may be eligible for export to the United States. As a country eligible to export meat and meat products to the United States, the government of Slovakia will certify to FSIS those establishments that intend to export such products to the United States and that operate according to U.S. requirements. FSIS will verify that establishments certified by the Slovakia government are meeting the U.S. requirements. This verification will be done through on-site reviews of the establishments while they are in operation.

Although a foreign country may be listed as eligible to export meat and meat products, products from that country must also comply with other U.S. requirements, including the restrictions under title 9, part 94 of the Animal and Plant Health Inspection Service's regulations that relate to the importation of meat and meat products from foreign countries into the United States.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. States and local jurisdictions are preempted by the Federal Meat Inspection Act (FMIA) from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected meat or meat products that are in addition to, or different than, those imposed under the FMIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and meat products that are outside official establishments for the purpose of preventing the distribution of meat and meat products that are misbranded or adulterated under the FMIA, or, in the case of imported articles, that are not at such an establishment, after their entry into the United States. This proposed rule is not intended to have retroactive effect. If this proposed rule is adopted, administrative proceedings will not be required before parties may file suit in court challenging this rule. However, the administrative procedures specified in 9 CFR 306.5 must be exhausted prior to any judicial challenge of the application of the provisions of this proposed rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the FMIA.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. It has been determined to be not significant for purposes of Executive Order 12866 and therefore, has not been reviewed by the Office of Management and Budget (OMB).

Currently, there is only one establishment in Slovakia that has applied for USDA Meat Plant Certification for Export. This establishment would export non-heat treated shelf stable meat products, such as sausages and salami, and non-shelf stable cooked meat products, such as pasteurized hams and specialty cured, cooked, and smoked meat products. U.S. imports from this establishment are expected to total 520 tons per year.

U.S. firms currently export no meat products and only a small amount of poultry products to Slovakia. Table 1 reports U.S. exports of poultry and pork products to Slovakia from 1994 to 2000. Poultry exports were highest in 1994, before declining and eventually falling to zero in 1996. Poultry exports reappeared again in 1998, but again at relatively low levels.

Table 1 also reports U.S. exports of pork products to Slovakia. Between 1994 and 2000, U.S. firms exported pork products to Slovakia only once, in 1994. Since then, the U.S. has not had any exports of meat products to Slovakia.

If this proposal is issued as a final rule, it could begin to reopen trade between the United States and Slovakia. During much of the mid-1990's, many emerging democratic nations faced substantial economic obstacles. Listing Slovakia as a country eligible to export meat and meat products to the United States could begin the process of reacquainting Slovakia with U.S. firms.

Expected benefits from this type of proposed rule would generally accrue to consumers in the form of lower prices. However, the volume of trade stimulated by this proposal is likely to be so small as to have little effect on supply and farm-level prices for livestock. Apart from any change in prices, U.S. consumers may still benefit from an increased choice of meat products in the marketplace.

The costs of this proposed rule will accrue primarily to producers in the form of greater competition from Slovakia. However, as mentioned in the preceding paragraph, the volume of trade stimulated by this rule would be very small and is likely to have little effect on supply and farm-level prices. Nonetheless, it is possible that U.S. firms that produce products that would compete with Slovakian imports could face short-run difficulties. However, in the long run, it is expected that such firms would adjust their product mix in order to compete effectively.

TABLE 1.—U.S. EXPORTS OF POULTRY AND PORK PRODUCTS TO SLOVAKIA, 1994–2000

Calendar year	Quantity (tons)	Value	Average price per ton
Poultry:			
1994	283	$354,000	$1250.88
1995	22	20,000	909.09
1996	0	0.00	NA.
1997	0	0.00	NA.
1998	68	68,000	1000.00
1999	24	14,000	583.30
2000	69	55,000	797.10
Pork:			
1994	38	39,480	1038.95
1995	0	0.00	NA.
1996	0	0.00	NA.
1997	0	0.00	NA.
1998	0	0.00	NA.
1999	0	0.00	NA.
2000	0	0.00	NA.

Effect on Small Entities

The Administrator, FSIS, has made an initial determination that this proposed rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This proposed rule would add Slovakia to the list of countries eligible to export meat and meat products to the United States. Currently, only one establishment in Slovakia has applied for USDA Meat Plant Certification for Export. This establishment plans to export approximately 520 tons of non-heat treated shelf stable meat products and non-shelf stable cooked meat products to the United States per year. The volume of trade stimulated by this rule would be very small, and, as previously mentioned, is not likely to have much of an effect on supply and prices. Therefore, this proposed rule is not expected to have a significant impact on small domestic entities that produce these types of products.

Paperwork Requirements

No new paperwork requirements are associated with this proposed rule. A foreign country that wants to export meat products to the United States is required to provide information to FSIS to certify that its inspection system provides standards equivalent to those of the United States and that the legal authority for the system and its implementing regulations are equivalent to those of the United States before it may start exporting such product to the United States. FSIS collects this information one time only. FSIS gave Slovakia questionnaires asking for detailed information about the country's inspection practices and procedures to assist the country in organizing its materials. This information collection was approved under OMB number 0583–0094. This proposed rule contains no other paperwork requirements.

Public Notification and Request for Data

FSIS requests information regarding the impact of this proposed rule on minorities, women, and persons with disabilities, including information on the number of minority-owned meat and poultry establishments, the makeup of establishment workforces, and the communities served by official establishments. Public involvement in all segments of rulemaking and policy development are important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this proposed rule and are informed about the mechanism for providing their comments, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from= leavingFR.html&log= linklog&to= http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

List of Subjects in 9 CFR Part 327

Imports, Meat and meat products.

For the reasons set out in the preamble, FSIS is proposing to amend 9 CFR part 327 as follows:

PART 327—IMPORTED PRODUCTS

1. The authority citation for part 327 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 327.2 [Amended]

2. Section 327.2 is amended by adding ''Slovakia'' in alphabetical order to the list of countries in paragraph (b).

Done at Washington, DC, on: August 7, 2001.

Thomas J. Billy,

Administrator.

[FR Doc. 01–20098 Filed 8–10–01; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

Acquisition of Title to Land in Trust

AGENCY: Bureau of Indian Affairs

ACTION: Notice of proposed withdrawal of final rule; request for comments

SUMMARY: This action seeks public comment on whether the Final Rule entitled ''Acquisition of Title to Land in

Trust'' should be withdrawn and a further rule proposed to better address the public's continued concerns regarding the Department's procedures for taking land into trust for federally-recognized Indian tribes.

DATES: Comments regarding this rulemaking should be received by September 12, 2001.

ADDRESSES: Comments regarding this action should be submitted to: Terry Virden, Director, Office of Trust Responsibilities, MS 4513 MIB, 1849 C Street, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Terry Virden, Office of Trust Responsibilities, MX 4513 MIB, 1849 C Street, NW, Washington, DC 20240; telephone 202/208–5831.

SUPPLEMENTARY INFORMATION: The rule entitled ''Acquisition of Title to Land in Trust'' was published in the **Federal Register** on January 16, 2001, and its effective date was extended by a Notice published in the **Federal Register** on April 16, 2001. This effective date of this rule has been further extended to November 10, 2001, by action taken today in this issue of the **Federal Register**.

During the comment period first extending the effective date of this rule (April 16–June 15, 2001), the Department received 192 submissions from a variety of Indian tribes, state and local governments, and other interested groups and individuals. The comments articulated a variety of opposing views. For example, comments stated that the final rule should be revoked, amended in part only, changed in specific ways or made immediately effective. Even though many comments suggested amending only certain parts of the final rule, the Department finds that it may be impracticable and inefficient to repeal only part of the final rule. While the Department continues to review these comments during a further extension of the effective date, as published in today's issue of the **Federal Register**, the Department is seeking comments on whether to withdraw the final rule and propose a new rule that would better speak to the ongoing concerns of the public regarding the Department's procedures for taking land into trust for federally-recognized tribes.

Comments that are being reviewed concern several areas of the final rule. One area of concern is individual applications for lands into trust for housing or home site purposes. The Department is considering the advisability of expediting and prioritizing these types of applications under a new proposed rule. Applications for housing or home site purposes could be identified as acquisitions containing five (5) acres of land or less for the purpose of meeting individual housing needs. Another area of concern has been land use issues on off-reservation acquisitions and land use issues with the designation of Tribal Land Acquisition Areas (TLAA). In applications for off-reservation acquisitions, the Department is considering the advisability of requiring that tribes submit land use plans for the parcel to be acquired. The Secretary would approve those land use plans as part of her review of the application. In addition, when a tribe submits an application to the Secretary for approval of a TLAA, the Department is considering the advisability of requiring that the application contain a land use plan for the TLAA which the Secretary would approve as part of her review and approval of the TLAA designation.

Several comments focused on the lack of standards contained in the final rule. The Department is considering clarifying the standards that will be used by the Secretary to determine whether to approve an application and defining the burdens of proof that the applicant and those opposing a trust application have to the application. For on-reservation acquisitions, the Department is considering requiring a tribe or individual to show by substantial evidence that the acquisition facilitates tribal self-determination, economic development, Indian housing, land consolidation, or natural resources protection. The Department is further considering requiring opponents of on-reservation trust acquisitions to show by clear evidence that the acquisition will result in severe negative impact to the environment or severe harm to the local government. For off-reservation acquisitions, the Department is considering requiring that tribes show by substantial evidence that the acquisition is necessary to facilitate tribal self-determination, economic development, Indian housing, land consolidation, or natural resources protection, and the tribe be further required to show that no demonstrable harm to the local community is realized. The Department is considering requiring that opponents of off-reservation acquisitions show by clear evidence that the acquisition will result in significant harm to the local community or severe negative impacts to the environment.

Another area of concern has been the availability of applications for review. The Department is considering changing the length of time that states and local communities have to comment on the application. Currently, for on-reservation acquisitions, the final rule provides state and local communities 30 days to comment on an application. The Department is considering allowing state and local communities 60 days to comment on on-reservation acquisitions. For off-reservation acquisitions, the final rule currently provides that state and local communities have 60 days to comment on an application. The Department is considering allowing the state and local communities 90 days to comment on off-reservation applications. The additional 30 days to review applications will provide state and local governments adequate time to review the application at the local Bureau of Indian Affairs (BIA) agency or regional office. The Department is also interested in using technology to make the review of applications easier and more efficient. Any comments on how the Internet or computer technology might facilitate review of trust acquisition applications would be helpful.

Considering the range of comments already received and reviewed, the Department takes this action to seek comment on whether the final rule should be withdrawn for the best interests of the constituencies served by the rule.

Dated: August 8, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–20254 Filed 8–10–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Naval Restricted Area, Naval Air Station Whidbey Island, Washington

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for written comments.

SUMMARY: The Corps of Engineers is proposing to establish a new restricted area in the waters of Crescent Harbor, Saratoga Passage, adjacent to Naval Air Station Whidbey Island near Oak Harbor, Washington. Under this proposal, there would be no permanent, around-the-clock restrictions on use of the area. Restrictions would be intermittent and temporary, and only apply when naval training exercises are signaled as in progress. Prior to the commencement of an exercise, the Navy would conduct an air or surface reconnaissance of the area to ensure the

area is clear. Vessels underway and laying a course through the area would not be interfered with, but such vessels would not be allowed to delay their progress. Vessels anchored in, or nearing the restricted area during the conduct of an exercise, would be contacted by a Navy patrol boat and advised to depart or steer clear. Exercises would only occur when all vessels and persons were clear of the area. The purpose of this proposal is to ensure public safety and the Navy's ability to conduct training exercises without interference.

DATES: Comments must be submitted on or before September 12, 2001.

ADDRESSES: U.S. Army Corps of Engineers, ATTN: CECW–OR, 20 Massachusetts Avenue, NW., Washington DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch at (202) 761–4618 or Mr. Jack Kennedy, Corps Seattle District, at (206) 764–6907.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriation Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps proposes to amend the regulations in 33 CFR part 334 by adding a new Section 334.1218 which would establish a new naval restricted area in the waters of Crescent Harbor, Saratoga Passage, adjacent to Naval Air Station Whidbey Island, near Oak Harbor, Island County, Washington.

The restrictions proposed in this request would be intermittent, infrequent, and of short duration. According to the Navy, a review of their operations and restricted areas indicated the need for an additional restricted area in Crescent Harbor, a waterbody used by Explosive Ordinance Disposal Units for training exercises for many years without incident or complaint. The restricted area is required for safety purposes. The exercises in question take place about once a month and require only a very temporary closure of the waterway. A typical training cycle takes approximately one hour. Besides Explosive Ordinance Disposal exercises, the Navy envisions invoking the restrictions during naval training exercises involving activities like aerial minesweeping, underwater object locating, and air-sea rescue.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act (Public Law 96–354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (*i.e.*, small businesses and small governments). The Corps expects that the economic impact of the establishment of this restricted area would have no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic, and accordingly, certifies that this proposal, if adopted, will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

The Seattle District has prepared a preliminary Environmental Assessment (EA) for this action. The preliminary EA concluded that this action will not have a significant impact on the human environment. After receipt and analysis of comments from this **Federal Register** posting and the Seattle District's concurrent Public Notice, the Corps will prepare a final environmental document detailing the scale of impacts this action will have upon the human environment. The environmental assessment may be reviewed at the District Office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act that small governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger Zones, Marine Safety, Restricted Areas, Waterways.

For the reasons set out in the preamble, we propose to amend 33 CFR Part 334 to read as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Add new section 334.1218 to read as follows:

§ 334.1218 Crescent Harbor, Naval Air Station Whidbey Island, Oak Harbor, WA; Naval Restricted Area.

(a) *The area.* The area is drawn from the Polnell Point Light (48°16′22″ N, 122°33′32″ W) west-southwest to a point in central Crescent Harbor (48°16′00″ N, 122°36′00″ W) and then due north to a point along Crescent Harbor's northern shoreline on Whidbey Island (48°17′55″ N, 122°36′00″ W).

(b) *The regulations.* (1) Restrictions would be intermittent, and only apply when naval training exercises are in progress.

(2) Prior to the commencement of an exercise, the Navy would conduct an air or surface reconnaissance of the area to ensure the area is clear. Vessels underway and laying a course through the area would not be interfered with, but such vessels would not be allowed to delay their progress. Vessels anchored in, or nearing the restricted area during the conduct of an exercise, will be contacted by a Navy patrol boat and advised to depart or steer clear.

(3) Exercises would only occur when all vessels and persons are clear of the area. When exercises are in progress, use of the area will be indicated by the presence of a red ''Bravo'' flag flying from the patrol boat and/or a buoy to be placed at the Southwest corner of the restricted area (latitude 48°16′00″ N, longitude 122°36′00″W).

(4) During training exercises while the red ''Bravo'' flag is flying from a patrol boat and/or the marker buoy, no vessel, watercraft, or person shall enter or remain within the designated restricted area. Upon completion of an exercise, the red ''Bravo'' flag will be struck and restrictions will cease to apply.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commander, Navy Region Northwest, and such agencies and persons as he/she shall designate.

Dated: July 30, 2001.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 01–20230 Filed 8–10–01; 8:45 am]

BILLING CODE 3710–GB–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Army Restricted Area, Skiffes Creek, Fort Eustis, VA

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing regulations to establish a restricted area in the vicinity of Skiffes Creek at Fort Eustis, Virginia. These regulations will enable the Army to enhance security around vessels moored at the facility. The regulations will safeguard military vessels and United States government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions which may exist as a result of Army use of the area.

DATES: Written comments must be submitted on or before September 12, 2001.

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

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761–4618, or Mr. Rick Henderson, Corps of Engineers, Norfolk District, at (757) 441–7653.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3) the Corps proposes to amend the restricted area regulations in 33 CFR part 334 by adding 334.281 which establishes a restricted area in Skiffes Creek, a tributary of the James River, at Fort Eustis, Virginia. The public currently has unrestricted access to the facility and units assigned there. To better protect vessels and personnel stationed at the facility, the Commander, Fort Eustis, has requested the Corps of Engineers establish a Restricted Area to be enforced whenever the base is in Threat Condition Charlie or Delta. This will enable the Army to implement a waterside security program that is currently not available at the facility.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act.

These proposed rules have been reviewed under the Regulatory Flexibility Act (Public Law 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small Governments). The Corps expects that the economic impact of the establishment of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal if adopted, will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action, if adopted, will not have a significant impact to the quality of the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT,** above.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR part 334

Danger zones, marine safety, Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR Part 334 as follows:

PART 334–DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334. 281 is added to read as follows:

§ 334. 281 Skiffes Creek, Fort Eustis, Virginia, Restricted Area.

(a) *The area.* The waters within an area beginning at latitude 37°09′39″ N, longitude 76°37′02″ W; thence northerly to latitude 37°10′18″ N, longitude 76°36′52″ west; thence southwesterly along the shoreline to latitude 37°10′05″ N, longitude 76°36′34″ W; thence northeasterly along the shoreline to latitude 37°10′28″ N, longitude 76°36′19″ W; thence easterly to latitude 37°10′25″ N, longitude 76°36′07″ W; thence southwesterly along the shoreline to the point of origin.

(b) *The regulations.* No vessel or persons may enter or pass through the restricted area any time the base is in Threat Condition Charlie or Delta unless specific authorization is granted by the Commander, Fort Eustis, and/or other persons or agencies as he/she may designate.

(c) *Enforcement.* (1) The regulation in this section, promulgated by the United States Army Corps of Engineers, shall be enforced by the Commander, Fort Eustis, and/or other persons or agencies as he/she may designate.

(2) Federal and State Law enforcement vessels and personnel may enter the restricted area at any time to enforce their respective laws.

Dated: July 23, 2001.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 01–20229 Filed 8–10–01; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Naval Restricted Area, Naval Station Everett, Washington

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing to establish a new restricted area in the waters surrounding Naval Station Everett at Everett, Washington. The designation would effectively establish a 300-foot safety zone around moored vessels and the major piers of this naval base, and lesser distances

from its other piers, basins, and shorelines. All persons and vessels would be prohibited from entering or using the waters of the restricted area without prior written permission from the Commanding Officer of the Naval Station Everett. The purpose of the restricted area is to ensure public safety and satisfy the Navy's security, safety, and operational requirements pertaining to the moorage and movement of capital ships and other vessels at a major naval base.

DATES: Written comments must be submitted on or before September 12, 2001.

ADDRESSES: U.S. Army Corps of Engineers, ATTN: CECW–OR, 20 Massachusetts Avenue, N.W., Washington D. C. 20314–1000

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington D.C. at (202) 761–4618 or Mr. Jack Kennedy, Corps of Engineers Seattle District, at (206) 764–6907.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriation Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps proposes to amend the regulations in 33 CFR part 334 by adding a new Section 334.1215 which would establish a new naval restricted area in the waters of Port Gardner and East Waterway surrounding Naval Station Everett, at Everett, Washington. The points defining the proposed restricted area were selected to avoid any interference with vessel use of the lower reaches of the Snohomish River Waterway, and to minimize the restricted area's encroachment into the waters of East Waterway utilized by adjoining industrial and commercial ventures and the general public.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 2866 do not apply.

b. Review Under the Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act (Public Law 96–354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). The Corps expects that the economic impact of the establishment of this restricted area would have no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic, and accordingly, certifies that this proposal, if adopted, will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

The Seattle District has prepared a preliminary Environmental Assessment (EA) for this action. The preliminary EA concluded that this action will not have a significant impact on the human environment. After receipt and analysis of comments from this **Federal Register** posting and the Seattle District's concurrent Public Notice, the Corps will prepare a final environmental document detailing the scale of impacts this action will have upon the human environment. The environmental assessment may be reviewed at the District Office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act that small governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Restricted areas, Waterways.

For the reasons set out in the preamble, we propose to amend 33 CFR Part 334 to read as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.1215 is added to read as follows:

§ 334.1215 Port Gardner, Naval Station Everett, Everett, WA; Naval Restricted Area.

(a) *The area.* The waters of Port Gardner and East Waterway surrounding Naval Station Everett beginning at Point 1, a point near the northwest corner of Naval Station Everett at latitude 47° 59′ 40″ North, longitude 122° 13′ 23.5″ West and thence to latitude 47° 59′ 40″ North, longitude 122° 13′ 30″ West (Point 2); thence to latitude 47° 59′ 20″ North, longitude 122° 13′ 33″ West (Point 3); thence to latitude 47° 59′ 13″ North, longitude 122° 13′ 38″ West (Point 4); thence to latitude 47° 59′ 05.5″ North, longitude 122° 13′ 48.5″ West (Point 5); thence to latitude 47° 58′ 51″ North, longitude 122° 14′ 04″ West (Point 6); thence to latitude 47° 58′ 45.5″ North, longitude 122° 13′ 53″ West (Point 7); thence to latitude 47° 58′ 45.5″ North, longitude 122° 13′ 44″ West (Point 8); thence to latitude 47° 58′ 48″ North, longitude 122° 13′ 40″ West (Point 9); thence to latitude 47° 58′ 59″ North, longitude 122° 13′ 30″ West (Point 10); thence to latitude 47° 59′ 14″ North, longitude 122° 13′ 18″ West (Point 11); thence to latitude 47° 59′ 13″ North, longitude 122° 13′ 12″ West (Point 12); thence to latitude 47° 59′ 20″ North, longitude 122° 13′ 08″ West (Point 13); thence to latitude 47° 59′ 20″ North, longitude 122° 13′ 02.5″ West (Point 14), a point upon the Naval Station's shore in the northeast corner of East Waterway.

(b) *The regulations.* (1) All persons and vessels are prohibited from entering the waters within the restricted area for any reason without prior written permission from the Commanding Officer of the Naval Station Everett.

(2) Mooring, anchoring, fishing and/or recreational boating shall not be allowed within the restricted area without prior written permission from the Commanding Officer of the Naval Station Everett.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commander, Navy Region Northwest, and such agencies and persons as he/she shall designate.

Dated: August 6, 2001.

Lawrence A. Lang,

Deputy, Operations Division, Directorate of Civil Works.

[FR Doc. 01–20231 Filed 8–10–01; 8:45 am]

BILLING CODE 3710–GB–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Department of Air Force, Maryland Air National Guard Danger Zone, Frog Mortar Creek, Middle River, Maryland

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing regulations to establish a Danger Zone at Glenn L. Martin State Airport in the waters of Frog Mortar Creek located in Middle River, Maryland. These regulations will enable the Maryland Air National Guard (MdANG) to ensure the safety of watermen and mariners in the vicinity of an existing munitions depot located at Glenn L. Martin State Airport adjacent to Frog Mortar Creek. The regulations are necessary to protect the watermen and mariners from potentially hazardous conditions which may exist as a result of MdANG's use of the area.

DATES: Written comments must be submitted on or before September 12, 2001.

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

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761–4618, or Mr. Steve Elinsky, Corps of Engineers, Baltimore District, Regulatory Branch, at (410) 962–4503.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in § 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C.1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C.3) the Corps proposes to amend the restricted area regulations in 33 CFR part 334 by adding § 334.145 which establishes a danger zone in Frog Mortar Creek adjacent to Glenn L. Martin State Airport in Middle River, Maryland. The public currently has unrestricted access to the waters of Frog Mortar Creek in close proximity to MdANG's munitions depot. To better protect watermen and mariners, the MdANG has requested the Corps of Engineers establish a Danger Zone that will enable the MdANG to implement a zone of safety that is currently not available at the facility.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

These proposed rules have been reviewed under the Regulatory Flexibility Act (Public Law 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small Governments). The Corps expects that the economic impact of the establishment of this danger zone would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal if adopted, will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed additional danger zone regulations, that this action, if adopted, will not have a significant impact to the quality of the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT,** see paragraph 4 of this notice.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger Zones, Marine Safety, Restricted Areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR 334, as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for 33 CFR 334 continues to read as follows:

Authority: 40 Stat. 266 (30 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.145 is added to read as follows:

§ 334.145 Frog Mortar Creek, west side, adjacent to Maryland Air National Guard munitions depot located at Glenn L. Martin State Airport, Middle River, Maryland; Danger Zone.

(a) *The area.* (1) The waters within an area beginning at a point on the shore at latitude 39°19′35.8″ N, longitude 76°24′28.7″ W; thence northeasterly to latitude 39°19′36.8″ N, longitude 76°24′26″ W; thence northwesterly to latitude 39°19′40.7″ N, longitude 76°24′29.6″ W; thence southwesterly to latitude 39°19′40.2″ N, longitude 76°24′31.5″ W; thence southeasterly along the shoreline to the point of beginning.

(b) *The regulation.* (1) All vessels entering the danger zone shall proceed across the area by the most direct route and without unnecessary delay.

(2) No vessel or craft of any size shall lie-to or anchor in the danger zone at any time other than a vessel operated by or for the U.S. Coast Guard, local, State, or Federal law enforcement agencies.

(c) *Enforcement.* The regulation in this section shall be enforced by the Commanding Officer, Maryland Air National Guard, and/or persons or agencies as he/she may designate.

Dated: July 30, 2001.

Charles M. Hess,

Chief, Operations Division Directorate of Civil Works.

[FR Doc. 01–20232 Filed 8–10–01; 8:45 am]

BILLING CODE 3710–92–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY49–223, FRL–7032–3]

Approval and Promulgation of Implementation Plans; New York Reasonable Further Progress Plans and Transportation Conformity Budgets for 2002, 2005 and 2007

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency is proposing to approve a New York State Implementation Plan revision involving the 1-hour Ozone Plan which is intended to meet several Clean Air Act requirements, including the separate requirement for enforceable commitments for the 1-hour ozone attainment demonstration. Specifically, EPA is proposing approval of the: 2002, 2005 and 2007 ozone projection emission inventories; Reasonable Further Progress Plans for milestone years 2002, 2005 and 2007; transportation conformity budgets for 2002, 2005 and 2007; and contingency measures. The intended effect of this action is to approve programs required by the Clean Air Act which will result in emission reductions that will help achieve attainment of the 1-hour national ambient air quality standard for ozone.

DATES: Comments must be received on or before September 12, 2001.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the New York submittals and EPA's Technical Support Document (TSD) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, 2nd floor, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3381.

SUPPLEMENTARY INFORMATION:

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What Are the Clean Air Act Requirements and How Do They Apply to New York?

Section 182 of the Clean Air Act (Act) specifies the required State Implementation Plan (SIP) submissions and requirements for areas designated nonattainment for the 1-hour ozone standard as well as timeframes for when these submissions and requirements are to be submitted to EPA by the states. EPA has issued the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (General Preamble) describing in detail EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the Act, (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in today's proposal and the supporting rationale.

New York has six ozone nonattainment areas. These areas are the Albany-Schenectady-Troy Area, Buffalo-Niagara Falls Area, Essex County Area, Jefferson County Area, Poughkeepsie Area and the New York-Northern New Jersey-Long Island Area. The Albany-Schenectady-Troy, Buffalo-Niagara Falls, Essex County, Jefferson County and the Poughkeepsie Areas are considered ''clean data'' areas which essentially means that the three most recent years of air monitoring data demonstrate attainment of the 1-hour ozone standard. As for the New York-Northern New Jersey-Long Island Area, which is classified as a severe ozone nonattainment area, the most recent three years of data continue to demonstrate nonattainment. The New York portion of the New York-Northern New Jersey-Long Island Area is composed of New York City and the counties of Nassau, Suffolk, Westchester and Rockland, and seven municipalities in Orange County-Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick and Woodbury. The focus of this **Federal Register** action is the New York portion of the New York-Northern New Jersey-Long Island Area (referred to as the New York Metro Area).

What Was Included in New York's Submittal?

On November 27, 1998, Deputy Commissioner Carl Johnson of the New York State Department of Environmental Conservation (NYSDEC) submitted to EPA a revision to the SIP to meet requirements related to attainment of the National Ambient Air Quality Standards (NAAQS) for ozone. This revision is intended to fulfill the requirement in the Act for 3 percent per-annum Reasonable Further Progress (RFP) including contingency measures, and includes the following: the 2002, 2005 and 2007 ozone projection emission inventories; RFP Plan for milestone years 2002, 2005 and 2007; contingency measures and transportation conformity budgets for 2002, 2005 and 2007.

How Were New York's 2002, 2005 and 2007 Ozone Projection Emission Inventories Developed and What Were the Results?

A projection of 1990 volatile organic compounds (VOC) and oxides of nitrogen (NO_X) anthropogenic emissions to 2002, 2005 and 2007 in the New York Metro Area is required to determine the reductions needed for the RFP plans with NO_X substitution. The 2002, 2005 and 2007 projection year emission inventories are calculated by multiplying the 1990 base year inventory by factors which estimate growth from 1990 to 2002, 2005 and 2007, respectively. A specific growth factor for each source type in the inventory is required since sources typically grow at different rates.

The difference between the 1990 base year inventory and the 2002, 2005 and 2007 projection inventories are the emissions growth estimates. Based on the difference between the 1990 base year inventory and the 2002, 2005 and 2007 projection year inventories, the total 1990 to 2002, 2005 and 2007 growth, for the four anthropogenic VOC source categories (stationary point, area, non-road and on-road mobile), is estimated at 121.8, 160.6 and 186.6 tons per day (tpd), respectively, in the New York Metro Area. The total growth, for all the NO_X source categories, from 1990 to 2002, 2005 and 2007 growth is estimated at 226, 276.2 and 307.9 tpd, respectively, in the New York Metro Area.

1990 Base Year Inventory

On May 10, 2001 (66 FR 23849) EPA approved the 1990 base year inventory (for all ozone nonattainment areas in New York State). Based on EPA's review, New York satisfied all of EPA's requirements for purposes of providing a comprehensive and accurate 1990 inventory of actual emissions in the ozone nonattainment areas. Details of EPA's evaluation of the 1990 Base year inventory will not be discussed in this rulemaking. The reader is referred to EPA's November 3, 1999 (64 FR 59706) proposed approval and ''New York State 1990 Base Year Inventory SIP Technical Support Document,'' for details on the approval of New York's 1990 base year ozone season emission inventory. Table 1 below shows the federally-approved 1990 base year VOC and NO_X emission inventories for the New York Metro Area.

TABLE 1.—NEW YORK METRO AREA 1990 BASE YEAR EMISSIONS INVENTORY OZONE SEASON EMISSIONS (TPD)

Pollutant	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
VOC	381	103	484	167	103	1,238
NO_X	59	286	400	178	N/A	923

2002, 2005, 2007 Projection Year Inventory Methodology Major Point Sources

For the major point source category, New York projected 1990 base year emissions to 2002, 2005 and 2007 for each facility using Bureau of Economic Analysis (BEA) growth indicators available from New York State at the two-digit Standard Industrial Classification (SIC) Code level. BEA growth indicators are one of the preferred growth indicators to use, as outlined in ''Procedures for Preparing Emissions Projections,'' July 1991.

Area Sources

For the area source category, New York projected emissions from 1990 to 2002, 2005 and 2007 using population and BEA growth rates where applicable. This is in accordance with EPA's recommended growth indicators for projecting emissions for area source categories outlined in ''Procedures for Preparing Emissions Projections,'' July 1991.

Non-Road Mobile Sources

Non-road vehicle equipment emissions were projected from 1990 to 2002, 2005 and 2007 using population growth forecast or BEA industrial indicators where applicable. This is in accordance with EPA's recommended growth indicators for projecting emissions for non-road mobile source categories outlined in ''Procedures for Preparing Emissions Projections,'' July 1991.

Highway Mobile Sources

For the on-road mobile source category, the primary indicator and tool for developing on-road mobile growth and expected emissions are vehicle miles traveled (VMT) and EPA's mobile emissions model Mobile 5b. 2002, 2005 and 2007 VOC and NO_X emission factors were generated by Mobile 5b and applied to the New York State Department of Transportation (NYSDOT) VMT projections.

NYSDOT projected VMT by county and functional roadway classification based upon linear regression of historical Highway Performance Monitoring System (HPMS) VMT data. This is in accordance with EPA's recommended growth indicators for projecting emissions for on-road mobile source categories outlined in ''Procedures for Preparing Emissions Projections,'' July 1991.

Table 2 shows 2002, 2005 and 2007 VOC and NO_X projection emission inventories (controlled after 1990) using the aforementioned growth indicators/methodologies.

TABLE 2.—NEW YORK METRO AREA 2002, 2005 AND 2007 PROJECTION YEAR INVENTORIES (CONTROLLED) OZONE SEASON VOC AND NO_X EMISSIONS (TPD)

Pollutant	Point sources	Area sources	Non-Road mobile sources	On-road mobile sources	Total
2002:					
VOC	85.2	352.1	142	179.1	758.4
NO_X	180.8	63.5	173.9	265.9	684.1
2005:					
VOC	87	356.8	127	166.9	737.7
NO_X	147.9	64.7	166.3	253.8	632.7
2007:					
VOC	87.5	357.9	115	162.4	722.8
NO_X	148.3	65.4	161.3	244	619

Based on EPA guidance, the 2002, 2005 and 2007 inventories are complete and approvable. A more detailed discussion of how the emission inventories were reviewed and the results are presented in the supporting Technical Support Document (TSD).

What are the Clean Air Act Requirements for an Approvable Reasonable Further Progress Plan?

Section 182(c)(2)(B) of the Act requires ozone nonattainment areas with classifications of serious and above to develop plans to reduce area-wide VOC emissions by 3 percent per year averaged over each consecutive three-year period beginning 6 years after enactment of the Act (1996) until the area attains the 1-hour ozone standard (2007 for the New York Metro Severe Ozone nonattainment area). EPA previously approved the 15 and 9 percent Rate of Progress (ROP) Plans for the New York Metro Area (66 FR 23849). Those plans identify the control measures and the VOC and NO_X emission reduction credits associated with those measures that would be achieved from 1990 through 1999. This notice refers to the New York Metro Area RFP plans for milestone years 2002, 2005 and 2007.

Section 182(c)(2)(C) of the Act allows NO_X reductions to be substituted for VOC reductions for RFP demonstrations in accordance with EPA guidance. New York has shown that NO_X reductions may appropriately be counted toward the RFP requirements. A full explanation of how New York's SIP fulfills EPA's guidance concerning NO_X substitution is included in the TSD.

What Measures are Being Implemented in New York To Achieve RFP?

New York provided a plan which commits to implement a list of measures to achieve the RFP reductions required for the New York Metro Area. Table 3 identifies the reductions associated with each individual control strategy which occurs between 1990–2007. Some of those credits where utilized in the

federally approved 15 and 9 percent ROP plans for the New York Metro Area, however, due to the nature of the control measures/programs these measures achieve additional emission reduction credits beyond those used in the 15 and 9 percent ROP plans. These unused reductions are being claimed in these recent RFP plans. For a concise description of those control measures and emission reduction credits used in the 15 and 9 percent plans, the reader is referred to EPA's proposed rulemaking action on the New York 15 and 9 percent ROP plans, published in the **Federal Register** on November 3, 1999 (64 FR 59706). All of the measures identified in table 3 have either been adopted by New York and submitted to EPA as SIP revisions or are promulgated federal measures. Following table 3 is a concise description of those new measures that were not previously included in New York's 15 and 9 percent plans.

TABLE 3.—SUMMARY OF RFP CONTROL MEASURES AND EMISSION REDUCTION CREDITS (TPD)

Control measures	VOC	NO_X
Non-road mobile source:		
Reformulated Gasoline (Phases I & II)	9.0	
New Engine Standards	60.0	40.0
On-road mobile source:		
Reformulated Gasoline (Phases I & II)	167.2	22.9
Tier I—New Vehicle Standards	59.5	87.1
Low Emission Vehicle	24.2	24.3
Enhanced Inspection and Maintenance	77.6	58.2
2004 NO_X Emission Standards	—	15.0
Stationary source control measures:		
Parts 212, 228, 229—VOC Reasonably Available Control Technology (RACT)	21.6	—
MACT (Federal Air Toxics Measures)	7.9	—
Ozone Transport Commission (OTC) Phase II Baseline (Part 227–3 and Part 204)	—	194.4
Part 227–2	—	7.5
40 CFR Subpart Cb (Large Municipal Waste Combustors)	—	2.5
Capped	2.7	3.3
Area source control measures:		
Auto Body Refinishing	5.8	—
Commercial Bakeries	2.1	—
Consumer Products	12.5	—
Graphic Art Facilities	0.8	—
Hospital Sterilizers	0.1	—
Municipal Solid Waste Landfills	5.1	—
Stage II gasoline vapor recovery	2.1	—
Transit/Loading Losses	0.7	—
Surface Cleaning	19.4	
Total emission reduction credits	478.3	455.2

New Control Measures not included in New York's 15 and 9 percent ROP plans: Reformulated Gasoline Phase II—On-Road; 2004 NO_X Emission Standard; Reformulated Gasoline Phase II—Non-Road; OTC Phase II Baseline (Part 227–3)—NO_X MOU; NO_X SIP Call (Part 204); Capped/shutdown emissions.

Reformulated Gasoline Phase II—On-Road

The second phase of the federal reformulated gasoline program (RFG Phase 2) began on January 1, 2000 in New York's portion of the New York Metro Area. RFG Phase 2 reduces emissions further than the first phase of the program, requiring minimum ozone season VOC reductions of 27 percent from average 1990 gasoline levels. The second phase of the program also requires that refiners reduce NO_X levels by a minimum of 7 percent from average 1990 levels. New York has accounted for the emissions reduction effects of RFG Phase 2 in its most recent ROP plans.

2004 NO_X Emission Standard

EPA finalized new engine emission standards which will require reduced emissions of NO_X beginning with model year 2004. To model the effects of the new heavy duty engine standards, EPA released MOBILE5 Information Sheet #5, ''Inclusion of New 2004 NO_X Standard for Heavy-Duty Diesel Engines in MOBILE5a and MOBILE5b Modeling,'' January 30, 1998. New York has accounted for the effects of the new standard in its modeling based on this EPA guidance.

Reformulated Gasoline Phase II—Non-Road

New York based its assumptions regarding expected emissions reductions from use of RFG Phase 2 in nonroad vehicles and engines on expected gasoline Reid vapor pressure (RVP) reductions associated with this gasoline and theoretical vapor-liquid relationships. New York verified its predictions using EPA's draft NONROAD computer model. EPA has determined that New York's methods for predicting emissions benefits from this source category are approvable. However, once EPA's NONROAD model becomes final, New York will be expected to reexamine and consider recalculation of the emission reductions, if at that time, there is reason to believe that results predicted by the final NONROAD model will vary significantly from those predicted by the draft model. This is because EPA guidance recommends against use of draft models for SIP purposes.

OTC Phase II Baseline (Part 227–3)—NO_X MOU

On January 12, 1999, New York adopted revisions to Part 227–3 ''Pre 2003 Nitrogen Oxides Emissions Budget and Allocation Program,'' which incorporate the NO_X Memoranda of Understanding (MOU) requirements. The Ozone Transport Commission (OTC) NO_X MOU calls for states to reduce NO_X emissions from boilers and indirect heat exchangers with heat inputs greater than 250 million British

Thermal Unit (Btu) per hour. These emission reductions will be realized in two phases, first in 1999 and again in 2003. Part 227–3 became effective on March 5, 1999 and sources are required to be in compliance with the first phase by May 1, 1999. On April 29, 1999, NYSDEC submitted to EPA a SIP revision which included the revisions to Part 227–3. On April 19, 2000, 65 FR 20905, EPA approved the revisions to Part 227–3.

NO_X SIP Call (Part 204)

On October 27, 1998, EPA published a final rule entitled, ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,'' otherwise known as the '' NO_X SIP Call.'' See 63 FR 57356. At that time, the NO_X SIP Call required 22 states and the District of Columbia [1] to meet statewide NO_X emission budgets during the five month period from May 1 through September 30 in order to reduce the amount of ground level ozone that is transported across the eastern United States. The NO_X SIP Call set out a schedule that required the affected states, including New York, to adopt regulations by September 30, 1999, and to implement control strategies by May 1, 2003 [2].

The NO_X SIP Call allowed states the flexibility to decide which source categories to regulate in order to meet the statewide budgets. However, the SIP Call notice suggested that imposing statewide NO_X emissions caps on large fossil-fuel fired industrial boilers and electricity generators would provide a highly cost-effective means for states to meet their NO_X budgets.

On November 15, 1999, New York adopted Part 204, '' NO_X Budget Trading Program,'' in order to strengthen its one-hour ozone SIP and to comply with the NO_X SIP Call during each ozone season, i.e., May 1 through September 30, beginning in 2003. On May 22, 2001 (66 FR 28059) EPA approved New York's regulations to comply with the NO_X SIP Call.

Capped/Shutdown Emissions

Certain facilities chose permit limits on their hours of operation to ''cap'' their facilities potential emissions below an annual level which reflected their actual hours of operation and emissions. These ''capping out'' provisions are included in a number of New York VOC and NO_X RACT regulations. The ''capping out'' provision exempts the facility from RACT requirements and/or Title V permitting requirements. In the projection inventory, New York adjusted emissions to account for those facilities that have ''capped out.'' In addition, New York adjusted emissions to account for those facilities that have ceased or shutdown operations since the 1990 base year emissions inventory was compiled.

What is EPA's Assessment of New York's Control Measures and the Emission Reductions Credits?

New York has identified the control measures necessary for achieving the required emission reductions and all the measures have been adopted and implemented. EPA is proposing to find that the 2002, 2005 and 2007 RFP Plans contain the necessary measures as identified in Table 3 to achieve the required emission reductions. Therefore, EPA proposes to approve the emission reduction credits associated with the control measures identified in New York's 2002, 2005 and 2007 RFP plans.

Does New York Achieve the RFP Target Level of Emissions for Milestone Years 2002, 2005 and 2007?

New York identified the control measures necessary for achieving the required emission reductions and all the measures have been adopted and are implemented or scheduled to be implemented. New York's November 27, 1998 submittal included a cumulative summary of the VOC and NO_X emission reduction credits associated with the control measures identified in Table 3, i.e., credits between 1990–2002, 1990–2005 and 1990–2007. To verify whether the emission reduction credits identified in New York's plan meet the 3 percent per year RFP requirement for milestone years 2002, 2005 and 2007, EPA recalculated New York's emission reduction credits such that the emission reduction credits represent the incremental credits achieved between each milestone year, i.e., 1999–2002, 2002–2005 and 2005–2007. Detailed tables are contained in the TSD which include among other data, columns showing the target level VOC and NO_X emissions and the total emission reduction credits for the source categories for each milestone year. Based on EPA's calculation of the incremental emission reduction credits associated with New York's submittal, EPA has determined that New York has achieved the RFP required reductions for milestone years 2002, 2005 and 2007.

Figure 1 depicts the required 2002, 2005 and 2007 RFP VOC target level emissions, the estimated VOC emissions based solely on implementing all of the VOC control strategies and the estimated VOC equivalent emissions with NO_X substitution based on implementing all of the control strategies identified in table 3. The RFP target levels for milestone years 2002, 2005 and 2007 are 684.07 tpd, 589.86 tpd and 528.32 tpd, respectively. The projected controlled level of emissions in milestone years 2002, 2005 and 2007 are 622.65 tpd, 548.83 tpd and 526.9 tpd, respectively. As can be seen from Figure 1, the VOC equivalent emissions (with substituting NO_X for VOC) fall below the RFP target levels, therefore, New York has demonstrated that the RFP requirements have been met.

[1] Alabama, Connecticut, District of Columbia, Delaware, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, Wisconsin, and West Virginia.

[2] On May 25, 1999, the D.C. Circuit issued a stay of the submission requirement of the SIP Call pending further order of the court. Michigan v. EPA, No. 98–1497 (D.C. Cir. May 25, 1999) (order granting stay in part). On April 3rd and 18th, 2000, New York voluntarily submitted this revision to EPA for approval notwithstanding the court's stay of the SIP submission deadline. On March 3, 2000, the D.C. Circuit ruled on Michigan v. EPA, affirming most aspects of the SIP Call and remanding limited portions to the Agency. On June 22, 2000, the D.C. Circuit lifted the stay of the SIP submission obligations and provided states until October 30, 2000.

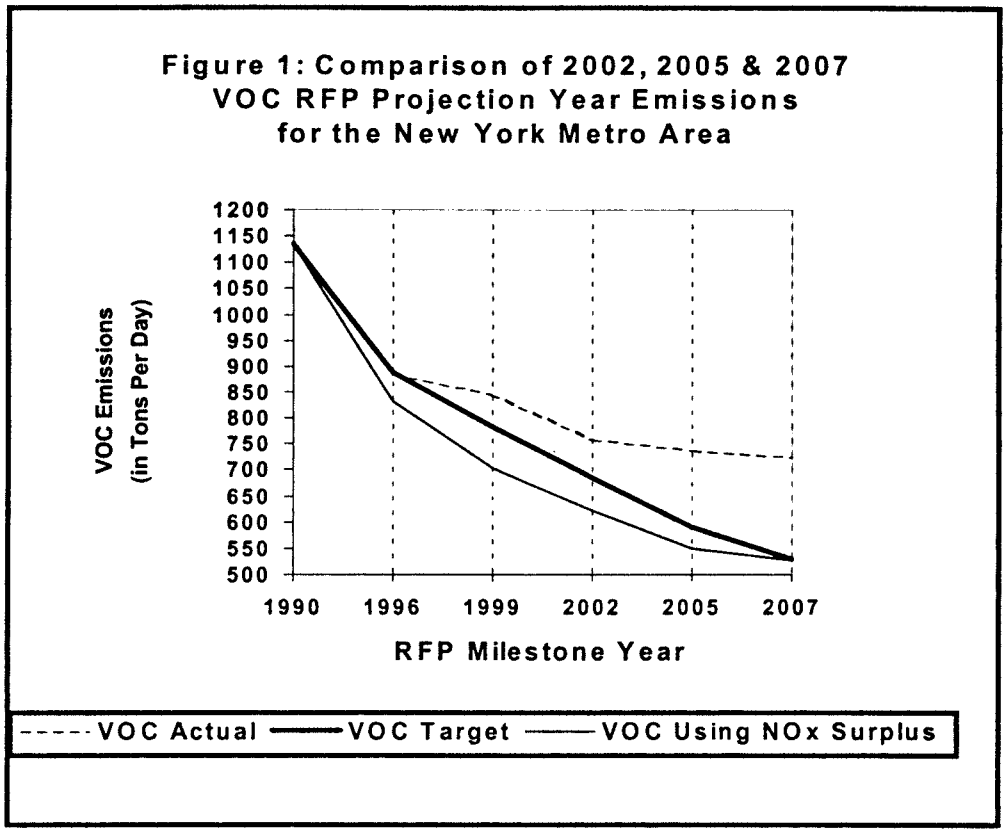
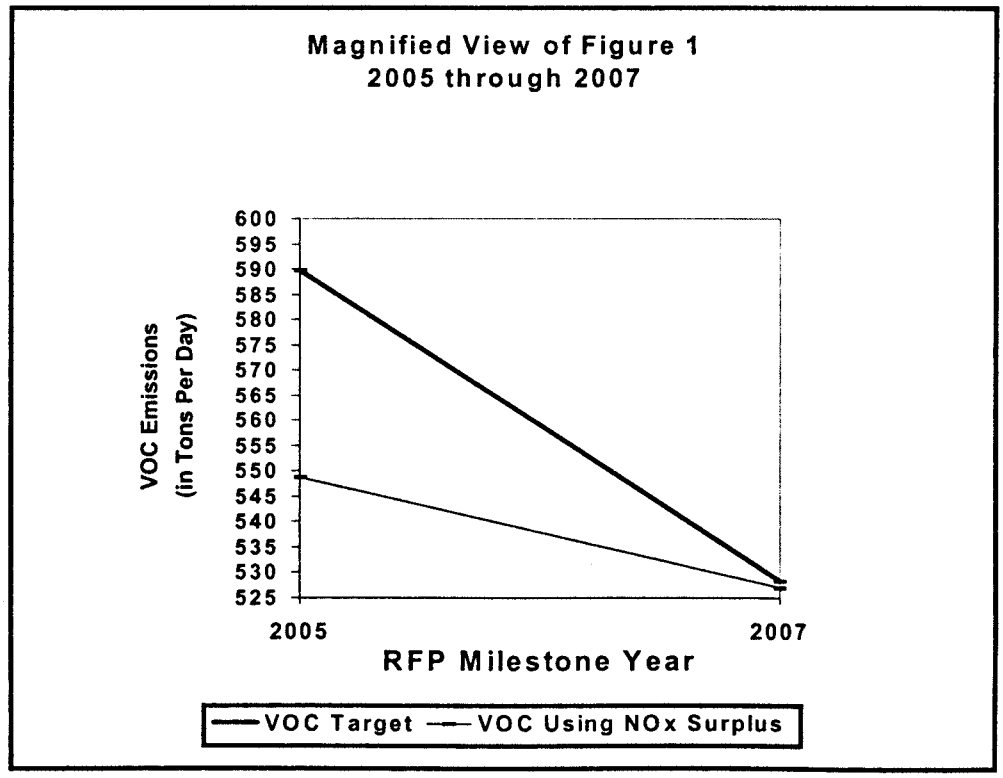


Figure 1: Comparison of 2002, 2005 & 2007
VOC RFP Projection Year Emissions
for the New York Metro Area
VOC Emissions
(in Tons Per Day)
1200
1150
1100
1050
1000
950
900
850
800
750
700
650
600
550
500
1990
1996
1999
2002
2005
2007
RFP Milestone Year
VOC Actual
VOC Target
VOC Using NOx Surplus


Magnified View of Figure 1
2005 through 2007
VOC Emissions
(in Tons Per Day)
600
595
590
585
580
575
570
565
560
555
550
545
540
535
530
525
2005
2007
RFP Milestone Year
VOC Target
VOC Using NOx Surplus

EPA is proposing to find that New York's RFP Plans contain the necessary measures as identified in Table 3 to achieve the required emission reductions.

How Did New York Provide for the Contingency Measure Requirement?

Contingency Measures

In addition to the 2002, 2005 and 2007 RFP Plans, the New York submittal also addresses contingency measures required under the Act. Section 172(c)(9) of the Act requires states with ozone nonattainment areas classified as moderate and above to adopt contingency measures by November 15, 1993. Such measures must provide for the implementation of specific emission control measures if an ozone nonattainment area fails to achieve RFP or to attain the NAAQS within the time-frames specified under the Act. Section 182(c)(9) of the Act requires that, in addition to the contingency measures required under section 172(c)(9), the contingency measure SIP revision for serious and above ozone nonattainment areas must also provide for the implementation of specific measures if the area fails to meet any applicable milestone in the Act. As provided by these sections of the Act, the contingency measures must take effect without further action by the state or by the EPA Administrator upon failure by the state to: meet RFP emission reduction milestones; attainment of the NAAQS by the required deadline; or other applicable milestones of the Act. EPA's policy, as provided in the April 16, 1992, ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (General Preamble) (57 FR 13498), states that the contingency measures, in total, must generally be able to provide for 3 percent reduction of adjusted 1990 baseline emissions beyond the reduction required for a particular milestone year. While all contingency measures must be fully adopted rules or measures, states can use the measures in two different ways. A state can choose to implement contingency measures before the milestone deadline. Alternatively, a state may decide not to implement a contingency measure until an area has actually failed to achieve a RFP or attainment milestone. In the latter situation, the contingency measure emission reduction must be achieved within one year following identification of a milestone failure. The General Preamble indicates that the 3 percent reduction ''buffer'' must be maintained through each RFP milestone. Therefore, New York must demonstrate that the New York Metro Area has enough contingency measure reductions in addition to the reductions claimed for the 2002, 2005 and 2007 RFP Plans. Because of this requirement, New York's 2002, 2005 and 2007 RFP Plans identify, for contingency purposes, a 3 percent emission reduction beyond the reduction required for RFP.

Consistent with guidance provided in the General Preamble, New York determined the needed contingency measure reduction by multiplying 3 percent of the 1990 adjusted base year emissions. Based on this calculation, the needed contingency measure reduction for the New York Metro Area is 34 TPD of VOC.

Consistent with the December 29, 1997 EPA memorandum from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation ''Guidance for the Implementing the 1-hour Ozone and the Pre-existing PM10 NAAQS,'' states may take credit for NO_X emissions reductions obtained from sources outside the designated nonattainment area for the post-1999 RFP requirement. New York substituted creditable NO_X reductions from outside the New York Metro Area, specifically from the Roseton Generating Station located in Newburgh (Northern Orange County, NY). This facility is affected by Subpart 227–3, NO_X Budget program and will provide creditable NO_X emission reductions for the contingency requirement. These emission reductions will be realized in two phases, first in 1999 and again in 2003. Part 227–3 became effective on March 5, 1999 and sources are required to be in compliance with the first phase by May 1, 1999. On April 19, 2000, 65 FR 20905, EPA approved the revisions to Part 227–3. New York's use of these reductions is consistent with the criteria outlined in EPA's guidance. EPA believes that this additional flexibility for states in their RFP SIP's is consistent with the Act, since reductions from outside a nonattainment area within certain limits contribute to progress toward attainment within the area.

The New York RFP Plans achieve an additional 34 tpd reduction in VOC equivalent emissions with NO_X substitution beyond the 3 percent per year RFP ozone precursor reduction, through creditable control measures. For this reason, the contingency measure portion of the 2002, 2005 and 2007 RFP Plans satisfy the contingency measure requirements of the Act. Therefore, EPA proposes to approve the contingency measure portion of the plan.

Are New York's RFP Reductions Consistent With EPA's Proposal of the 1-Hour Ozone Attainment Demonstration?

On December 16, 1999 (64 FR 70364), EPA proposed that in order for New York to attain the 1-hour ozone standard, additional emission reductions beyond those contained in the RFP plan and attainment demonstration submitted by New York were needed. In that same rulemaking, EPA also proposed approval of the New York 1-hour ozone attainment demonstration SIP provided New York submits various enforceable commitments. On April 18, 2000 New York submitted to EPA the necessary enforceable commitments including a commitment to participate in the development of regional measures through the OTC process and to adopt these measures by October 31, 2001. New York has been an active participant in the OTC process of identifying and developing regional control strategies that would achieve the necessary additional reductions to attain the 1-hour ozone standard in the New York Metro Area. EPA proposes to find that with the inclusion of the enforceable commitments as submitted by New York on April 18, 2000, New York has met the conditions for an approvable attainment demonstration and RFP Plan. EPA proposes to approve the enforceable commitments.

Are New York's Transportation Conformity Budgets Approvable?

By virtue of proposing approval of the 2002, 2005 and 2007 RFP Plan, EPA is also proposing approval of the motor vehicle conformity emissions budgets for VOC and NO_X. On November 16, 1999 (64 FR 62194) EPA found the 2002 and 2005 budgets adequate for conformity purposes. These budgets are consistent with the measures in New York's RFP plan. On April 18, 2000, New York revised the 2007 budgets to reflect the 1-hour ozone attainment demonstration for the New York Metro Area and committed to revise its motor vehicle emissions budget within one year of the official issuance of the MOBILE6 motor vehicles emissions model for regulatory purposes. On June 9, 2000 (65 FR 36690), EPA found the 2007 budget to be adequate for conformity purposes. Since New York has committed to revise the 2007 emissions budget that EPA is proposing to approve, EPA wants its approval of the 2007 emissions budget to last only until an adequate revised budget is submitted pursuant to the commitment. EPA believes the revised 2007 budget

should apply as soon as it is found adequate. EPA does not believe it is necessary to wait until it has been approved as a revision to the respective plan. This is because EPA recognizes that the revised budget will be based on a more advanced technical understanding of motor vehicle emissions and control programs. Accordingly, once the revised budget is found adequate, it will be more appropriate to use for conformity purposes than the originally approved budget.

TABLE 4.—EMISSION BUDGETS FOR CONFORMITY (TPD)

County	2002		2005		2007	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
Bronx	11	17	10	16	9	12
Kings	17	22	16	21	15	17
Nassau	38	50	36	48	36	44
New York	15	15	13	14	12	11
Orange (LOCMA)	4	8	4	8	3	6
Queens	23	31	21	29	19	23
Richmond	7	10	6	10	7	9
Rockland	9	15	8	15	7	11
Suffolk	35	56	33	55	34	51
Westchester	22	41	20	39	21	37
Total	*179	*266	*167	*254	*161	*221

*The totals represent the actual motor vehicle conformity emissions budgets for VOC and NO_X. New York subdivided the county budget numbers from the totals and rounded off to the nearest whole number, therefore, a sum of the county budget numbers identified in Table 4 may be slighty different from the total budget numbers identified in Table 4.

EPA is proposing to approve New York's 2002, 2005 and 2007 emission budgets.

What Are EPA's Conclusions?

EPA has evaluated these submittals for consistency with the Act, applicable EPA regulations, and EPA policy. EPA is proposing approval of New York's: 2002, 2005 and 2007 ozone projection emission inventories; 2002, 2005 and 2007 RFP Plans; transportation conformity budgets; contingency measures; and the enforceable commitments for the 1-hour ozone attainment demonstration.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 3, 2001.

Kathleen C. Callahan,

Acting Regional Administrator, Region 2.

[FR Doc. 01–20263 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4137b; FRL–7033–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Two Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for two major sources of volatile organic compounds (VOC). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

DATES: Comments must be received in writing by September 12, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 814–2182 or Pauline Devose at (215) 814–2186, the EPA Region III address above or by e-mail at *quinto.rose@epa.gov* or *devose.pauline@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: August 7, 2001.

Thomas C. Voltaggio,

Deputy Regional Administrator, Region III.

[FR Doc. 01–20377 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA4127b; FRL–7031–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Eight Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for eight major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing by September 12, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Catherine Magliocchetti (215) 814–2174, or Ellen Wentworth (215) 814–2034 at the EPA Region III address above or by e-mail at *magliocchetti.catherine@epa.gov.* or *wentworth.ellen@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: August 3, 2001.

Thomas C. Voltaggio,

Deputy Regional Administrator, Region III.

[FR Doc. 01–20379 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52, 60, 61, and 62

[MT–001–0018b, MT–001–0019b, MT–001–0020b, MT–001–0022b, MT–001–0023b; MT–001–0031b; FRL–7026–2]

Approval and Promulgation of Air Quality Implementation Plans; Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to partially approve and partially disapprove State Implementation Plan (SIP) revisions submitted by the Governor of Montana, on September 19, 1997, December 10, 1997, April 14, 1999, December 6, 1999 and March 3, 2000. These revisions are intended to recodify and modify the State's air quality rules so that they are consistent with Federal requirements, minimize repetition in the air quality rules, and clarify existing provisions. They also contain Yellowstone County's Local Regulation No. 002—Open Burning. We are also announcing that on May 16, 2001, we delegated the authority for the implementation and enforcement of the New Source Performance Standards (NSPS) to the State. We are proposing to update the NSPS and National Emissions Standards for Hazardous Air Pollutants (NESHAP) ''Status of Delegation Tables'' and the names and addresses of the Regional Office and State Offices in the Region. We are also proposing to update regulations to indicate that Montana provided a negative declaration. EPA is either not acting on or proposing to disapprove certain provisions of the State's air quality rules that should not be in the SIP because they are not generally related to attainment of the National Ambient Air Quality Standards (NAAQS) or they are inconsistent with our SIP requirements. Finally, some provisions of the rules will be acted on at a later date. This action is being taken under sections 110 and 111 of the Clean Air Act. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is partially approving and partially disapproving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the partial approval and partial disapproval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule and the direct final rule will take effect on October 12, 2001. If EPA receives adverse comments, EPA will withdraw the direct final rule before October 12, 2001 and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing on or before September 12, 2001.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, EPA Region 8, (303) 312–6437.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et. seq.*

Dated: July 31, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 01–19873 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52, 60, 61, and 62

[MT–001–0040b; FRL–7029–6]

Approval and Promulgation of Air Quality Implementation Plans; Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of proposed rule.

SUMMARY: On June 15, 2001, EPA published a direct final rule (66 FR 32545) partially approving and partially disapproving, and a parallel proposed rule (66 FR 32594) proposing to partially approve and partially disapprove, State Implementation Plan (SIP) revisions submitted by the Governor of Montana on September 19, 1997; December 10, 1997; April 14, 1999; December 6, 1999; and March 3, 2000. These submitted revisions are intended to recodify and modify the State's air quality rules so that they are consistent with Federal requirements, minimize repetition in the air quality rules, and clarify existing provisions. They also contain Yellowstone County's Local Regulation No. 002—Open Burning. Also, in our June 15, 2001 publication, EPA announced that on May 16, 2001, we delegated the authority for the implementation and enforcement of the New Source Performance Standards (NSPS) to the State. EPA also updated the NSPS and National Emissions Standards for Hazardous Air Pollutants (NESHAP) ''Status of Delegation Tables'' and the names and addresses of the Regional Office and State Offices in the Region. EPA also updated regulations to indicate that Montana provided a negative declaration. The direct final and proposed rule preambles explained that the direct final rule was to become effective on August 14, 2001. However, if EPA received an adverse comment by July 16, 2001, EPA would publish a timely withdrawal of the direct final rule and it would not take effect. Only the June 15, 2001, parallel proposed rule preamble also stated that EPA would address all public comments in a subsequent final rule based on the proposed rule and that EPA would not institute a second comment period. Even though EPA did not receive adverse comments on the June 15, 2001, actions, EPA is withdrawing the June 15, 2001, parallel proposed rule because the direct final and parallel proposed rules contain a number of errors that we have independently identified and want to correct before the direct final rule

would otherwise become effective on August 14, 2001. EPA will issue another direct final rule and a parallel proposed rule correcting these errors and addressing the Governor of Montana's September 19, 1997, December 10, 1997, April 14, 1999, December 6, 1999, and March 3, 2000, submittals.

DATES: As of August 13, 2001, EPA withdraws the proposed rule published at 66 FR 32594.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202.

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, EPA Region 8, (303) 312–6437.

SUPPLEMENTARY INFORMATION: On June 15, 2001, EPA published a direct final rule (66 FR 32545) partially approving and partially disapproving, and a parallel proposed rule (66 FR 32594) proposing to partially approve and partially disapprove, State Implementation Plan (SIP) revisions submitted by the Governor of Montana on September 19, 1997; December 10, 1997; April 14, 1999; December 6, 1999; and March 3, 2000. The direct final rule was scheduled to become effective on August 14, 2001 (except that the delegation of the NSPS to Montana had already become effective on May 16, 2001). However, our preambles to the rules explained that if we received an adverse comment on our action by July 16, 2001, we would issue a timely withdrawal of the direct final rule and it would not take effect. In addition, only one of the June 15, 2001, rules—the parallel proposed rule—further explained that we would then issue another rule responding to any adverse comments and taking final action on the parallel proposal without instituting another public comment period. Our June 15, 2001, actions contained the following specific errors:

1. The June 15, 2001 direct final rule contained incorrect and misleading language in the Administrative Requirements section. Specifically, on page 32553, third column, the paragraph labeled ''G. Submission to Congress and the Comptroller General'' is incorrect in stating that ''EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.'' Instead, the paragraph should have stated that EPA will submit a report containing the rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the U.S., prior to publication of the rule in the **Federal Register**. Our subsequent direct final rule will correct this inaccuracy.

2. The June 15, 2001, preamble to the direct final rule stated our intent to partially disapprove two of the State's air quality regulations, specifically, Administrative Rules of Montana (ARM) 17.8.309(5)(b) and 17.8.310(3)(e). See 66 FR at 32547, 32552. Although we indicated in the preamble that we intended to partially disapprove the rules, we failed to promulgate necessary corresponding regulatory text in 40 CFR part 52 subpart BB indicating that the State rules were to be disapproved. The subsequent direct final rule and parallel proposed rule will correct this error.

3. The June 15, 2001, direct final rule failed to identify the existence of or otherwise accurately cross-reference the parallel proposed rule published on the same day, or indicate that if we received an adverse comment—in addition to withdrawing the direct final rule—we would address all comments in a subsequent final rule based on the proposed rule, without instituting a second comment period. As a result, readers who reviewed our direct final rule alone, without knowledge of the parallel proposed rule, could not have been fully informed of our rulemaking process for this action. If, on the other hand, a reader reviewed both the direct final rule and the parallel proposed rule, she or he would have been presented with inconsistent descriptions of the process to be followed after submission of an adverse comment. Our failure to clearly and accurately describe the rulemaking process will be corrected in the subsequent direct final and parallel proposed rules.

4. The Summary of the June 15, 2001, proposed rule contains an inaccurate and misleading description of the proposed action. Specifically, the Summary indicated that we were proposing to take direct final action, which is confusing and not in fact what we intended. Instead, the proposal should have simply stated that we were proposing to take the actions described in the Summary. The Summary also indicated that we were ''approving'' other provisions, thus suggesting that some things were not only being proposed but were the subject of final action in that proposed rule, when it should have stated that we were proposing to approve those provisions. Our subsequent parallel proposed rule will correct this mistake.

5. The June 15, 2001 preambles to the direct final and proposed rules stated our intent to approve most of the State's recodified air quality rules, including the State's recodified stack height rules. However, in another pending SIP action in Montana (Billings/Laurel), we have questioned aspects of the Montana stack height regulations that are repeated in the recodification. We do not believe we should act on the recodification of these rules before we give full consideration to relevant issues in the context of our ongoing action on the Billings/Laurel SIP, where the issues first arose and should be resolved. The direct final rule's inadvertent approval of the recodification was premature, and should not yet become effective. Accordingly, the subsequent direct final rule will indicate that we will act on the recodified stack height rules at a later date. This deferral of action will have no effect on the existing approved Montana stack height SIP.

We believe that the unique circumstances of the combination of errors in the June 15, 2001, direct final and parallel proposed rules for this action are best remedied, in this case, by a withdrawal of the direct final rule in advance of its taking effect, as would have occurred if someone had filed a comment objecting to the incorrect and misleading preamble language and the mistaken omission of regulatory language or the inadvertent and premature approval of the recodified stack height regulations. In addition, since the parallel proposed rule also contained an inaccurate and misleading description of the nature of that action and since we are withdrawing the direct final rule to which it was paired, it is appropriate to withdraw that rule. Our subsequent direct final and parallel proposed rules will clarify how we are treating the SIP submission, and will contain the necessary regulatory language to fully promulgate the direct final rule, should it become effective. Today's withdrawal action does not affect the status of the May 16, 2001, delegation of the NSPS to Montana, which had already become effective.

In the ''Final Rules'' section of today's **Federal Register** publication, we are withdrawing the direct final rule published on June 15, 2001.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 60

Environmental protection, Air pollution control, Aluminum, Ammonium sulfate plants, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Drycleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Grains, Graphic arts industry, Household appliances, Insulation, Intergovernmental relations, Iron, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Tires, Urethane, Vinyl, Waste treatment and disposal, Wool, Zinc.

40 CFR Part 61

Environmental protection, Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Hazardous substances, Mercury, Vinyl chloride.

40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Fluoride, Intergovernmental relations, Phosphate fertilizer plants, Reporting and recordkeeping requirements.

Dated: August 2, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

Accordingly, under the authority of 42 U.S.C 7401–7671q, the proposed rule (66 FR 32594) (FR Doc. 01–15028) published on June 15, 2001, is withdrawn.

[FR Doc. 01–20039 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–7031–7]

Clean Air Act Full Approval of Operating Permits Program in Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to fully approve the operating permits program submitted by the State of Idaho. Idaho's operating permits program was submitted in response to the directive in the Clean Air Act that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authority's jurisdiction. EPA granted interim approval to Idaho's air operating permits program on December 6, 1996. Idaho has revised its program to satisfy the conditions of the interim approval and EPA therefore proposes to approve those revisions. Idaho has also made several other changes to its program and EPA proposes, with one exception, to approve these additional changes.

DATES: Comments on this proposal must be received in writing by September 12, 2001.

ADDRESSES: Written comments should be addressed to Denise Baker, Environmental Protection Specialist (OAQ–107), Office of Air Quality, at the EPA Regional Office listed below. Copies of Idaho's submittal, and other supporting information used in developing this action, are available for inspection during normal business hours at the U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Denise Baker, Office of Air Quality (OAQ–107), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–8087.

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I. Background

A. What Is the Title V Air Operating Permits Program?

The Clean Air Act (CAA) Amendments of 1990 required all state and local permitting authorities to develop operating permits programs that meet certain Federal criteria. In implementing the operating permits programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permits program is to improve enforcement by issuing each source a permit that consolidates all the applicable CAA requirements into a Federally-enforceable document. By consolidating all the applicable requirements for a source in a single document, the source, the public, and regulators can more easily determine what CAA requirements apply to the source and whether the source is in compliance with those requirements.

Sources required to obtain operating permits under the title V program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter; those that emit 10 tons per year or more of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air

pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' major sources include those with the potential to emit 50 tons per year or more of volatile organic compounds or nitrogen oxides.

B. What Is the Status of Idaho's Title V Air Operating Permits Program?

The State of Idaho (Idaho or State or IDEQ) originally submitted its application for the title V air operating permits program to EPA in 1993. Where an operating permits program substantially, but not fully, meets the criteria outlined in the implementing regulations codified in 40 Code of Federal Regulations (CFR) part 70, EPA is authorized to grant interim approval contingent on the state revising its program to correct the deficiencies. Because the operating permits program originally submitted by Idaho in 1993 substantially, but not fully, met the requirements of part 70, EPA granted interim approval to Idaho's program in an action published on December 6, 1996 (61 FR 64622). The interim approval notice identified the conditions that Idaho must meet in order to receive full approval of its title V air operating permits program.

This document describes the changes Idaho has made to its program in response to the interim approval issues identified by EPA, additional changes Idaho has made to its program since we granted Idaho's program interim approval, and the action EPA proposes to take in response to those changes.

II. What Changes Has Idaho Made To Address the Interim Approval Issues?

On July 9, 1998, the State of Idaho sent a letter to EPA addressing the interim approval issues, transmitting its revised title V statutes and rules, and requesting full approval of Idaho's air operating permits program. EPA received additional submittals from Idaho addressing the interim approval issues and transmitting additional changes in its statutes and rules on May 25, 1999, and March 15, 2001. In these submittals, the State also discussed other changes it has made to its operating permits program since it obtained interim approval and requested approval of these changes. These changes include designating the Idaho Division of Environmental Quality, which was the permit issuing authority at the time of interim approval, as a State Department, now entitled the Idaho Department of Environmental Quality (IDEQ). These changes also include a renumbering and recodification of all of Idaho's air quality regulations.

EPA has reviewed the program revisions submitted by the State of Idaho and has determined that the Idaho program now qualifies for full approval. This section describes the interim approval issues identified by EPA in granting the Idaho program interim approval and the changes Idaho has made to address those issues.[1]

A. Applicability

In granting Idaho interim approval, EPA stated that Idaho must demonstrate that its program covers all sources required to be permitted under part 70. First, EPA stated that Idaho must revise its definition of ''major facility'' to delete the ''August 7, 1980'' limitation unless EPA had finalized its proposal to change the definition of ''major source'' in the part 70 rules to include the August 7, 1980, limitation. Second, EPA stated that Idaho must revise the reference to ''fugitive emissions'' in the definition of ''major facility'' (then codified at IDAPA 16.01.01.008.14.h.iii (1994)) to refer instead to any ''air pollutant'' and must otherwise make any changes needed to demonstrate that its program covers all required sources. See 61 FR at 64632.

Idaho has addressed these issues. First, IDEQ has deleted the ''August 7, 1980'' limitation from its definition of ''major facility,'' which is now codified at IDAPA 58.01.01.008.10.c.ii. Second, IDEQ revised the definition of major facility so that fugitive emissions from listed categories must be considered in determining if a facility is major if those air pollutants are regulated by the identified federal standards. The Idaho Attorney General's office has confirmed that, with these changes, IDEQ has authority to issue operating permits to all air pollution sources in Idaho that are required to have title V operating permits under title V of the Clean Air Act and the part 70 regulations.

B. Temporarily Exempt Sources

In granting Idaho interim approval, EPA stated that Idaho must demonstrate that the application and permitting deadlines for Phase II sources and sources with solid waste incineration units meet the requirements of part 70. 61 FR at 64632. At the time of its original program submittal, Idaho rules allowed the State to defer permitting these sources and had a later permit application date for solid waste incineration units. See 60 FR 54990, 54994 (October 27, 1995) (proposal to grant interim approval to Idaho's operating permits program).

Idaho has revised its rules to make the permitting and application deadlines for Phase II sources and sources with solid waste incineration units consistent with the requirements of part 70. See IDAPA 58.01.01.301.02.b; 58.01.01.313.b, –313.c, and –313.d.

C. New Sources

As a condition of full approval, EPA stated that Idaho must demonstrate that all sources in Idaho applying for a title V permit for the first time are required to submit a permit application within 12 months after becoming subject to title V. See 61 FR at 64632. Idaho's rules now make clear that any source that becomes subject to title V after May 1, 1994 (the effective date of Idaho's title V program) must submit an application for a title V permit within 12 months after becoming a title V source or commencing operation. See IDAPA 58.01.01.313.01.b.

D. Option To Obtain Permit

In granting Idaho interim approval, EPA stated that the Idaho program must allow certain exempt sources to obtain a title V permit if they so requested. See 61 FR at 64632. Idaho has revised its regulations to include such a provision. See IDAPA 58.01.01.302.

E. Fugitive Emissions

As a condition of full approval, EPA stated that Idaho must address the requirement of 40 CFR 70.3(d) that fugitive emissions from title V sources be included in permit applications and permits in the same manner as stack emissions regardless of whether the source category in question is included in the list of sources contained in the definition of major source. See 61 FR at 64632. IDEQ regulations now make clear that fugitive emissions must be included in title V operating permit applications and permits in the same manner as stack emissions. See IDAPA 58.01.01.314.04.a. and 58.01.01.322. EPA is satisfied that Idaho's action resolves this issue.

F. Insignificant Emission Units

In granting Idaho interim approval, EPA stated that Idaho must make several changes in its provisions for ''insignificant emission units'' or ''IEUs.'' EPA stated that Idaho must

[1] Where an IDEQ rule has simply been moved from Chapter 16 to Chapter 58, but retains the same section number, this notice simply cites to the current codification in Chapter 58. Where the section number has also changed, this notice cites to both the section number at the time Idaho received interim approval and the current section number.

define by regulation or guidance the terms used in its regulations addressing IEUs, provide documentation demonstrating that the units and activities identified as IEUs are appropriately defined as insignificant, assure that all activities that are defined as insignificant based on size or production rate be listed in the permit application, and remove any director's discretion provision that would allow the State to determine that an activity not previously reviewed by EPA is insignificant (except for clearly trivial activities). See 61 FR at 64632.

Idaho has better defined the terms used to implement its IEU provisions, refined the list of units and activities that qualify as IEUs, and provided additional documentation to support the list of units and activities. See IDAPA 58.01.01.317.01. Idaho has also revised its rules to clarify that all activities that are defined as insignificant based on size or production rate must be listed in the permit application. See IDAPA 58.01.01.317.01.a and –.b. Finally, Idaho has deleted the director's discretion provision from its list of IEUs. With these changes, EPA believes that Idaho's IEU provisions qualify for full approval. In doing so, EPA notes that the part 70 provisions and Idaho's rules provide only an exemption for IEUs from certain permit application requirements, and not from permit content requirements.

G. Permit Content

Idaho's rules previously stated that the permit must contain all applicable requirements ''identified in the application at the time the * * * permit is issued'' and must contain a permit term for every applicable requirement ''identified in the application.'' See IDAPA 16.01.01.322.01 and –.03 (1994). In granting Idaho interim approval, EPA stated that this restriction impermissibly relieved the permitting authority from including in a permit applicable requirements that are not identified in a permit application, contrary to the requirement of 40 CFR 70.6 that each permit contain all applicable requirements. See 61 FR 64632. Idaho has revised these provisions to clarify that IDEQ can also include in the permit all applicable requirements ''determined by the Department to be applicable to the source.'' See IDAPA 58.01.01.322.01 and –.03. These revisions resolve this interim approval issue.

H. Exemption From Applicable Requirements

At the time EPA granted Idaho interim approval, Idaho's rules allowed IDEQ to exempt sources from otherwise applicable requirements. See IDAPA 16.01.01.322.01.c (1994). EPA stated that, as a condition of full approval, Idaho must delete this provision. See 61 FR at 64632. Idaho has deleted this provision. See IDAPA 58.01.01.322.

I. Emission Trading

In granting Idaho interim approval, EPA stated that Idaho must demonstrate that its emissions trading provisions meet the requirements of part 70. See 61 FR at 64632. EPA also recommended that the requirement of IDAPA 16.01.01.322.05 (1994) (now codified at IDAPA 58.01.01.322.05) that a company contemporaneously record in a company log a change from one trading scenario to another should be specifically referred to in the list of requirements a source must meet in IDAPA 16.01.01.383.03 (1994) in order to make a ''Type II'' permit deviation.''

IDEQ has made revisions to IDAPA 58.01.01.314.11.c and 58.01.01.322.05.a to ensure that a permit applicant requesting a permit with emission trading provisions propose replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable and that emissions trades for which the emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trade will not be approved. In addition, IDAPA 58.01.01.322.05.b now requires that each operating permit state that no permit revision shall be required under approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes that are provided for in the permit.

IDEQ did attempt to respond to EPA's recommendation regarding IDAPA 58.01.01.322.05, but the cross-reference to section 383 added to IDAPA 58.01.01.322.05.c appears to be in error. EPA believes that the cross-reference should be to section 385. Because this change was a recommendation, and not required by the part 70 regulations, this error does not pose a bar to full approval. Nonetheless, to avoid unnecessary confusion, EPA urges the IDEQ to address this minor error in its next rulemaking.

With these changes, EPA is satisfied that Idaho has resolved the interim approval issues identified by EPA in connection with emission trading.

J. Alternative Emission Limits

EPA stated that as a condition of full approval, IDEQ must demonstrate that its operating permits program meets the requirement of 40 CFR 70.6(a)(1)(iii) that a permit with an allowable alternative emission limit contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable and based on replicable procedures. See 61 FR at 64632. Under the Idaho rules, alternative emission limits authorized by IDAPA 58.01.01.440 are subject to the same requirements as emission trading provisions, namely, that any resulting emissions limit must be demonstrated to be quantifiable, accountable, enforceable and based on replicable procedures. See IDAPA 58.01.01.314.11.a and .c; IDAPA 58.01.01.322.05a. Therefore, the changes made by IDEQ to address the interim approval issues for emission trading also address the interim approval issues identified by EPA for alternative emission limits.

K. Reporting of Permit Deviations

As a condition of full approval, EPA stated that IDEQ must revise its rules to require prompt reporting of deviations from all permit requirements, not just those deviations attributable to startup, shutdown, scheduled maintenance, upset, or breakdown. See 61 FR at 64632. IDEQ has added IDAPA 58.01.01.322.15.q which requires the reporting of permit deviations attributable to excess emission events in the time periods specified by Idaho's excess emission rules (generally within 24 hours of occurrence) and the reporting of all other permit deviations every six months unless a shorter time period is specified. EPA is satisfied that Idaho's action resolves this issue.

L. Acid Rain Provisions

In granting Idaho interim approval, EPA stated that Idaho must demonstrate that its program includes the provision of 40 CFR 70.6(a)(4)(i) that no permit revision is required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement. See 61 FR at 64632. IDEQ has revised IDAPA 58.01.01.322.12.b to include this provision.

M. State-Only Enforceable Requirements

In granting Idaho interim approval, EPA stated that Idaho must demonstrate that its regulations define ''State-Only'' requirements in a manner consistent with the provisions of 40 CFR 70.6(b)(2), namely, that no requirement may be ''State-Only'' if it is required under the Act or under any of its applicable requirements. See 61 FR at 64632. IDEQ has revised its regulations to specify which provisions may be designated as ''State Only'' and the definition is

consistent with the requirements of part 70. IDAPA 58.01.01.322.15.k. Therefore, EPA is satisfied that Idaho's action resolves this issue.

N. General Permits

EPA stated that, as a condition of full approval, Idaho must revise its regulations authorizing general permits to be consistent with 40 CFR 70.6(d), including provisions that: (a) Require the permitting authority to grant the conditions and terms of a general permit to sources that qualify; (b) require specialized general permit applications to meet the requirements of title V; and (c) govern enforcement actions for operation without a permit if the source is later determined not to qualify for the conditions and terms of the general permit. See 61 FR at 64632.

IDEQ has revised IDAPA 58.01.01.335.04 to require IDEQ to grant the conditions and terms of a general permit to sources that qualify. IDAPA 58.01.01.335.03.c now requires that specialized general permit applications must meet the requirements of title V. IDAPA 58.01.01.316 now provides that, not withstanding the permit shield provisions, an owner or operator is subject to enforcement action for operating a source without a title V permit if the source is later determined not to qualify for coverage under the terms and conditions of its title V permit. These revisions address the interim approval issues identified by EPA for general permits.

O. Operational Flexibility

In granting Idaho interim approval, EPA stated that IDEQ must ensure that the permitting authority attach a copy of the notice of a permitted operational change to the relevant permit, as required by 40 CFR 70.4(b)(12), as a condition of full approval. See 61 FR at 64633. IDEQ has revised IDAPA 58.01.01.364.02 to include this requirement.

P. Off-Permit Provisions

Part 70 authorizes an approved permit program to include certain ''off-permit'' provisions whereby a permittee can make a change at its facility without the need for a permit revision provided the permittee keeps a record at the facility of each off-permit change and provides notice of each such change to EPA and the permitting authority. See 40 CFR 70.4(b)(14) and (15). At the time EPA granted Idaho interim approval, Idaho's rules allowed a permittee seven days within which to record such a change in a log at its facility. See 16.01.01.382.02 (1994). EPA stated that this seven-day time frame was not consistent with the requirements of 40 CFR 70.4(b)(14)(iv) and must be changed as a condition of full approval. See 61 FR at 64633.

Idaho has deleted the provision stating that a source has seven days in which to record the change and the language in Idaho's rules is now consistent with part 70. See IDAPA 58.01.01.385.02.b. Therefore, EPA believes that IDEQ has addressed this interim approval issue.

Q. Permit Renewals

EPA stated that Idaho must revise its regulations to ensure that an application for a permit renewal will not be considered timely if it is filed more than 18 months before permit expiration. See 61 FR at 64633. Idaho has revised its rules to specify that an owner or operator must submit its renewal application at least six months before, but no earlier than 18 months before, the permit expiration date. See IDAPA 58.01.01.313.03.

R. Completeness Determination

In granting Idaho interim approval, EPA stated that Idaho must revise its regulations to ensure that applications will be deemed complete within 60 days of receipt for all sources. See 61 FR at 64633. IDEQ has revised IDAPA 58.01.01.361.02 so that it is now clear that if, within 60 days of receiving the application, IDEQ fails to send written notice to the applicant regarding whether the application is complete, the application shall be deemed complete.

S. Administrative Amendments

As a condition of full approval, EPA stated that Idaho must delete from the list of changes that may be accomplished by administrative amendment the categories of compliance orders and applicable consent orders, judicial consent decrees, judicial orders, administrative orders, settlement agreements, and judgments. See 61 FR at 64633. Idaho has revised these provisions and IDAPA 58.01.01.381.01 (previously codified at IDAPA 16.01.01.384.01.a (1994)) no longer lists compliance orders and applicable consent orders, judicial consent decrees, judicial orders, administrative orders, settlement agreements, and judgments as changes that may be accomplished by administrative amendment. EPA is satisfied that this revision resolves this issue.

T. Minor Permit Modifications

EPA stated that, as a condition of full approval, Idaho must revise its rules to prohibit the issuance of any permit until after the earlier of expiration of EPA's 45-day review period or until EPA has notified the permitting authority that EPA will not object to issuance of the permit modification. See 61 FR at 64633. Idaho has amended IDAPA 58.01.01.383.03.d (previously codified at IDAPA 16.01.01.385 (1994)) to expressly prohibit the issuance of any minor permit modification until after the earlier of expiration of EPA's 45-day review period or until EPA has notified the permitting authority that EPA will not object to the issuance of the permit. Therefore, EPA believes that Idaho has addressed this issue.

U. Group Processing of Minor Permit Modifications

As a condition of full approval, EPA stated that Idaho must delete the ''director's discretion'' provision in its group processing procedures or make a showing consistent with 40 CFR 70.7(e)(3)(i)(B) for alternative thresholds. In addition, as with Idaho's procedures for minor modification, EPA stated that Idaho must revise its rules to prohibit the issuance of any permit until after the earlier of expiration of EPA's 45-day review period or until EPA has notified the permitting authority that EPA will not object to issuance of the permit modification. See 61 FR at 64633.

To address the first issue, IDEQ has deleted the language regarding ''director's discretion'' in its provisions regarding group processing of minor permit modifications. See IDAPA 58.01.01.383 (previously codified at IDAPA 16.01.01.385 (1994)). With respect to the second issue, Idaho has revised its group processing provisions so that they now prohibit the issuance of any minor permit modification until after the earlier of expiration of EPA's 45-day review period or until EPA has notified the permitting authority that EPA will not object to the issuance of the permit. See IDAPA 58.01.01.383.03.d.

V. Reopenings

Idaho's provisions for reopenings originally stated that, in the case of a reopening for cause initiated by EPA, the notice sent by EPA to the permittee and IDEQ must contain more information than required by the part 70 regulations. In granting Idaho interim approval, EPA stated that Idaho must revise its regulations to ensure that the EPA notice was only required to contain the information specified by 40 CFR 70.7(g)(1). See 61 FR 64633. IDEQ has revised the notice provisions, IDAPA 58.01.01.386.02.c (previously codified at IDAPA 16.01.01.387 (1994)), to be

consistent with the requirements of part 70.

W. Public Participation

In granting Idaho interim approval, EPA stated that Idaho must demonstrate to EPA's satisfaction that its restrictions on the release to the public of permits, permit applications, and other related information under its laws governing confidentiality do not exceed those allowed by 40 CFR 70.4(b)(3)(viii) and section 114(c) of the Clean Air Act. See 61 FR 64633. In 1998, Idaho revised its provisions regarding the disclosure of information submitted to the Department and claimed as ''confidential.'' State law now provides authority to make available to the public any permit application, compliance plan, permit and monitoring and compliance criteria report except for information which qualifies for confidential treatment as a trade secret, which shall be kept confidential. See Idaho Code sections 9–342A; 39–111. State law also provides that the contents of an operating permit shall not be entitled to confidential treatment. Idaho Code section 9–342A(1)(b). The Idaho Attorney General's office has clarified that Idaho interprets the definition of the term ''air pollution emissions data'' consistent with section 114(c) of the CAA and 40 CFR 2.301(2)(a). Thus, EPA believes that Idaho's laws governing public assess to title V records meet the requirements of 40 CFR 70.4(b)(3)(viii) and section 114(c) of the CAA.

X. Permits for Solid Waste Incineration Units

EPA stated that, as a condition of full approval, Idaho must ensure that no permit for a solid waste incineration unit may be issued by an agency, instrumentality, or person that is also responsible, in whole or in part, for the design and construction or operation of the unit, as required by 40 CFR 70.4(b)(3)(iv). See 61 FR 64633. EPA was concerned because, at the time of interim approval, the Idaho Department of Health and Welfare, the agency that issued title V permits in Idaho, was also responsible for the design, construction, and operation of a small number of solid waste incineration units. During the 2000 legislative session, the Division of Environmental Quality became a separate department rather than a division of the Idaho Department of Health and Welfare, which remained a separate department. The Department of Environmental Quality is not responsible for the design, construction, or operation of any solid waste incineration units. Therefore, no permit for a solid waste incineration unit will be issued by an agency, instrumentality, or person that is also responsible, in whole or in part, for the design and construction or operation of the unit.

Y. Maximum Criminal Penalties

EPA stated that, as a condition of full approval, Idaho must demonstrate to EPA's satisfaction that it has sufficient authority to recover criminal penalties in the maximum amount of not less than $10,000 per day per violation, as required by 40 CFR 70.11(a)(3)(ii). See 61 FR 64633. During the 1998 legislative session, the Idaho Legislature revised Idaho Code section 39–117(2) to clarify that criminal fines may be recoverable in a maximum amount of $10,000 per day per violation, by stating that:

> Any person who knowingly violates any of the provisions of the air quality public health or environmental protection laws or the terms of any lawful notice, order, permit, standard or rule issued pursuant thereto shall be guilty of misdemeanor and upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars ($10,000) per day per violation.

EPA is satisfied that Idaho's action resolves this issue.

Z. False Statements and Tampering

In granting Idaho interim approval, we stated that Idaho must revise State law to provide for criminal penalties of up to $10,000 per day per violation against any person who knowingly makes any false material statement, representation or certification in any form, in any notice or report required by a permit or who knowingly renders inaccurate any required monitoring device or method, as required by 40 CFR 70.11(a)(3)(iii). *See* 61 FR at 64633.

To address this issue, Idaho added IDAPA 58.01.01.125 and 126, which specifically prohibit a person from knowingly making a false statement, representation, or certification in any form, notice, or report required under any permit, or any applicable rule or order in force pursuant thereto, or from knowingly rendering inaccurate any required monitoring device or method required. The Idaho Attorney General's office has confirmed that the criminal penalties described in Idaho Code section 39–117 apply to those who knowingly violate IDAPA 58.01.01.125 or 126.

AA. Environmental Audit Statute

In granting Idaho interim approval, EPA stated that Idaho must revise both the immunity and disclosure provisions of the Idaho Audit Act, Idaho Code title 9, chapter 8, to ensure that they do not interfere with the requirements of section 502(b)(E)(5) of the Clean Air Act and 40 CFR 70.11 for adequate authority to pursue civil and criminal penalties and otherwise assure compliance. Alternatively, EPA stated that Idaho must demonstrate to EPA's satisfaction through an Attorney General's opinion that these required enforcement authorities are not compromised by the Idaho Audit Act. See 61 FR 64633.

The Environmental Audit Protection Act lapsed by its terms on December 31, 1997 and the implementing rules were repealed in 1998. EPA is therefore satisfied that Idaho has resolved this issue.

BB. Correction of Typographical Errors and Cross-References

EPA also noted several typographical errors and erroneous cross references that Idaho must address to obtain full approval. Idaho has made each of the changes.

III. What Other Changes Has Idaho Made to Its Program—Outside of Addressing the Interim Approval Issues?

Idaho has made several other changes to its operating permits program since EPA granted Idaho interim approval in 1996. These changes, as well as EPA's action on the changes, are discussed below.

A. Designation of the Idaho Department of Environmental Quality

As discussed above, during the 2000 legislative session, the Division of Environmental Quality became a separate department rather than a division of the Idaho Department of Health and Welfare, which remained a separate department. See Idaho Code sections 39–102A and 39–104. At the same time, the Department of Environmental Quality was given the title V authorities previously held by the Department of Health and Welfare. See Idaho Code sections 39–108 to 39–118D. EPA proposes to approve as a revision of Idaho's title V program the transfer of the program from the Department of Health and Welfare, Division of Environmental Quality, to the Department of Environmental Quality.

B. Recodification

As discussed above, Idaho has also renumbered and recodified all of its air quality regulations. Idaho's title V rules are now codified in IDAPA Chapter 58. EPA proposes to approve this renumbering and recodification as a revision to Idaho's title V program.

C. Permit Fees

Idaho has revised its fee rules to allow payment of fees based on actual annual

emissions, an estimate of actual annual emissions, or/and allowable emissions based on permit limitations. See IDAPA 58.01.01.530 through 538. The per ton fee is $30. IDEQ stated in its submittal that it recognized the $30 per ton fee may need adjustment once IDEQ better understands the amount of fees it collects under its revised rules and the amount it costs to run a successful title V program.

The sufficiency of Idaho's fee rules was not identified by EPA as an interim approval issue. EPA will be conducting a review of Idaho's title V fees to determine whether the fees collected are sufficient to cover its title V permit program costs and whether title V fees are used solely for title V permit program costs, as required by 40 CFR 70.9. Therefore, EPA is taking no action on Idaho's fee rules at this time and defers its determination of the sufficiency of Idaho's fee rules until the fee review is completed.

D. Permit Revision Procedures

Since obtaining interim approval, IDEQ has revised the following regulations of IDAPA 58.01.01 governing permit revision procedures in an attempt to clarify these requirements: section 209.05 (permit to construct procedures for Tier 1 sources); section 380 (changes to Tier 1 permits); section 381 (administrative permit amendments); section 382 (significant permit modifications); section 383 (regarding minor permit modifications); section 384 (section 502(b)(10) changes and certain emission trades); section 385 (off-permit changes and notices); and section 386 (permit reopenings for cause). The goal of the revisions was to clarify, consistent with the requirements of part 70, what kinds of changes qualify for each type of permit revision procedure and make them easier to apply by phrasing the rules in the positive as opposed to the negative (i.e., what changes qualify for a specific permit revision procedure, instead of what changes do not qualify for a certain permit revision procedure), as is currently the case in several of the part 70 permit revision provisions. EPA has reviewed IDEQ's revised permit revision procedures and believes they meet the requirements of part 70. Therefore, EPA proposes to approve Idaho's revised permit revision procedures as a revision to Idaho's part 70 program.

E. Compliance Certification Requirements

IDEQ has revised its rules so that the compliance certification requirements are consistent with the revised compliance certification requirements of part 70. See IDAPA 58.01.01.314.11. EPA proposes to approve Idaho's revised compliance certification procedures as a revision to Idaho's part 70 program.

F. Deferral of Minor Sources

IDEQ has revised its rules to defer the permitting of nonmajor sources that are not affected sources under the acid rain program, are not required to obtain a permit under section 129(e) of the CAA, and are not subject to a standard under section 111 or 112 of the CAA promulgated after July 21, 1992. See IDAPA 58.01.01.301.02.b.iv. EPA is proposing to approve this revision.

IV. Proposed Final Action

EPA proposes full approval of the operating permits program submitted by IDEQ based on the revisions submitted on July 9, 1998, May 25, 1999, and March 15, 2001, which satisfactorily address the program deficiencies identified in EPA's December 6, 1996 Interim Approval Rulemaking. *See* 61 FR 64622. In addition, EPA is proposing to approve, as a title V operating permit program revision, IDEQ's designation as a department and the Idaho title V permitting authority; the recodification and renumbering of Idaho's title V rules; and Idaho's revised regulations for permit revision procedures, compliance certification, and the deferral of permitting nonmajor sources submitted on the same dates. EPA is not proposing to take action on Idaho's revised fee rules. As previously discussed, EPA will be conducting a review of Idaho's title V fees to determine whether the fees collected are sufficient to cover its title V permit program costs and whether title V fees are used solely for title V permit program costs.

Consistent with EPA's action granting Idaho interim approval, 61 FR at 64623, this approval does not extend to ''Indian Country'', as defined in 18 U.S.C. 1151. *See* 64 FR 8247, 8250–8251 (February 19, 1999); 59 FR 42552, 42554 (August 18, 1994).

V. Request for Public Comment

We are soliciting public comment on all aspects of this proposal. These comments will be considered before taking final action. To comment on today's proposal, you should submit comments by mail or in person (in triplicate if possible) to the **ADDRESSES** section listed in the front of this document. Your comments must be received by September 12, 2001 to be considered in the final action taken by EPA.

VI. Are There any Administrative Requirements That Apply to This Action?

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significantly regulatory action under

Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. 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.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: August 1, 2001.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

[FR Doc. 01–20215 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CT–066–7223; A–1–FRL–7032–6]

Full Approval of Operating Permit Program; State of Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The EPA is proposing to fully approve the operating permit program for the State of Connecticut. Connecticut's operating permit program was created to meet the federal Clean Air Act (Act) directive that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources of air pollution and to certain other sources within the states' jurisdiction. EPA is proposing to approve Connecticut's program at the same time Connecticut is proposing changes to its state regulations to address EPA's interim approval issues. EPA will only finalize its approval of Connecticut's program after Connecticut finalizes its rule consistent with the program changes and interpretations described in this notice. The public comment period for Connecticut's program regulations (R.C.S.A. Sections 22a–174–2a and 22a–174–33) is open for comment from July 17, 2001 until September 7, 2001.

DATES: Comments on this proposed rule must be received on or before September 12, 2001.

ADDRESSES: Comments may be mailed to Donald Dahl, Air Permits Program Unit, Office of Ecosystem Protection (mail code CAP) U.S. Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. EPA strongly recommends that any comments should also be sent to Ellen Walton of the Department of Environmental Protection, Bureau of Air Management, Planning and Standards Division, 79 Elm Street, Hartford, Connecticut 06106–5127. Copies of the State submittal and other supporting documentation relevant to this action, are available for public inspection during normal business hours, by appointment at the above addresses.

FOR FURTHER INFORMATION CONTACT: Donald Dahl at (617) 918–1657.

SUPPLEMENTARY INFORMATION:

I. Why Was Connecticut Required To Develop an Operating Permit Program?

Title V of the Clean Air Act (''the Act'') as amended (42 U.S.C. 7401 and 7661 *et seq.*), requires all states to develop an operating permit program and submit it to EPA for approval. EPA has promulgated rules that define the minimum elements of an approvable state operating permit program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of state operating permit programs. See 57 FR 32250 (July 21, 1992). These rules are codified at 40 Code of Federal Regulations (CFR) Part 70 (Part 70). Title V directs states to develop programs for issuing operating permits to all major stationary sources and to certain other sources. The Act directs states to submit their operating permit programs to EPA by November 15, 1993, and requires that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act (42 U.S.C. Sec. 7661a) and the Part 70 regulations, which together outline criteria for approval or disapproval.

Where a program substantially, but not fully, meets the requirements of Part 70, EPA may grant the program either partial or interim approval. If EPA has not fully approved a program by two years after the November 15, 1993 date, or before the expiration of an interim program approval, it must establish and implement a federal program. EPA granted the State of Connecticut final interim approval of its program on March 24, 1997 (see 62 FR 13830) and the program became effective on April 23, 1997.

II. What Did Connecticut Submit To Meet the Title V Requirements?

The Governor of Connecticut submitted a Title V operating permit program for the State of Connecticut on September 28, 1995. In addition to regulations (Section 22a–174–33 of the Department of Environmental Protection Regulations), the program submittal included a legal opinion from the Attorney General of Connecticut stating that the laws of the State provide adequate legal authority to carry out all aspects of the program, and a description of how the State would implement the program. The submittal additionally contained evidence of proper adoption of the program regulations, application and permit forms, and a permit fee demonstration. This program, including the operating permit regulations, substantially met the requirements of Part 70.

III. What Was EPA's Action on Connecticut's 1995 Submittal?

EPA deemed the program administratively complete in a letter to the Governor dated November 22, 1995. On December 6, 1996, EPA proposed to grant interim approval to Connecticut's submittal. After responding to comments, EPA granted interim approval to Connecticut's submittal on March 24, 1997. In the notice granting interim approval, EPA stated that there were several areas of Connecticut's program regulations that would need to be amended in order for EPA to grant full approval of the state's program. EPA has been working closely with the state and has determined that the state is proposing to make all of the rule changes necessary for full approval. The following section contains details regarding the areas of Connecticut's

regulations where the state is proposing to address EPA's interim approval issues.

IV. What Were EPA's Interim Approval Issues and Where Has Connecticut Amended Its Regulation To Address the Interim Approval Issues?

1. Forty CFR 70.5(c)(6) requires sources to explain exemptions from applicable requirements. In Section 22a–174–33(g)(2)(G), the State's proposed rule now requires the applicant to explain any exemptions.

2. Forty CFR 70.5(c)(8)(ii)(B) requires a statement in the application that the source will comply with all future requirements that become effective during the permit term. In Section 22a–174–33(i)(1)(B)(ii), the State's proposed rule now requires a source to make such a statement.

3. Forty CFR 70.5(c)(8)(iii)(C) requires that compliance schedules must be as least as stringent as any judicial consent decree or administrative order. In Section 22a–174–33(i)(1)(B)(iv), the State's proposed rule removes the limitations on judicial consent decrees that were contained in the original rule.

4. Forty CFR 70.8(d) contains the provisions regarding a citizen's rights to petition EPA over a Title V permit. In Section 22a–174–33(n)(2) and (4) the State's proposed rule removes the 45 day deadline for EPA's objection due to a citizen's petition and clarifies that a citizen's right to petition EPA is a function of federal law, not state law.

5. Forty CFR 70.6(a)(7) requires each Title V permit to contain a condition that a source will pay fees on an annual basis. Section 22a–174–33(j)(1)(Z) of the State's proposed rule adds a requirement that all permits shall contain a statement requiring the annual payment of permit fees.

6. Forty CFR 70.5(b) requires a source to submit additional or corrected information whenever that source becomes aware that the original application was either incorrect or incomplete. Section 22a–174–33(h)(2) of the State's proposed rule now requires the applicant to submit additional and corrected information at anytime the source becomes aware its initial application is incomplete or incorrect.

7. Forty CFR 70.7(a)(5) requires the state to provide a statement of legal and factual basis for each permit. Sections 22a–174(33)(j)(3) and (4) of the State's proposed rule now require the State to develop the statement of legal authority and technical origin, as well as the factual basis for the permit terms. The rule also provides that DEP shall send these statements to EPA and anyone else who requests them.

8. Forty CFR 70.6(a)(3)(iii)(B) requires prompt reporting of permit deviations. Section 22a–174–33(o)(1) and (p)(1) of the state's proposed rule defines ''prompt'' consistent with how EPA defines prompt for the federal operating permit program at 40 CFR 71.6(a)(iii)(B).

9. Forty CFR 70.6(g) contains Title V's emergency provisions that uses the term ''technology based emission limitation.'' Connecticut's rule had improperly included health based emission limits in its description of ''technology-based emission limitations,'' along with other inconsistencies with 40 CFR 70.6(g). Section 22a–174–33(p)(2) of the State's proposed rule incorporates by reference the relevant sections of Part 70 with regards to the affirmative defense. The proposed rule also removes the previous definition of a technology based emission limit.

10. Forty CFR 70.4(b)(12) requires states to allow for facilities to make ''Section 502(b)(10) changes'' with just a seven day notice. Section 22a–174–33(r)(2) of the State's proposed rule incorporates the relevant sections of 40 CFR 70.4 governing ''Section 502(b)(10) changes,'' but the state rule does not explicitly define ''emissions allowable under the permit.'' Even though not explicitly stated, EPA interprets Connecticut's incorporation by reference of 40 CFR 70.4(b)(12)(i) to include the relevant definition of ''emissions allowable under the permit'' at 40 CFR 70.2. EPA understands that DEP agrees with this interpretation.

11. Connecticut's interim rule contained language regarding EPA's authority to reopen and reissue a Title V permit that included public hearing authority. Since EPA does not derive its hearing authority from state law, the hearing authority language has been removed and Section 22a–174–33(s) simply incorporates EPA's authority to reopen a permit under 40 CFR 70.7.

12. Forty CFR 70.2 defines ''applicable requirements'' as a list of Clean Air Act requirements. The State's proposed rule in Section 22a–174–33(a)(2)(D) now includes the entire list of requirements found in 40 CFR 70.2.

13. Forty CFR 70.3 contains the requirements that make a source subject to the Title V permit program and Section 22a–174–33(c)(3) of Connecticut's interim rule created confusion about the applicability of Title V. As EPA suggested, Connecticut has proposed to delete this language from Section 22a–174–33(c)(3) to make it consistent with Part 70.

14. Forty CFR 70.7(d)(4) allows a state to grant a permit shield for Administrative Amendments only when the change to the permit meets the requirements of a significant permit modification. Connecticut's Administrative Amendment requirements do not have to meet such requirements. Therefore, in Sections 22a–174–33(k)(1) and (4), the State's proposed rule correctly eliminates a permit shield for minor and administrative permit amendments and limits its applicability to new permits, major modifications, and renewals.

15. Forty CFR 70.8 contains the provisions for EPA review, including a 45 day review period of a proposed permit. Connecticut's interim program tried to merge EPA's review of the proposed permit with the draft permit that is subject to public comment. Although this can be done, safeguards must be in place in case the draft permit is changed. The interim program failed to provide EPA an additional 45 day review when a draft permit was changed after 45 days of being made available for public comment. Section 22a–174–33(n) removes this problem by incorporating the procedures for permit review contained in 40 CFR 70.8. Connecticut's rule no longer merges EPA review of the proposed permit with the public comment period on the draft permit.

16. Connecticut's interim program rule contained a cut-off date of 1994 when incorporating the requirements of Code of Federal Regulations. This would have required Connecticut to continually update its rule as EPA published new applicable requirements such as air toxic requirements. Connecticut amended its statute in Section 22a–174–1 to allow the state to delete the cut-off date in Section 22a–174–33, thereby incorporating changes to the CFR on an on-going basis.

17. Connecticut's interim program contained an incomplete list of ''regulated air pollutants'' because of the issue number 16 discussed above with the CFR cut-off date. Connecticut has amended its provisions in Sections 22a–174–33(a)(5), (e)(1), and (g)(2)(G) to make their proposed rule consistent with 40 CFR 70.2.

18. Part 70 requires permits to contain all applicable requirements, including provisions for controlling air toxic emissions required by section 112(g) of the Act. Sections 22a–174–3a(a)(1)(C) and 3a(m) in the State's proposed rule are now adequate for issuing permits that contain requirements resulting from a decision pursuant to section 112(g) of the Act.

19. Forty CFR 70.4(b)(10) states that a permit will not expire when a complete renewal application was submitted in a timely manner. Section 22a–174–33(j)(1)(B) of the State's proposed rule now allows continuation of a permit

provided a timely renewal application is submitted.

20. Forty CFR 70.3(b) allows a state to defer non-major sources from the Title V program until EPA makes a decision whether to include non-major sources in the Title V program. Section 22a–174–33(f)(3) of the State's proposed rule is now consistent with Part 70 with regard to the applicability of non-major sources.

21. Forty CFR 70.5(c) requires an applicant to determine the applicable requirements for every emission unit. Connecticut's interim Title V program shifted the determination burden from the applicant to the state. Section 22a–174–33(g)(4) of the State's proposed rule is now consistent with Part 70.

22. Connecticut's interim Title V program contained language describing EPA's authority to reopen and reissue a Title V permit. EPA's authority is not contained within state law. Therefore, Section 22a–174–33(r)(13) has been replaced with Section 22a–174–33(s) and Section 22a–174–33(j)(1)(U) has been amended in the State's proposed rule to remove any confusion.

23. Forty CFR 70.6(d)(1) states that a source will be deemed to be operating without a Title V permit if it is later determined to be ineligible to operate under a general permit. Section 22a–174–33(c)(4) of the State's proposed rule now makes it clear that a source which fails to qualify for a general permit under which it is operating shall be deemed to be operating without a permit.

24. Connecticut's current rule allows changes from the State's minor new source review program to be processed as administrative amendments to the Title V permit, and is inconsistent with 40 CFR 70.7(d)(1)(v). Forty CFR 70.7(e)(2) allows minor new source review permits to be incorporated into a Title V permit by using the minor permit modification procedures of Part 70. Section 22a–174–2a of the State's proposed rule have been developed to allow for such incorporation and no longer processes such changes as administrative amendments.

25. In Connecticut's interim Title V program, the state only had procedures for administrative and significant permit modification procedures. Forty CFR 70.7(e)(1) requires states to develop streamlined procedures for permit modifications. Section 22a–174–2a of the State's proposed rule allows the state to use the equivalent of Part 70's minor permit modification procedures and is consistent with 40 CFR 70.7(e)(1).

26. Forty CFR 70.5(a)(1)(iii) states that the procedures for submitting timely renewal applications must ensure that a permit does not expire. This requires a state to coordinate the timing of permit renewal with the deadline for sources to submit renewal applications. Sections 22a–174–33(f)(5) and (j)(1) of the State's proposed rule have now correctly aligned these time frames.

27. Part 70 requires that a written agreement between the involved parties be submitted to the state prior to any changes in ownership to ensure that the parties named in the permit have accepted liability for complying with the permit. Section 22a–174–2a(g)(2) of the State's proposed rule contains such a requirement by incorporating by reference 40 CFR 70.7(d)(1)(iv).

28. Forty CFR 70.6(a)(3)(i)(B) contains the requirements for periodic monitoring in a Title V permit. Section 22a–174–33(j)(1)(K)(ii) has been amended to make it clear that every Title V permit in Connecticut will contain periodic monitoring as necessary. This section of Connecticut's proposed regulations provides that recordkeeping ''shall'' be sufficient to meet the periodic monitoring requirements ''if so determined by the Commissioner.'' EPA's periodic monitoring requirement provides that recordkeeping ''may'' be sufficient to serve as periodic monitoring. EPA understands that DEP's proposed regulation is the functional equivalent of EPA's regulation. DEP is not mandating that periodic monitoring shall be recordkeeping in all cases, but only in those cases where DEP affirmatively determines recordkeeping to be sufficient to collect data representative of a source's compliance status. EPA understands that DEP agrees with this interpretation.

29. Forty CFR 70.2 contains a definition of ''responsible official'' and requires that a corporate officer signatory must have the responsibility for overall operation of a facility, not just for environmental compliance. Section 22a–174–2a(a)(6) has been added to be consistent with Part 70.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves 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. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing permit program submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no clear authority to disapprove a permit program submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a permit program submission, to use VCS in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the

takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: August 3, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA-New England.

[FR Doc. 01–20264 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 96–98; DA 01–1658]

Update and Refresh Record on Rules Adopted in 1996 Local Competition Docket

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document invites parties to update and refresh the record on issues pertaining to the rules the Commission adopted in the First Report and Order in CC Docket No. 96–98, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996.*

DATES: Comments are due September 12, 2001 and reply comments are due September 27, 2001.

FOR FURTHER INFORMATION CONTACT: Dennis Johnson, Attorney Advisor, Network Services Division, Common Carrier Bureau, (202) 418–2320.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document regarding CC Docket No. 96–98, released on July 12, 2001. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, S.W., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY–B400, 445 12th Street, SW., Washington, DC. It is also available on the Commission's website at: *http://www.fcc.gov/Daily_Releases/Daily_Business/2001/db0712/da011658.doc.*

Synopsis

1. On August 8, 1996, the Commission released the *Local Competition Second Report and Order,* FCC 96–333, 61 FR 47284 (September 6, 1996), as required by the Telecommunications Act of 1996. Many of the parties filed petitions for reconsideration of that order. The Commission subsequently resolved a majority of these petitions but due to the significant litigation arising from the rules adopted in the *Local Competition Second Report and Order,* several petitions remain unresolved. Specifically, the remaining petitions seek reconsideration of the rules governing intraLATA toll dialing parity pursuant to section 251(b)(3) of the Telecommunications Act of 1996 (Act), and network change disclosure rules pursuant to section 251(c)(5) of the Act. Since many of these petitions were filed several years ago, the passage of time and intervening developments may have rendered the record developed by those petitions stale. Moreover, some issues raised in petition for reconsideration may have become moot or irrelevant in light of intervening events.

2. For these reasons, the Commission requests that parties that filed petitions for reconsideration following release of the *Local Competition Second Report and Order* identify issues from that order that remain unresolved now and supplement those petitions, in writing, to indicate which findings and rules they still wish to be reconsidered. To the extent that intervening events have materially altered the circumstances surrounding filed petitions or the relief sought by filing parties, those entities may refresh the record with new information or arguments related to their original filings that they believe to be relevant to the issues. The previously filed petitions will be deemed withdrawn and will be dismissed if parties do not indicate in writing an intent to pursue their respective petitions for reconsideration. The refreshed record will enable the Commission to undertake appropriate and expedited reconsideration of its local competition rules.

List of Subjects in 47 CFR Part 51

Communications common carriers, Interconnection.

Federal Communications Commission.

Diane Griffin Harmon,

Acting Chief, Network Services Division Common Carrier Bureau.

[FR Doc. 01–20227 Filed 8–10–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223, 224 and 226

[Docket No. 010731194–1194–01; I.D. 070601B]

Listing Endangered and Threatened Species and Designating Critical Habitat: Petition To List Southern Resident Killer Whales

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

ACTION: Notice of finding; request for information.

SUMMARY: NMFS received a petition to list the Eastern North Pacific Southern Resident stock of killer whales (*Orcinus orca*) as endangered or threatened species under the Endangered Species Act (ESA) and to designate critical habitat for this stock under that Act. NMFS determined that the petition presents substantial scientific information indicating that a listing may be warranted and will initiate an ESA status review. NMFS solicits information and comments pertaining to these killer whale populations and their habitats and seeks suggestions for peer reviewers for any proposed listing determination that may result from the agency's status review of the species.

DATES: Information and comments on the action must be received by October 12, 2001.

ADDRESSES: Information and comments on this action should be submitted to Chief, Protected Resources Division, NMFS, 525 NE Oregon Street—Suite 500, Portland, OR 97232. Comments will not be accepted if submitted via email or the internet. However, comments may be sent via fax to (503) 230–5435.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region, (503) 231–2005 or Tom Eagle, NMFS, Office of Protected Resources, (301) 713–2322 ext. 105.

SUPPLEMENTARY INFORMATION:

Electronic Access

Reference materials regarding this rule can also be obtained from the internet at *http://www.nwr.noaa.gov*.

Background

On May 2, 2001, NMFS received a petition from the Center for Biological Diversity, Center for Whale Research, The Whale Museum, Ocean Advocates, Washington Toxics Coalition, Orca Conservancy, American Cetacean Society, Friends of the San Juans, People for Puget Sound, Cascade Chapter of the Sierra Club and Ralph Munro, to list the Eastern North Pacific Southern Resident stock of killer whales as an endangered or threatened species under the ESA. The petitioners further requested concurrent designation of critical habitat for this species in accordance with the ESA. On July 16, 2001, NMFS received a letter from the petitioners asking NMFS to add Project SeaWolf as an additional co-petitioner. Copies of this petition are available from NMFS (See **ADDRESSES**).

The petition presents detailed narrative information, based on the available data from the annual killer whale censuses, that show that the stock (as defined) has gone through periods of growth and decline from a low of fewer than 70 animals in 1973 to a high of 97 individuals in 1996 followed by period of decline to 82 individuals at the beginning of 2000. The petition further describes the killer whale's distribution worldwide and provides arguments for further delineating Southern Resident killer whales as a distinct population segment. The arguments include morphological, dietary, behavioral and genetic differences between groups of killer whales in the Pacific Northwest, and exclusive utilization of summertime home range. Additional arguments are presented based on regional cultural significance and management status under the Marine Mammal Protection Act (MMPA). Variability in recruitment and survival, reduced food resources, residual effects from live captures in the 1960s and 70s on the current age and sex structure of the population, behavioral changes associated with increased whale watching disturbance, and increased levels of toxic contaminants are highlighted as possible threats faced by the species. The petition includes a population viability analysis, distributional maps, and a bibliography of supporting documentation.

Prior to receiving the petition, and in response to concerns raised over a recent decline in the number of Southern Resident killer whales, NMFS convened a workshop in April 2000 to review the status of ongoing killer whale research, help coordinate future research efforts and discuss many of the same issues raised in the petition. Workshop participants presented and discussed information on killer whale population dynamics, status of adjacent killer whale communities, genetic evidence of stock structure, bioaccumulation of contaminants, increased whale watching pressure, and prey availability. Census counts, begun in 1974 using photo-identification methodology, revealed fluctuations in the number of whales from year to year and allowed the documentation of individual births and deaths within the Southern Resident stock. Analysis of the available genetic data showed that the Southern Resident killer whales are genetically distinguishable from the northern resident stock, the nearest (geographically) resident killer whale group, but that they share common genetic traits with other resident groups farther to the north, in Alaska. Genetic information also showed that Southern Resident whales are different from the sympatric Eastern North Pacific Transient stock of killer whales. Contaminant analysis showed that, for males, Southern Residents have higher levels of some contaminants than northern residents or resident whales in Alaska but significantly lower than transient killer whales. Data on the growth of recreational and commercial whale watching, during the past 20 years, showed that summer vessel traffic increased in the seasonal core range of the Southern Residents, but studies on the influence of vessels on the behavior, feeding and energy expenditures of these whales have been inconclusive. Little is known about the winter foraging habitat or prey of the Southern Residents. However, the summer diet is dominated by salmonids and chinook salmon have been observed to be a preferred prey in Puget Sound and the Northwest Straits. Data on seasonal abundance of chinook and other salmonids in Washington indicate periodic declines but detailed information on prey density, trends in wild versus hatchery fish, and foraging success between Southern Resident pods and between adjacent killer whale populations were unavailable at the workshop. Workshop participants noted that resident killer whale stocks in British Columbia (including Southern Residents) were listed as threatened by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) but that listing under Canadian law does not carry the same legal definitions or mandates as the ESA.

Analysis of Petition

Section 4 (b)(3) of the ESA contains provisions concerning petitions from interested persons requesting the Secretary of Commerce (Secretary) to list certain species under the ESA (16 U.S.C. 1533 (b)(3)(A)). Section 4 (b)(3)(A) requires that, to the maximum extent practicable, within 90 days after receiving such a petition, the Secretary must make a finding whether the petition presents substantial scientific information indicating that the petitioned action may be warranted. This includes determining whether there is evidence that the subject populations may qualify as a ''species'' under the ESA, in accordance with NMFS/U.S. Fish and Wildlife Service policy regarding the identification of distinct vertebrate population segments (61 FR 4722, February 7, 1996).

Regulations implementing the ESA (50 CFR 424.14 (b)) define ''substantial information'' as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In evaluating a petitioned action, NMFS considers several factors, including whether the petition contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species (50 CFR 424.14 (b)(2)(ii)). In addition, NMFS considers whether the petition provides information regarding the status of the species over all or a significant portion of its range (50 CFR 424.14 (b)(2)(iii)).

NMFS evaluated whether the petition met the standard for ''substantial information'' and concluded it was appropriate to accept the petition to list the species. The petition highlights key issues for consideration by NMFS, including: (1) genetic, behavioral, and ecological evidence bearing on the issue of whether to define Southern Resident killer whales as a distinct population segment; (2) population data documenting a recent decline in Southern Resident killer whales and analyses indicating that these whales may be at some risk of extinction; and (3) an array of threats that may account for the decline in Southern Resident killer whales.

Petition Finding

After reviewing the information contained in the petition, as well as other available information, NMFS determines that the petition presents

substantial scientific information indicating the petitioned action may be warranted. In accordance with section 4 (b)(3)(B) of the ESA, NMFS will complete a status review and report its findings by May 2, 2002.

Listing Factors and Basis for Determination

Under section 4 (a)(1) of the ESA, a species can be determined to be threatened or endangered based on any of the following factors: (1) The present or threatened destruction, modification, or curtailment of a species' habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting the species continuing existence. Listing determinations are based solely on the best available scientific and commercial data after taking into account any efforts being made by any state or foreign nation to protect the species.

Information Solicited

To ensure that the status review is complete and based on the best available scientific and commercial data, NMFS solicits information and comments concerning the status of killer whale populations world wide with emphasis in the Eastern North Pacific Ocean from California to Alaska (see **DATES** and **ADDRESSES**). Specifically, the agency is seeking available information on: (1) historical and current known ranges of resident (fish eating) and transient (mammal-eating) killer whales; (2) spatial and seasonal distribution with particular focus on current and historical habitat utilization; (3) genetic variability in resident, transient, and offshore killer whale populations; (4) demographic movements among resident or transient killer whales; (5) trends in killer whale foraging habits and seasonal prey abundance; (6) trends in environmental contamination by persistent organic pollutants (e.g., polychlorinated-biphenyls (PCBs) including congener specific data) as well as other contaminants (e.g. toxic metals); (7) contaminant burdens in prey species, especially salmonids; (8) impacts caused by human recreational activities (e.g., whale watching, boating); (9) historic removals of killer whales including human caused mortality associated with live capture operations, military activities, or fisheries interactions; (10) current or planned activities and their possible impacts on this species (e.g., removals or habitat modifications); (11) efforts being made to protect resident killer whales or improve their habitat; and (12) non-human related factors that may have contributed to the recent decline of the Southern Resident killer whale (i.e., climatic or oceanographic regime shifts, diseases, biotoxins).

NMFS also requests information describing the quality and extent of marine habitats for Southern Resident killer whales, as well as information on areas that may qualify as critical habitat. Areas that include the physical and biological features essential to the recovery of the species should be identified. Essential features include, but are not limited to the following: (1) Habitat for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and rearing of offspring; and (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of the species. NMFS is also seeking information and maps describing natural and manmade changes within the species' current and historical range in the Eastern North Pacific Ocean from California to Alaska.

For areas potentially qualifying as critical habitat, NMFS also requests information describing (1) the activities that affect the area or could be affected by the designation, and (2) the economic costs and benefits of additional requirements of management measures likely to result from the designation. The economic cost to be considered in a critical habitat designation under the ESA is the probable economic impact ''of the [critical habitat] designation upon proposed or ongoing activities'' (50 CFR 424.19). NMFS must consider the incremental costs specifically resulting from a critical habitat designation that are above the economic effects attributable to listing the species. Economic effects attributable to listing include actions resulting from section 7 consultations under the ESA to avoid jeopardy to the species and from the taking prohibitions under section 9 or 4 (d) of the ESA. Comments concerning economic impacts should distinguish the costs of listing from the incremental costs that can be directly attributed to the designation of specific areas as critical habitat.

On July 1, 1994, NMFS, jointly with the U.S. Fish and Wildlife Service, published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270). The intent of the peer review policy is to ensure that listings are based on the best scientific and commercial data available. NMFS now solicits the names of recognized experts in the field who could take part in the peer review process for the agency's status review of Southern Resident killer whales. Peer reviewers may be selected from the academic and scientific community, tribal and other Native American groups, Federal and state agencies, the private sector, and public interest groups.

Authority: Authority: 16 U.S.C. 1531 *et seq.*

Dated: August 6, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–20282 Filed 8–10–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 66, No. 156

Monday, August 13, 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

Food Safety and Inspection Service

[Docket No. 01–007N]

Exemption for Retail Store Operations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of adjusted dollar limitations.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing automatic increases in the dollar limitations on sales of meat and meat food products and poultry products to hotels, restaurants, and similar institutions that do not disqualify a store for exemption from Federal inspection requirements. By action of FSIS' regulations, for calendar year 2001, the dollar limitations for meat and meat food products has increased from $42,500 to $44,900 and for poultry products from $39,000 to $39,800. These increases are based on price changes for these products evidenced by the Consumer Price Index (CPI).

EFFECTIVE DATE: This notice is effective August 13, 2001.

FOR FURTHER INFORMATION: For further information contact Daniel Engeljohn, Ph.D., Director, Regulations and Directives Development Staff, Office of Policy, Program Development, and Evaluation, FSIS, U.S. Department of Agriculture, Room 112, Cotton Annex Building, 300 12th Street, SW, Washington, DC 20250–3700; telephone (202) 720–5627, fax (202) 690–0486.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) provide that the statutory provisions requiring inspection of the slaughter of livestock or poultry and the preparation or processing of products thereof do not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities or service to consumers at such establishments (21 U.S.C. 454(c)(2) and 661 (c)(2)). In §§ 303.1(d) and 381.10(d), respectively (9 CFR 303.1(d) and 381.10(d)), FSIS regulations address the conditions under which requirements for inspection do not apply to retail operations.

Under these regulations, sales to hotels, restaurants, and similar institutions disqualify a store for exemption if they exceed either of two maximum limits: 25 percent of the dollar value of total product sales or the calendar year dollar limitation set by the Administrator. The dollar limitation is adjusted automatically during the first quarter of the year if the CPI, published by the Bureau of Labor Statistics, indicates an increase or decrease of more than $500 in the price of the same volume of product for the previous year. FSIS publishes a notice of the adjusted dollar limitations in the **Federal Register**. (See paragraphs (d)(2)(iii)(b) and (d)(2)(vi) of §§ 303.1 and 381.10.)

The CPI for 2000 reveals an average annual price increase for meat and meat food products of 5.6 percent and for poultry products of 2.0 percent. When rounded off to the nearest $100.00, the price increase for meat and meat food products is $2,400.00 and for poultry products is $800.00. Because the price of meat and meat food products and the price of poultry products have increased by more than $500, in accordance with §§ 300.1 (d)(2)(iii)(*b*) and 381.10 (d)(2)(iii)(*b*) of the regulations, FSIS has increased the dollar limitations on sales to hotels, restaurants, and similar institutions from $42,500 to $44,900 for meat and meat food products and from $39,000 to $39,800 for poultry products for calendar year 2001.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this final rule, FSIS will announce and provide copies of this **Federal Register** notice in the *FSIS Constituent Update.* FSIS provides a weekly *FSIS Constituent Update* via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience than would be otherwise possible.

For more information or to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC, on: August 7, 2001.

Thomas J. Billy,

Administrator.

[FR Doc. 01–20099 Filed 8–10–01; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee (PAC); Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Provincial Advisory Committee (PAC) will meet on August 29 and 30, 2001, at the Pt. Reyes National Seashore in Pt. Reyes, California. The purpose of the meeting is to discuss issues relating to implementing the Northwest Forest Plan.

DATES: The meeting will be held August 29 and 30, 2001. A field tour of watershed restoration and wildlife habitat improvement projects will be held on August 30 from 8 a.m. until 12 p.m. The business meeting will be held from 8 a.m. to 5 p.m. on August 29 and from 1 to 3 p.m. on August 30, 2001.

ADDRESSES: The meeting will be held at the Pt. Reyes National Seashore

Association Conference Room, Pt. Reyes National Seashore Headquarters, Bear Valley Road, Pt. Reyes, CA.

FOR FURTHER INFORMATION CONTACT: Phebe Brown, Committee Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA, 95988, (530) 934–3316; EMAIL *pybrown@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Province watershed summaries/fish map update and next steps; (2) Report from the On the Ground Subcommittee on the issue of Province fire and fuels management; (3) Report from the Provincial Interagency Executive Committee subgroup on coordinating the National Fire Plan; (4) Regional Ecosystem Office update; (5) Coordination with State watershed planning activities; (6) Presentation on research findings concerning thinning in Late Successional Reserves; (7) Post Megram Fire projects and Survey and Manage Standards and Guidelines requirements; (8) Agency updates; (9) Recognition of Committee service to a member; and (10) Public Comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: August 3, 2001.

Blaine P. Baker,

Acting Forest Supervisor.

[FR Doc. 01–20250 Filed 8–10–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Revise and Extend a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intention of the National Agricultural Statistics Service (NASS) to request a revision to and extension of a currently approved information collection, the Wildlife Damage Control Survey.

DATES: Comments on this notice must be received by October 17, 2001 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, Room 4117 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2001, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Wildlife Damage Control Survey.

OMB Control Number: 0535–0217.

Expiration Date of Approval: April 30, 2002.

Type of Request: Intent to Revise and Extend a Currently Approved Information Collection.

Abstract: The Wildlife Services Division of the Animal Health Plant Inspection Service, USDA, has contracted with NASS to survey a sample of U.S. producers of selected agricultural commodities. The primary goal of the survey is the collection of valid statistical data from agricultural producers who have experienced the loss of product or resources from vertebrate wildlife and the measurement of monetary losses. Additional goals are to evaluate Wildlife Services name recognition and test the efficacy of Wildlife Services programs in reducing crop and livestock losses.

The current information collection was approved for surveys of losses to specific livestock such as cattle and sheep and previous collections have been approved to measure losses of crops such as corn and fruits. The proposed survey for January 2002 is a standalone general wildlife damage survey, to be followed by annual commodity-specific surveys which will usually be integrated with regular NASS probability surveys. These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 12 minutes per response.

Respondents: Agricultural Commodity Producers.

Estimated Number of Respondents: 12,000.

Estimated Total Annual Burden on Respondents: 2,400 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Ginny McBride, Agency OMB Clearance Officer, U.S. Department of Agriculture, Room 5336B South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024 or *gmcbride@nass.usda.gov.* All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, July 20, 2001.

Rich Allen,

Associate Administrator.

[FR Doc. 01–20247 Filed 8–10–01; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Invitation for Nominations to the Advisory Committee on Agriculture Statistics

AGENCY: National Agricultural Statistics Service (NASS), USDA.

ACTION: Solicitation of Nominations for Advisory Committee on Agriculture Statistics Membership.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, this notice announces an invitation from the Office of the Secretary of Agriculture for nominations to the Advisory Committee on Agriculture Statistics.

On January 2, 2001, the Secretary of Agriculture renewed the Advisory Committee charter for another two years. The purpose of the Committee is to advise the Secretary of Agriculture on the scope, timing, content, etc. of the periodic censuses and surveys of agriculture, other related surveys, and the types of information to obtain from respondents concerning agriculture. The Committee also prepares recommendations regarding the content

of agriculture reports and presents the views and needs for data of major suppliers and users of agriculture statistics.

DATES: Nominations must be received by September 12, 2001 to be assured of consideration.

ADDRESSES: Nominations should be mailed to Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Room 4117 South Building, Washington, D.C. 20250–2000. In addition, nominations may be mailed electronically to hq_aa@nass.usda.gov.

FOR FURTHER INFORMATION CONTACT: Rich Allen, Associate Administrator, National Agricultural Statistics Service, (202) 720–4333.

SUPPLEMENTARY INFORMATION: Nominations should include the following information: name, title, organization, address, telephone number, and e-mail address. In addition to mailed correspondence to the addresses listed above, nominations may also be faxed to (202) 720–9013, OR telephoned to Rich Allen, Associate Administrator, NASS, at (202) 720–4333. Each person nominated is required to complete an Advisory Committee Membership Background Information form. This form may be requested by telephone, fax, or e-mail using the information above. Forms will also be available from the NASS Home Page http://www.usda.gov/nass by selecting ''Agency Information,'' ''Advisory Committee on Agriculture Statistics.'' Completed forms may be faxed to the number above, mailed, or completed and e-mailed directly from the Internet site.

The Committee draws on the experience and expertise of its members to form a collective judgment concerning agriculture data collected and the statistics issued by NASS. This input is vital to keep current with shifting data needs in the rapidly changing agricultural environment and keep NASS informed of emerging issues in the agriculture community that can affect agriculture statistics activities.

The Committee, appointed by the Secretary of Agriculture, consists of 25 members representing a broad range of disciplines and interests, including, but not limited to, representatives of national farm organizations, agricultural economists, rural sociologists, farm policy analysts, educators, State agriculture representatives, and agriculture-related business and marketing experts.

Members serve staggered 2-year terms, with terms for half of the Committee members expiring in any given year. Nominations are being sought for 13 open Committee seats. Members can serve up to 3 terms for a total of 6 consecutive years. The Chairperson of the Committee shall be elected by members to serve a 1-year term.

Equal opportunity practices, in line with USDA policies, will be followed in all membership appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

The duties of the Committee are solely advisory. The Committee will make recommendations to the Secretary of Agriculture with regards to the agricultural statistics program of NASS, and such other matters as it may deem advisable, or which the Secretary of Agriculture, Under Secretary for Research, Education, and Economics, or the Administrator of NASS may request. The Committee will meet at least annually. All meetings are open to the public. Committee members are reimbursed for official travel expenses only.

Send questions, comments, and requests for additional information to the e-mail address, fax number, or address listed above.

Signed at Washington, D.C., August 2, 2001.

R. Ronald Bosecker,

Administrator, National Agricultural Statistics Service.

[FR Doc. 01–20248 Filed 8–10–01; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Princeville Floodwater Mitigation and Stream Restoration Project, Edgecombe County, North Carolina

AGENCY: Natural Resources Conservation Service, Agriculture.

ACTION: Notice of a Finding Of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Princeville Floodwater Mitigation and Stream Restoration Project, Edgecombe County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mary K. Combs, State Conservationist, Natural Resources Conservation Service, 4405 Bland Road, Suite 205, Raleigh, North Carolina 27609, telephone (919) 873–2101.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mary K. Combs, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is to reduce flood damages. The planned works of improvement include 8,539 feet of channel clean-out or enlargement, 736 feet of new channels, and 3,722 feet of closed conduit. The project will benefit 310 homes, 3 schools, and 6 businesses.

The Notice of a Finding Of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Jacob Crandall, Assistant State Conservationist for Water Resources at 4405 Bland Road, Suite 205, Raleigh, North Carolina 27609.

Princeville Floodwater Mitigation and Stream Restoration Project, NC; Notice of a Finding Of No Significant Impact

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Mary K. Combs,

State Conservationist.

[FR Doc. 01–20251 Filed 8–10–01; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–803]

Notice of Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review: Fresh Atlantic Salmon From Chile

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

SUMMARY: On April 9, 2001, the Department of Commerce (the Department) published the preliminary results of its second administrative review of the antidumping duty order on fresh Atlantic salmon from Chile. The review covers eleven producers/exporters of the subject merchandise. The period of review (POR) is July 1, 1999, through June 30, 2000. Based on our analysis of comments received, these final results differ from the preliminary results. The final results are listed below in the *Final Results of Review section.*

EFFECTIVE DATE: August 13, 2001.

FOR FURTHER INFORMATION CONTACT: Edward Easton or Salim Bhabhrawala, at (202) 482–3003 or (202) 482–1784, respectively; AD/CVD Enforcement, Office V, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

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

Background

On April 9, 2001, the Department published in the **Federal Register** the preliminary results of the second administrative review of the antidumping duty order on fresh Atlantic salmon from Chile. *See Notice of Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review: Fresh Atlantic Salmon From Chile,* 66 FR 18431 (April 9, 2001) (*Preliminary Results*).

We invited parties to comment on the *Preliminary Results.* On May 9, 2001, we received case briefs from respondents Cultivadora de Salmones Linao Ltda. (Linao), Pesquera Mares Australes Ltda. (Mares Australes), Salmones Mainstream S.A. (Mainstream), Salmones Pacific Star, Ltda. (Pacific Star), and Salmones Pacifico Sur S.A. (Pacifico Sur).

The Coalition for Fair Atlantic Salmon Trade (the petitioner) did not file a case brief. No rebuttal briefs were filed.

Partial Rescission of the Antidumping Duty Administrative Review

Prior to the publication of the preliminary results in this review, respondents Chisal, S.A., and Fitz Roy certified to the Department that they had not shipped subject merchandise to the United States during the POR. As described in the *Preliminary Results,* we examined entry data for U.S. imports, confirmed that neither company had shipped subject merchandise to the United States during the POR, and preliminarily rescinded the review with respect to these companies. No new information has come to the Department's attention in this regard since the publication of the preliminary rescission determination. Accordingly, we are rescinding the review with respect to these two companies.

Scope of the Review

The product covered by this review is fresh, farmed Atlantic salmon, whether imported ''dressed'' or cut. Atlantic salmon is the species *Salmo salar,* in the genus *Salmo* of the family *salmoninae.* ''Dressed'' Atlantic salmon refers to salmon that has been bled, gutted, and cleaned. Dressed Atlantic salmon may be imported with the head on or off; with the tail on or off; and with the gills in or out. All cuts of fresh Atlantic salmon are included in the scope of the review. Examples of cuts include, but are not limited to: crosswise cuts (steaks), lengthwise cuts (fillets), lengthwise cuts attached by skin (butterfly cuts), combinations of crosswise and lengthwise cuts (combination packages), and Atlantic salmon that is minced, shredded, or ground. Cuts may be subjected to various degrees of trimming, and imported with the skin on or off and with the ''pin bones'' in or out.

Excluded from the scope are (1) Fresh Atlantic salmon that is ''not farmed'' (*i.e.,* wild Atlantic salmon); (2) live Atlantic salmon; and (3) Atlantic salmon that has been subject to further processing, such as frozen, canned, dried, and smoked Atlantic salmon, or processed into forms such as sausages, hot dogs, and burgers.

The merchandise subject to this investigation is classifiable as item numbers 0302.12.0003 and 0304.10.4093, 0304.90.1009, 0304.90.1089, and 0304.90.9091 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Analysis of Comments Received

The issues raised in the case briefs by parties to this administrative review are addressed in the Decision Memorandum, which is hereby adopted by this notice. A list of the issues addressed in the Decision Memorandum is appended to this notice. The Decision Memorandum is on file in Room B–099 of the main Commerce building, and can also be accessed directly on the Web at *ia.ita.doc.gov.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received, we have made adjustments to the preliminary results calculation methodology in determining the final dumping margins in the proceeding. These adjustments are discussed in the Decision Memorandum.

As a result of our review, we determine that the following weighted-average margins exist for the period of July 1, 1999, through June 30, 2000:

Exporter/manufacturer	Weighted-average margin percentage
Cultivos Marinos Chiloe, Ltda.	0.02 (de minimis).
Pesquera Eicosal Ltda.	0.00.
Fiordo Blanco S.A	0.27 (de minimis).
Cultivadora de Salmones Linao Ltda.	0.09 (de minimis).
Salmones Mainstream S.A.	0.00.
Pesquera Mares Australes.	0.00.
Salmones Multiexport Ltda.	0.00.
Salmones Pacific Star, Ltda.	0.00.
Salmones Pacifico Sur S.A.	0.00.
Pesca Chile S.A.	0.06 (de minimis).
Salmones Tecmar S.A.	0.00.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR

351.212(b)(1), we have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the importer-specific sales to the total entered value of the same sales. Where the assessment rate is above *de minimis,* we will instruct the Customs Service to assess duties on all entries of subject merchandise by that importer. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided by section 751(a) of the Act: (1) For all exporters/manufacturers covered by this review, the cash deposit rate will be the rate listed above, except where the margin is zero or *de minimis,* a cash deposit of zero will be required; (2) for merchandise exported by producers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the most recent final results in which that producer or exporter participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding, but the producer is, the cash deposit rate will be that established for the producer of the merchandise in these final results of review or in the most recent final results in which that producer participated; and (4) if neither the exporter nor the producer is a firm covered in this review or in any previous segment of this proceeding, the cash deposit rate will be 4.57 percent, the ''All Others'' rate established in the less-than-fair-value investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

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

This notice also is the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 6, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

1. Calculation of Constructed Value Profit Rate.
2. Collapse of Affiliated Parties.
3. Clerical Errors.

[FR Doc. 01–20270 Filed 8–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–337–803)

Notice of Final Results of Changed Circumstances Antidumping Duty Review: Fresh Atlantic Salmon From Chile

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

SUMMARY: On August 22, 2000, the Department issued preliminary results of a changed circumstances review with respect to the antidumping duty order on fresh Atlantic salmon from Chile. In those preliminary results, the Department determined that Pesquera Mares Australes, Ltda. (Mares Australes), after merging with Marine Harvest Chile, S.A. (Marine Harvest), constituted a new entity that was subject to the antidumping duty order on fresh Atlantic salmon from Chile. The Department directed that liquidation of entries of subject merchandise under the name of Marine Harvest be suspended effective retroactively to July 1, 2000, the date of the merger of Mares Australes and Marine Harvest. After considering comments from interested parties, the Department continues to find that the post-merger Marine Harvest is a new entity subject to the antidumping duty order on fresh Atlantic salmon from Chile. Moreover, the Department has determined that, as the old Marine Harvest's sales were combined with those of Mares Australes during the second administrative review of fresh Atlantic salmon from Chile, the cash deposit rate applicable to future entries by Marine Harvest is the rate calculated for those combined sales.

EFFECTIVE DATE: August 13, 2001.

FOR FURTHER INFORMATION CONTACT: Edward Easton or Gabriel Adler, at (202) 482–3003 or (202) 482–3813, respectively; AD/CVD Enforcement Office V, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1999).

Background

On July 30, 1998, the Department issued an antidumping duty order on fresh Atlantic salmon from Chile. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Fresh Atlantic Salmon from Chile,* 63 FR 40699 (July 30, 1998). The order covered merchandise produced by a number of companies, including Mares Australes, Ltda. (Mares Australes). The order excluded merchandise produced by a number of other companies, including Marine Harvest, which had been found to be dumping at a *de minimis* level in the less-than-fair-value (LTFV) investigation.

On July 15, 1999, the parent company of Mares Australes purchased Marine Harvest. One week after the acquisition, the managing director of Mares Australes formed several task forces of Mares Australes and Marine Harvest officials to discuss how to harmonize and integrate the management of the two companies. By the end of 1999, the companies had laid off redundant management, and had created a single management structure.

Mares Australes and Marine Harvest continued to distinguish salmon produced at their respective facilities, and to export their salmon to the United States under the respective names, until the end of June 2000. On July 1, 2000, the parent company of Mares Australes directed, through a shareholder's

meeting, that Mares Australes be formally merged with Marine Harvest, and that the merged entity do business under the name of Marine Harvest. A detailed explanation of these developments can be found in the memorandum from the team to Gary Taverman, dated August 21, 2000 (Mares Australes sales verification report), from the record of the first administrative review of the antidumping duty order on fresh Atlantic salmon from Chile and placed on the record of this changed circumstances review.

On July 25, 2000, the petitioners filed a letter with the Department expressing concern over the merger of Marine Harvest and Mares Australes, and requesting the immediate suspension of liquidation of subject merchandise exported under the name of Marine Harvest.

On August 22, 2000, based on the comments submitted by the petitioners, as well as information obtained by the Department, the Department simultaneously initiated a changed circumstances review and issued preliminary results of review. *See Notice of Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Review: Fresh Atlantic Salmon from Chile,* 65 FR 52065 (August 28, 2000). The Department directed that liquidation of entries of subject merchandise under the name of Marine Harvest be suspended effective retroactively to July 1, 2000, the date of the merger of Mares Australes and Marine Harvest.

The Department received a case brief from Marine Harvest on January 4, 2001, and a rebuttal brief from the petitioners on January 11, 2001. A public hearing was held on March 15, 2001.

Scope of the Review

The product covered by this review is fresh, farmed Atlantic salmon, whether imported ''dressed'' or cut. Atlantic salmon is the species *Salmo salar,* in the genus *Salmo* of the family *salmoninae.* ''Dressed'' Atlantic salmon refers to salmon that has been bled, gutted, and cleaned. Dressed Atlantic salmon may be imported with the head on or off; with the tail on or off; and with the gills in or out. All cuts of fresh Atlantic salmon are included in the scope of the review. Examples of cuts include, but are not limited to: crosswise cuts (steaks), lengthwise cuts (fillets), lengthwise cuts attached by skin (butterfly cuts), combinations of crosswise and lengthwise cuts (combination packages), and Atlantic salmon that is minced, shredded, or ground. Cuts may be subjected to various degrees of trimming, and imported with the skin on or off and with the ''pin bones'' in or out.

Excluded from the scope are (1) fresh Atlantic salmon that is ''not farmed'' (*i.e.,* wild Atlantic salmon); (2) live Atlantic salmon; and (3) Atlantic salmon that has been subject to further processing, such as frozen, canned, dried, and smoked Atlantic salmon, or processed into forms such as sausages, hot dogs, and burgers.

The merchandise subject to this investigation is classifiable as item numbers 0302.12.0003 and 0304.10.4093, 0304.90.1009, 0304.90.1089, and 0304.90.9091 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by the parties to this changed circumstances review are listed in the appendix to this notice, and addressed in the August 7, 2001 Decision Memorandum, which is hereby adopted by this notice. A list of the issues addressed in the Decision Memorandum is appended to this notice. The Decision Memorandum is a public document and is on file in Room B–099 of the main Commerce building. In addition, a complete version of the memorandum can be accessed directly on the Web at *ia.ita.doc.gov.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of the Changed Circumstances Review

Based on our analysis of the comments received, we determine that the post-merger Marine Harvest is not the successor-in-interest to either the pre-merger Marine Harvest or the pre-merger Mares Australes, but rather is a new entity subject to the antidumping order. Further, we are assigning to Marine Harvest a cash deposit rate of 0.00 percent, the rate calculated for the combined sales of Marine Harvest and Mares Australes during the second administrative review. We will instruct the U.S. Customs Service accordingly.

We are issuing these final results and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and § 351.216 of the Department's regulations.

Dated: August 6, 2001.

Faryar Shirzard,

Assistant Secretary for Import Administration.

Appendix

1. Whether Marine Harvest is a new entity subject to the antidumping order.
2. Whether Maine Harvest's procedural rights were violated.

[FR Doc. 01–20271 Filed 8–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–813]

Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review

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

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

SUMMARY: On March 8, 2001, the Department of Commerce published the preliminary results of the first administrative review of the antidumping duty order on certain preserved mushrooms from India (66 FR 13896). The review covers five manufacturers/exporters. The period of review is August 5, 1998, through January 31, 2000.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: August 13, 2001.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger, Katherine Johnson, or Dinah McDougall, Office 2, AD/CVD Enforcement Group I, Import Administration—Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136, (202) 482–4929, or (202) 482–3773, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the

effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the ''Department's'') regulations are to 19 CFR part 351 (2000).

Background

The review covers five manufacturers/exporters: Agro Dutch Foods Ltd. (''Agro Dutch''), Himalya International Ltd. (''Himalya''), Hindustan Lever Ltd. (formerly Ponds India Ltd.) (''Hindustan''), Techtran Agro Industries Limited (''Techtran''), and Weikfield Agro Products Ltd. (''Weikfield''). The period of review is August 5, 1998, through January 31, 2000.

On March 8, 2001, the Department of Commerce published the preliminary results of the first administrative review of the antidumping duty order on certain preserved mushrooms from India (66 FR 13896). We invited parties to comment on the preliminary results of review. On April 9, 2001, we received requests for a public hearing from respondents Agro Dutch, Hindustan, Himalya, and Weikfield. We received case briefs from the petitioners [1] and the respondents, as well as from the importer, Giorgio Foods, Inc., on May 14, 2001. We received rebuttal briefs from the petitioners, the respondents, and Giorgio Foods, Inc. on May 21, 2001. We held a public hearing at the Department on June 13, 2001. We have conducted this administrative review in accordance with section 751 of the Act.

Scope of the Order

The products covered by the order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under the order are the species *Agaricus bisporus* and *Agaricus bitorquis*. ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of the order are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of the order are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms'; (3) dried mushrooms; (4) frozen mushrooms; and (5) ''marinated,'' ''acidified'' or ''pickled'' mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to the order is classifiable under subheadings 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping duty administrative review are addressed in the ''Issues and Decision Memorandum'' (''Decision Memo'') from Richard W. Moreland, Deputy Assistant Secretary for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated August 6, 2001, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/*. The paper copy and electronic version of the Decision Memo are identical in content.

Changes from the Preliminary Results

Based on our analysis of comments received, we have made certain changes to the margin calculations. For a discussion of these changes, see the ''Margin Calculations'' section of the Decision Memo.

Final Results of Review

We determine that the following weighted-average margin percentages exist:

Manufacturer/exporter	Margin (percent)
Agro Dutch Foods Ltd	2.26
Himalya International Ltd	6.63
Hindustan Lever Ltd	4.29
Techtran Agro Industries Limited	66.24
Weikfield Agro Products Ltd	26.44

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated importer-specific assessment rates. We will direct the Customs Service to assess the resulting rates against the entered customs values for the subject merchandise on each importer's entries under the relevant order during the review period. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries of subject merchandise for which the importer-specific assessment rate is zero or de minimis (*i.e.,* less than 0.50 percent).

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of the administrative review for all shipments of certain preserved mushrooms from India entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for Agro Dutch, Himalya, Hindustan, Techtran, and Weikfield will be the rates shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.30 percent. This rate is the ''All Others'' rate from the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their

[1] The petitioners are the Coalition for Fair Preserved Mushroom Trade which includes the American Mushroom Institute and the following domestic companies: L.K. Bowman, Inc., Nottingham, PA; Modern Mushroom farms, Inc., Toughkenamon, PA; Monterey Mushrooms, Inc., Watsonville, CA; Mount Laurel Canning Corp., Temple, PA; Mushrooms Canning Company, Kennett Square, PA; Southwood Farms, Hockessin, DE; Sunny Dell Foods, Inc., Oxford, PA; United Canning Corp., North Lima, OH.

responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 777(i) of the Act.

Dated: August 6, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

General Comment:

Comment 1: General and Administrative and Interest Expenses Used in Constructed Value

Company-Specific Comments:

Agro Dutch

Comment 2: Date of Sale for Certain U.S. Sales

Comment 3: Facts Available for Movement Expenses on Certain Sales

Comment 4: Adjustments to Cost of Manufacturing for Period of Review

Comment 5: Equivalent Units Work-In-Process Adjustment

Weikfield

Comment 6: New Factual Information

Comment 7: Capitalization of Pre-Production Expenses

Comment 8: Claim for Start-up Adjustment

Comment 9: Treatment of Work-In-Process

Comment 10: Capitalized Interest Expense

Comment 11: Affiliated Party Interest

Himalya International

Comment 12: Omission of Certain U.S. Sales from Margin Calculation

Comment 13: Facts Available for U.S. Brokerage and Handling Expenses

Comment 14: Treatment of Certain Movement Expenses

Comment 15: Calculation of Indirect Selling Expenses for Constructed Value

Comment 16: Offsetting Positive Margins with Negative Margins in Antidumping Duty Margin Calculation

Comment 17: General and Administrative Expense Ratio

Comment 18: Financial Expense Ratio

[FR Doc. 01–20269 Filed 8–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–825]

Stainless Steel Sheet and Strip in Coils From Germany; Notice of Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

EFFECTIVE DATE: August 13, 2001.

SUMMARY: In response to a request from Allegheny Ludlum, AK Steel Corporation, Butler Armco Independent Union, J&L Specialty Steel, Inc., North American Stainless, United Steelworkers of America, AFL–CIO/CLC, and Zanesville Armco Independent Organization (collectively, petitioners) and respondent Krupp Thyssen Nirosta GmbH (KTN) and Krupp Hoesch Steel Products, Inc. (Krupp) (collectively, KTN), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils (S4) from Germany. The review covers one manufacturer/exporter of the subject merchandise to the United States during the period January 4, 1999 through June 30, 2000.

We preliminarily determine that there are sales at less than normal value by KTN during the period January 4, 1999 through June 30, 2000. If these preliminary results are adopted in our final results of review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the United States Price (USP) and normal value (NV).

Interested parties are invited to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the arguments: (1) A statement of the issues and (2) a brief summary of the arguments (no longer than five pages, including footnotes).

FOR FURTHER INFORMATION CONTACT: Patricia Tran, Michael Heaney, or Robert James at (202) 482–1121, (202) 482–4475, or (202) 482–0649, respectively, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Applicable Statute and Regulations

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

SUPPLEMENTARY INFORMATION:

Background

The Department published an antidumping duty order on S4 from Germany on July 27, 1999. *See Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from Germany (Antidumping Duty Order),* 64 FR 40557 (July 27, 1999). On July 20, 2000, the Department published the *Notice of Opportunity to Request Administrative Review* of stainless steel sheet and strip in coils from Germany for the period January 4, 1999 through June 30, 2000 (65 FR 45035).

On July 28, 2000, petitioners requested an administrative review of KTN's sales for the period January 4, 1999 through June 30, 2000. On July 31, 2000, KTN also requested a review of its sales for the same time period. On September 6, 2000, we published in the **Federal Register** a notice of initiation of this antidumping duty administrative review covering the period January 4, 1999 through June 30, 2000. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 65 FR 53980 (September 6, 2000).

Because it was not practicable to complete this review within the normal time frame, on February 28, 2001, we published in the **Federal Register** our notice of the extension of time limits for this review. *See Stainless Steel Sheet and Strips in Coils from Germany; Antidumping Duty Administrative*

Review; Time Limits; Notice of Extension of Time Limits, 66 FR 12759 (February 28, 2001). This extension established the deadline for these preliminary results as July 31, 2001.

Scope of the Review

For purposes of this order, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled; (2) sheet and strip that is cut to length; (3) plate (i.e., flat-rolled stainless steel products of a thickness of 4.75 mm or more); (4) flat wire (i.e., cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm); and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See Chapter 72 of the HTSUS, ''Additional U.S. Note'' 1(d).

In response to comments by interested parties, the Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below.

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves for compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of between 0.002 and 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.'' [1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.'' [2]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper,

[1] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[2] ''Gilphy 36'' is a trademark of Imphy, S.A.

niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.'' [3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.,* carpet knives).[4] This steel is similar to ASTM grade 440F, but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per square micron. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6.'' [5]

Verification

As provided for in section 782(i) of the Act, we verified the information submitted by KTN. We used standard verification procedures, including on-site inspection of the manufacturer's facilities and examination of relevant sales and financial records. Our verification findings are outlined in the sales and cost verification reports which are on file in Room B–099 of the main Department of Commerce building. *See* Home Market Verification of Information Submitted by KTN, July 16, 2001; Verification Report on the Further Manufacturing Cost Data Submitted by Ken-Mac Metals, Inc., June 18, 2001; and Verification Report on the Cost of Production and Constructed Value Data Submitted by KTN, June 22, 2001.

Fair Value Comparisons

To determine whether sales of S4 in the United States were made at less than fair value, we compared United States Price (USP) to normal value (NV), as described in the ''United States Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Tariff Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

United States Price (USP)

We calculated CEP, in accordance with subsection 772(b) of the Tariff Act, because sales to the first unaffiliated purchaser that took place after importation into the United States. We based CEP on the packed, delivered, duty paid or delivered prices to unaffiliated purchasers in the United States. We made adjustments for price or billing errors, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act; these included, where appropriate, foreign inland freight, marine insurance, U.S. customs duties, U.S. inland freight, foreign brokerage and handling, international freight, foreign inland insurance, and U.S. warehousing expenses. In accordance with section 772(d)(1) of the Tariff Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs, warranty expenses, commissions and other direct selling expenses), inventory carrying costs, and indirect selling expenses. We offset credit expenses by the amount of interest revenue on sales. For CEP sales, we also made an adjustment for profit in accordance with section 772(d)(3) of the Tariff Act.

For those sales in which material was sent to an unaffiliated U.S. processor to be further processed, we made an adjustment based on the transaction-specific further-processing amounts reported by KTN. In addition, Ken-Mac performed some further processing of some of KTN's U.S. sales. For these sales, we deducted the cost of further processing in accordance with 772(d)(2) of the Tariff Act. In calculating the cost of further manufacturing for Ken-Mac, we relied upon the further manufacturing information provided by KTN.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.,* the aggregate volume of home market sales of the foreign like product was equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Tariff Act. As KTN's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

Sales to affiliated customers in the home market not made at arm's-length prices (if any) were excluded from our analysis because we considered them to be outside the ordinary course of trade. If sales were not made at arm's-length then the Department used the sale from the affiliated party to the first unaffiliated party. *See* 19 CFR 351.102. To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. *See* 19 CFR 351.403(c). In instances where no price ratio could be calculated for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our analysis. *See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 58 FR 37062, 37077 (July 9, 1993) and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination; Emulsion Styrene-*

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

[5] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

Butadiene Rubber from Brazil, 63 FR 59509, 59512 (November 4, 1998). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

Cost of Production (COP) Analysis

The Department disregarded certain sales made by KTN in the less-than-fair-value (LTFV) investigation because these sales were at prices below KTN's cost of production (see *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Germany,* 64 FR 30710, 30716 (June 8, 1999)) Thus, in accordance with section 773(b)(2)(A)(ii) of the Tariff Act, there are reasonable grounds to believe or suspect that sales of S4 in the home market were made at prices below their cost of production (COP) in the current review period. Accordingly, pursuant to section 773(b) of the Tariff Act, we initiated a cost investigation to determine whether sales made during the POR were at prices below their respective COP.

In accordance with section 773(b)(3) of the Tariff Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses (G&A), interest expenses, and home market packing costs. We relied on the COP data submitted by KTN, except where noted below:

Where KTN's reported transfer prices for purchases of nickel from an affiliated party were not at arm's length, we increased these prices to reflect the prevailing market prices. Further, we revised the slitting costs reported by KTN's home market resellers by calculating one average cost for the service provided. *See* Memorandum from Taija Slaughter to Neal Halper, Director Office of Accounting, dated July 31, 2001.

In accordance with section 773(b)(1) of the Tariff Act, in determining whether to disregard home market sales made at prices below COP, we examined whether such sales were made within an extended period of time in substantial quantities, and whether such sales were made at prices which would permit recovery of all costs within a reasonable period of time.

Pursuant to section 773(b)(2)(C) of the Tariff Act, where less than 20 percent of KTN's sales of a given model were at prices less than COP, we did not disregard any below-cost sales of that model because these below-cost sales were not made in substantial quantities. Where 20 percent or more of KTN's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because such sales were found to be made: (1) In substantial quantities within the POR (*i.e.,* within an extended period of time) in accordance with section 773(b)(2)(B) of the Tariff Act, and (2) at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act (*i.e.,* the sales were made at prices below the weighted-average per-unit COP for the POR). We used the remaining sales as the basis for determining NV, if such sales existed, in accordance with section 773(b)(1) of the Tariff Act.

Constructed Value

In accordance with section 773(e)(1) of the Tariff Act, we calculated CV based on the sum of respondent's cost of materials, fabrication, SG&A, including interest expenses, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Tariff Act, we based SG&A and profit on the amounts incurred and realized by KTN in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. We used the CV data KTN supplied in its section D supplemental questionnaire response, except for the adjustments that we made for COP above.

Price-Based Normal Value

We calculated NV based on prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's length. We made adjustments for interest revenue, discounts, and rebates where appropriate. We made deductions, where appropriate, for foreign inland freight, handling, and warehousing, pursuant to section 773(a)(6)(B) of the Tariff Act. In addition, when comparing sales of similar merchandise, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Tariff Act and 19 CFR 351.411. We also made adjustments for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Tariff Act and 19 CFR 351.410. We made COS adjustments for imputed credit expenses and warranty expenses. We also made an adjustment, where appropriate, for the CEP offset in accordance with section 773(a)(7)(B) of the Tariff Act. *See* Level of Trade and CEP Offset section below. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Tariff Act.

In accordance with section 773(a)(4) of the Tariff Act, we based NV on CV if we were unable to find a contemporaneous home market match of such or similar merchandise. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Tariff Act. Where we compared CV to CEP, we deducted from CV the weighted-average home market direct selling expenses. We also made an adjustment, where appropriate, for the CEP offset in accordance with section 773(a)(7)(B) of the Tariff Act.

Level of Trade and CEP Offset

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

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Tariff Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Tariff Act (the CEP offset provision). (*See e.g., Certain Carbon Steel Plate from South Africa, Final Determination of Sales at Less Than Fair Value,* 62 FR 61731 (November 19, 1997)).

In implementing these principles in this review, we asked KTN to identify the specific differences and similarities in selling functions and support services between all phases of marketing in the home market and the United States. KTN identified four channels of distribution in the home market: (1) Mill direct sales (2) mill inventory sales (3)

service center inventory sales, and (4) service center processed sales. For all channels KTN performs similar selling functions such as negotiating prices with customers, setting similar credit terms, arranging freight to the customer, and conducting market research and sales calls. The remaining selling activities did not differ significantly by channel of distribution. Because channels of distribution do not qualify as separate levels of trade when the selling functions performed for each customer class or channel are sufficiently similar, we determined that one level of trade exists for KTN's home market sales.

For the U.S. market KTN reported four channels of distribution: (1) Back-to-back CEP sales made through KHSP and Thyssen Marathon Canada (TMC); (2) consignment CEP sales made through KHSP and TMC; (3) inventory sales from TMC; and (4) services center sales thru Ken-Mac. All U.S. sales were CEP transactions. The Department examines the selling functions at the level of the constructed sale from the exporter to the importer (*i.e.,* the sale from Krupp Thyssen Nirosta Export (KTN's home market affiliate) in Germany to affiliated U.S. importers). These selling functions included negotiating prices with customers, offering technical advice, arranging delivery services, providing after-sale warranties, and conducting market research and sales calls. However, KTN performed fewer of these selling functions in the U.S. market than it did in the home market. Additionally, the differences in selling functions performed for home market and CEP transactions indicates that home market sales involved a more advanced stage of distribution than CEP sales. *See* KTN Preliminary Analysis Memorandum, July 31, 2001, a public version of which is on file in Room B–099 of the main Department of Commerce building. Because we compared CEP sales to HM sales at a different level of trade, we examined whether a LOT adjustment may be appropriate. In this case KTN sold at one LOT in the home market; therefore, there is no basis upon which to determine whether there is a pattern of consistent price differences between levels of trade. Further, we do not have the information which would allow us to examine pricing patterns of KTN's sales of other similar products, and there is no other record evidence upon which such an analysis could be based.

Because the data available do not provide an appropriate basis for making a LOT adjustment but the LOT in Germany for KTN is at a more advanced stage than the LOT of the CEP sales, a CEP offset is appropriate in accordance with section 773(a)(7)(B) of the Tariff Act, as claimed by KTN. Where there were commissions in U.S. market but not the home market, we calculated the CEP offset as the lesser of either the U.S. commissions or the home market indirect selling expenses. Where there were commissions in both the U.S. and home markets, we calculated the CEP offset as the lesser of either the home market indirect selling expenses or the difference between the U.S. and home market commissions. Where there were commissions in the home market but not the U.S. market, we set the CEP offset equal to zero. We performed these calculations in accordance with 772(d)(1)(D) of the Tariff Act. We applied the CEP offset to NV, whether based on home market prices or CV.

Facts Available

In accordance with section 776(a)(1) of the Tariff Act, in these preliminary results we find it necessary to use partial facts available in those instances where the respondent did not provide us with certain information necessary to conduct our analysis. In a small number of cases, KTN's affiliated U.S. reseller, Ken-Mac, was unable to confirm the origin of the subject merchandise it sold during the POR. Therefore, KTN provided data about these particular resales through Ken-Mac in a separate database. KTN reported that it allocated these sales of ''unattributable'' merchandise amongst the potential suppliers of the material based on relative percentage, by volume, of stainless steel and strip purchased during the POR by Ken-Mac from each supplier. In addition to KTN, potential suppliers of this merchandise include, among others, Mexinox S.A. de C.V. (Mexinox) and Acciai Speciali Terni (AST), producers which are subject to the companion antidumping duty administrative reviews covering S4 in coils from Mexico and Italy, respectively. At our sales verification of Ken-Mac, we thoroughly reviewed this issue and determined that Ken-Mac had acted to the best of its ability in attemping to trace the origin of the subject merchandise that it sold during the POR.

Because of the unknown origin of certain of Ken-Mac's resales of subject merchandise, KTN has, in effect, not provided all the information necessary to complete our analysis. Therefore, we have preliminarily determined that, pursuant to section 776(a) of the Tariff Act, it is appropriate to use the facts otherwise available in calculating a margin on these sales. Section 776(a) of the Tariff Act provides that the Department will, subject to section 782(d), use the facts otherwise available in reaching a determination if ''necessary information is not available on the record.'' Therefore, for these preliminary results, we have calculated a margin on Ken-Mac's ''unattributable'' resales by applying the overall margin calculated on all other Ken-Mac sales/resales of subject merchandise to the weighted-average price of these ''unattributable'' sales. We then weighted the result by allocating a portion of the ''unattributable'' database representing the ratio of Ken-Mac's purchases of stainless steel from Germany to stainless steel purchases from all vendors.

The Department incorporated KTN's May 21, 2001 submission of Krupp VDM GmbH (Krupp VDM) sales into KTN's home market and U.S. market sales data to calculate a weighted-average margin. However, a section D response was not included along with Krupp VDM's sales information. KTN did report in Krupp VDM's sales listing TOTCOM and VCOM; additional information on the record allowed the Department to calculate Krupp VDM's COP without resorting to facts available. The Department calculated Krupp VDM's total cost of production (TOTCOP) by first constructing Krupp VDM's general and administrative expenses (GNA) and interest expense (INTEX) from its audited 1999 and 2000 financial statements. *See* KTN's May 21, 2001 submission at exhibit C–4. The TOTCOP was calculated by adding GNA, INTEX and Krupp VDM's reported TOTCOM. *See* KTN's Preliminary Analysis Memorandum, July 31, 2001.

Preliminary Results of Review

As a result of our review, we preliminarily determine the following weighted-average dumping margin exists for the period January 4, 1999 through June 30, 2000:

Manufacturer/Exporter: KTN
Weighted Average Margin (percentage): 2.81

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within thirty days of publication. *See* CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date pursuant to 19 CFR 351.310(d). Interested parties may submit case briefs or written comments no later than 30 days after the

date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in these proceedings are requested to submit with the argument (1) A statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue final results of these administrative reviews, including the results of our analysis of the issues in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries that particular importer made during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of the review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of S4 in coils from Germany entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act:

(1) The cash deposit rate for KTN will be the rate established in the final results of review;

(2) If the exporter is not a firm covered in this review or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(3) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 25.37 percent (*see Antidumping Duty Order* 64 FR 40557, 40559).

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

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: July 31, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–20272 Filed 8–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–535–001]

Cotton Shop Towels From Pakistan: Final Results of Countervailing Duty Administrative Review

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

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On April 9, 2001, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on cotton shop towel from Pakistan for the period January 1, 1999, through December 31, 1999. *See Cotton Shop Towels From Pakistan: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review,* 66 FR 18444 (April 9, 2001) (*Preliminary Results*).

Based on our analysis of the comments received, we have not made changes to the net subsidy rates. Therefore, the final results do not differ from the preliminary results. The final net subsidy rates for the reviewed companies are listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: August 13, 2001.

FOR FURTHER INFORMATION CONTACT: Gayle Longest at (202) 482–3338 or Mark Young at (202) 482–6397, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

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

Background

On April 9, 2001, the Department published its preliminary results of administrative review of the countervailing duty order on cotton shop towels from Pakistan. *See Preliminary Results*. This review covers 11 manufacturers/exporters, Mehtabi Towel Mills Ltd. (Mehtabi), Shahi Textiles (Shahi), Silver Textile Factory (Silver), Universal Linen (Universal), United Towel Exporters (United), R.I. Weaving (R.I.), Fine Fabrico (Fabrico), Ejaz Linen (Ejaz), Quality Linen Supply Corp. (Quality), Jawwad Industries (Jawwad), and Ahmed & Co. (Ahmed). The review covers the period January 1, 1999, through December 31, 1999, and seven programs.

Scope of the Review

The merchandise subject to this review is cotton shop towels. The product covered in this review is provided for under item number 6307.10.20 of the *Harmonized Tariff Schedule of the United States* (HTSUS). The HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) dated concurrent with this notice which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B–099 of the Main Commerce Building. In addition, a complete version of the Decision

Memorandum can be accessed directly on the World Wide Web at *http://www.ia.ita.doc.gov*, under the heading ''Federal Register Notices.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have not made any changes to the subsidy rate calculations from the preliminary results.

Final Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter subject to this review. We will instruct the U.S. Customs Service (Customs) to assess countervailing duties as indicated below on all appropriate entries. For the period January 1, 1999, through December 31, 1999, we determine the net subsidy rates for the reviewed companies to be as follows:

Company	Ad valorem rate (percent)
Mehtabi	3.68
Quality	3.68
Fabrico	3.68
Ejaz	3.68
United	6.60
R.I.	6.60
Universal	6.60
Shahi	3.32
Ahmed	3.32
Jawwad	2.97
Silver	10.24

We will instruct Customs to assess countervailing duties as indicated above. The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the percentages detailed above of the f.o.b. invoice price on all shipments of the subject merchandise from reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and the Torrington Company* v. *United States,* 822 F. Supp. 782 (CIT 1993); *Floral Trade Council* v. *United States*, 822 F. Supp. 766 (CIT 1993). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding conducted under the Act, as amended by the URAA. If such a review has not been conducted, the rate established in the most recently completed administrative proceeding, pursuant to the statutory provisions that were in effect prior to the URAA amendments, is applicable. *See Cotton Shop Towels From Pakistan: Final Results of Countervailing Duty Administrative Reviews,* 62 FR 24082 (May 2, 1997). These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1999, through December 31, 1999, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: August 7, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues Discussed in Decision Memorandum

http://www.ia.ita.doc.gov, under the heading (''Federal Register Notices'').

Methodology and Background Information

I. Use of Facts Available
II. Analysis of Programs
  A. Programs Conferring Subsidies
  1. Export Finance Scheme
  2. Sales Tax Rebate Program
  3. Customs Duty Rebate Program
  4. Income Tax Reduction on Export Income Program
III. Programs Determined To Be Not Used
  A. Rebate of Excise Duty
  B. Export Credit Insurance
  C. Import Duty Rebates
IV. Total Ad Valorem Rate
V. Analysis of Comments
Comment 1—Income Tax Reduction on Export Income Program
Comment 2—Customs Duty Rebate Program
Comment 3—Sales Tax Rebate Program

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072301F]

Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Activities in the Beaufort Sea

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of bowhead whales and other marine mammals by harassment incidental to conducting ocean bottom cable (OBC) seismic surveys in the Alaskan Beaufort Sea, has been issued to WesternGeco, LLC (formerly Western Geophysical) for the open water period of 2001.

DATES: Effective from July 31, 2001, until November 1, 2001.

ADDRESSES: The application, authorization, monitoring plan, Biological Opinion, and a list of references used in this document are available by writing to Donna Wieting, Chief, Marine Mammal Conservation

Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Simona Perry Roberts, Office of Protected Resources (301) 713–2322, ext. 106, or Brad Smith, Alaska Region (907) 271–5006.

SUPPLEMENTARY INFORMATION:

Background

Sections 101 (a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

On April 10, 1996 (61 FR 15884), NMFS published an interim rule establishing, among other things, procedures for issuing incidental harassment authorizations (IHAs) under section 101 (a)(5)(D) of the MMPA for activities in Arctic waters. For additional information on the procedures to be followed for this authorization, please refer to 50 CFR 216.107.

Summary of Request

On April 16, 2001, NMFS received an application from WesternGeco requesting an authorization for the harassment of small numbers of several species of marine mammals incidental to conducting OBC seismic surveys during the open water season in the south central Beaufort Sea off Alaska between western Camden Bay and Harrison Bay. The primary area of seismic activity is expected to be an area approximately 16 by 7 kilometers (km) (10 miles (mi) by 4 mi) in and near Simpson Lagoon, west of Prudhoe Bay and offshore of Oliktok Point. Weather permitting, the survey is expected to take place between approximately July 27 and mid- to late-October, 2001.

WesternGeco's OBC survey involves dropping cables from a ship to the ocean bottom, forming a patch consisting of 4 parallel cables 8.9 km (5.5 mi) long, separated by approximately 600 meters (m) (1,968 feet (ft)) from each other. Hydrophones and geophones, attached to the cables, are used to detect seismic energy reflected back from rock strata below the ocean bottom. The source of this energy is a submerged acoustic source, called a seismic airgun array, that releases compressed air into the water, creating an acoustical energy pulse that is directed downward toward the seabed. WesternGeco will use two source vessels for the open-water 2001 seismic surveys, one for deep water and one for shallow water, primarily shoreward of the barrier islands. The deep water vessel, the R/V *Arctic Star*, will utilize an airgun array with an air discharge volume of 1,210 cubic inches (in^3) (19.8 liters, L). The maximum source levels for the *Arctic Star* will be at 249 dB re 1 micro Pascal at 1 meter (Pa-m) when the acoustic pressure is 29.4 bar-meters (zero to peak), which is equivalent to 253 dB re 1 micro Pa-m when the acoustic pressure is 45.9 bar-meters (peak-to-peak). Most operations utilizing the 1,210 in^3 array are expected to operate at a gun depth of 2.3 m (7.5 ft) and water depth of <10 m (<32.8 ft). The shallow water source vessel, the R/V *Peregrine*, will utilize an airgun array with an air discharge volume of 640 in^3 (10.48 L). The source level maximums for the *Peregrine* will be at 237 dB re 1 micro Pa-m when the acoustic pressure is 6.7 bar-meters (zero to peak), which is equivalent to 242 dB re 1 micro Pa-m when the acoustic pressure is 12.2 bar-meters (peak to peak). These airgun arrays are smaller and less powerful than the arrays used in some other seismic programs in the Beaufort Sea prior to 1999 and are expected to operate at a gun depth of 1 m (3.3 ft) in very shallow water.

It is anticipated that the seismic vessels will sail along pre-plotted source lines arranged orthogonally to the OBCs. Each source line will be 5 km (3.1 mi) long and adjacent source lines will be approximately 500 m (1,640 ft) apart. There will be 34 source lines for each seismic patch. The overall grid of source lines for a given patch will be 4.7 km by 16.5 km (2.9 mi by 10.2 mi) and the source line for one patch will overlap with those from adjacent patches.

After sufficient data have been recorded to allow accurate mapping of the rock strata, the cables are lifted onto the deck of one of the two self-powered cable vessels (R/V *Western Endeavor* and R/V *Western Frontier*), moved to a new location (ranging from several hundred to a few thousand feet away), and placed onto the seabed again. A small utility vessel (Ski Barge) may also be used to transfer seismic crew and/or marine mammal observers, as well as supplies and refuse, between the seismic vessels and Prudhoe Bay. Air support will be limited to infrequent (if any) helicopter flights and, starting after August 31, 2001, aerial surveys at altitudes from 900 to 1500 ft (274 to 457 m). For a more detailed description of the seismic operation, please refer to WesternGeco (2001).

Comments and Responses

On June 14, 2001 (66 FR 32321), NMFS published a notice of receipt and a 30-day public comment period was provided on the application and proposed authorization. Comments were received from the Marine Mammal Commission (MMC) and LGL Ltd., environmental research associates (monitoring contractor for the seismic surveys) on behalf of Western Geco LLC.

Activity Concerns

Comment 1: The June 14, 2001, **Federal Register** notice implies that the 1210 in3 airgun array might be operated at two different pressures: ''249 dB re 1 micro Pa-m equals 29.4 bar-m zero-to-peak, or 253 dB re 1 micro Pa-m equals 45.9 bar-m peak-to-peak.'' LGL Ltd. commented that these four measurements are all equivalent to one another, and all would apply simultaneously. The same applies for the pressures quoted for the 640 in3 airgun array. In addition, LGL Ltd. noted that the ''-m'' in the unit ''dB re 1 micro Pa-m'' should be read as ''at 1 meter'', not ''per minute'' as stated in the notice.

Response: Thank you for providing this information. NMFS did not intend to imply that the airgun array(s) would operate at two different pressures. To clarify, NMFS has added equivalent language to the sentences referred to within this document. Also, NMFS has corrected the micro Pascal ''per minute'' reference to read micro Pascal ''at 1 meter''.

Comment 2: LGL Ltd. noted that the statement: ''the highest frequency in the airgun sounds will be 188 Hz'' is in error. Western's application states that the dominant frequency components will extend up to 188 Hz. The energy content decreases with increasing frequency, but there is some energy at frequencies above 188 Hz. The overall source level of the 1210 in^3 array, as quoted in Western's application, included energy up to 375 Hz.

Response: NMFS has made the appropriate changes in this document and has taken this information into account when making its determinations under the MMPA.

Subsistence Concerns

Comment 3: LGL Ltd. noted that a Conflict Avoidance Agreement for 2001 has been signed by WesternGeco, AEWC, and representatives of the Kaktovik and Nuiqsuit whaling captains.

Response: Thank you for this information.

Mitigation, Monitoring and Reporting Concerns

Comment 4: LGL Ltd. notes that at the peer/stakeholder workshop in Seattle on June 5–6, 2001, it was agreed that the number of marine mammal observers for the 2001 work aboard the *Arctic Star*would be three (two biologists and one Inupiat), not four as the June 14, 2001, **Federal Register** notice stated. As in previous years, one marine mammal observer would be on watch at most times, though 30 minutes prior to and during airgun startups, and occasionally at other times, two marine mammal observers would be on watch.

Response: Thank you for this information. NMFS has made the appropriate changes in this document and has taken this information into account when making its determinations under the MMPA.

Comment 5: LGL Ltd. notes that at the peer/stakeholder workshop in Seattle on June 5–6, 2001, it was agreed that the number of marine mammal observers for the 2001 work aboard the *Peregrine* would be two (one biologist and one Inupiat, with no additional observers required as the June 14, 2001, **Federal Register** notice stated), provided that wheelhouse personnel watch for marine mammals at times when no marine mammal observer is on duty, and that shut down of airguns would be conducted in the same manner when a marine mammal is seen inside the safety radius and a marine mammal observer is not on duty. It was also agreed that when a shutdown is initiated by wheelhouse personnel in the absence of a marine mammal observer, the shutdown would be recorded but additional details concerning the marine mammal sighting probably would not be recorded. It was noted at the peer/stakeholder workshop that the *Peregrine* has space for only two marine mammal observers, that frequent boat-to-boat transfers of personnel are undesirable from a safety perspective, and that the *Peregrine* will operate in shallow waters (mainly a lagoon) where bowhead whales are highly unlikely to occur and where seal densities may be relatively low.

Response: Thank you for this information. NMFS concurs with this change in the monitoring requirements aboard the *Peregrine*, with one exception. When a shut down occurs and a marine mammal observer is not on duty, the wheelhouse personnel must notify one of the marine mammal observers so that they can record the information required by NMFS. This was agreed upon by NMFS and WesternGeco at the peer/stakeholder meeting on June 6, 2001 as part of WesternGeco's standard operating procedures. NMFS has made the appropriate changes in this document and has taken this information into account when making its determinations under the MMPA.

Comment 6: The MMC concurs with NMFS that the proposed activities in the Alaskan Beaufort Sea will result, at most, in a temporary modification of the behavior of certain species of cetaceans and pinnipeds. The MMC also concurs that the monitoring and mitigation measures proposed by WesternGeco appear to be adequate to ensure that the planned surveys will not result in the mortality or serious injury of any marine mammals or have unmitigable adverse effects on the availability of marine mammals for taking by Alaska Natives for subsistence uses. Therefore, the MMC recommends that the requested IHA be issued, provided that NMFS is satisfied that the monitoring and mitigation programs will be carried out as described in the application.

Response: Thank you for the comment. On June 5, 2001, NMFS convened a peer-review/stakeholders meeting in Seattle, WA to discuss the proposed monitoring and mitigation measures for this seismic survey program. A description of the monitoring and mitigation that will be required for this activity is described later in this document.

Although NMFS has no reason to believe that the monitoring and mitigation programs will not be carried out, a report on all activities under the IHA will be required to be submitted to NMFS within 90 days of completion of the planned survey. This report will be reviewed by NMFS to determine whether WesternGeco fully complied with the terms and conditions of the IHA, including the monitoring and mitigation requirements.

Comment 7: The MMC questions whether there is a sufficient basis for concluding that this activity, combined with past and possible future activities in this region, is unlikely to have non-negligible cumulative effects on any of the potentially affected marine mammal species or their availability to Alaska Natives for subsistence uses. Therefore, the MMC recommends (as in previous letters) that NMFS, in consultation with the applicant, the Alaska Department of Fish and Game, and the Native communities, determine the long-term monitoring that would be required to confirm that the proposed seismic surveys and possible future exploration and development activities do not cause changes in the seasonal distribution patterns, abundance, or productivity of marine mammal populations in the area. MMC recommends that such consultations address: (1) the possibility that the sum of exploration and development activities could have significant cumulative adverse effects on marine mammal behavior and distribution; (2) whether previous and proposed monitoring programs have provided and will continue to provide adequate baseline data for detecting possible future changes in the distribution, abundance, or productivity of the potentially affected marine mammal populations; (3) changes in the planned marine mammal and acoustic monitoring program that would be required to provide adequate baseline data; and, (4) whether the purposes of the MMPA and the Endangered Species Act might be met more cost-effectively by designing and implementing long-term monitoring programs to replace or augment the site-specific monitoring currently required.

Response: Thank you for the recommendation. Based on the best available scientific information, WesternGeco's proposed OBC seismic survey is unlikely to have more than minimal behavioral effects on marine mammal species in the area. If the survey period extends into the fall bowhead migration season, there may be some effect on bowhead whales migrating inshore. However, some of WesternGeco's seismic work will be conducted shoreward of the barrier islands, where noise from the survey would be unlikely to reach the main migration path for bowheads. In addition, the seismic arrays being used will never be fired simultaneously.

NMFS recognizes the need to address potential adverse cumulative impacts from oil and gas exploratory and development activities on both marine mammal stocks and subsistence needs. The 2001 scientific peer review workshop participants concluded that the current research and monitoring proposed by WesternGeco for seismic surveys, by BPX for oil development at Northstar, and by BP/EM/PAI for

shallow hazard surveys (see 66 FR 32321, June 14, 2001, 65 FR 34014, May 25, 2000, and 66 FR 29287, May 30, 2001), coupled with existing projects to monitor bowhead population abundance (trends in abundance) should provide the information necessary to provide baseline data and determine overall cumulative impacts from noise on bowhead whales. Existing long-term monitoring projects that augment current site-specific monitoring required under MMPA authorizations, include: (1) the North Slope Borough spring bowhead census; (2) the Minerals Management Service's (MMS) autumn aerial survey; and, (3) an MMS-funded bowhead whale photo-identification project conducted in conjunction with bowhead whale feeding studies. Similar work is underway for ringed seals. Provided trends in bowhead (and other species') abundance continue to be positive and until new scientific information is made available, NMFS presumes industrial development on the North Slope is not adversely affecting the bowhead population.

Description of Habitat and Marine Mammals Affected by the Activity

A detailed description of the Beaufort Sea ecosystem and its associated marine mammals can be found in several documents (Corps of Engineers, 1999; NMFS, 1999; Minerals Management Service (MMS), 1992, 1996) and does not need to be repeated here.

Marine Mammals

The Beaufort/Chukchi Seas support a diverse assemblage of marine mammals, including bowhead whales (*Balaena mysticetus*), gray whales (*Eschrichtius robustus*), beluga whales(*Delphinapterus leucas*), ringed seals (*Phoca hispida*), spotted seals (*Pusa largha*) and bearded seals (*Erignathus barbatus*). Descriptions of the biology and distribution of these species and of others can be found in NMFS (1999), Western Geophysical (2000), WesternGeco (2001), the annual monitoring reports for seismic surveys in the Beaufort Sea (LGL Ltd. and Greeneridge Sciences Inc, 1997, 1998, 1999, 2000) and several other documents (Corps of Engineers, 1999; Lentfer, 1988; MMS, 1992, 1996; Ferrero *et al.*, 2000). Please refer to those documents for information on these species.

Potential Effects of Seismic Surveys on Marine Mammals

Disturbance by seismic noise is the principal means of taking by this activity. Support vessels and aircraft may provide a potential secondary source of noise. The physical presence of vessels and aircraft could also lead to non-acoustic effects on marine mammals involving visual or other cues.

Underwater pulsed sounds generated by open water seismic operations may be detectable a substantial distance away from the activity. The effect of these pulsed sounds on living marine resources, particularly marine mammals in the area, will be dependent on the hearing sensitivity of the species, the behavior of the animal at the time the sound is detected, as well as the distance and level of the sound relative to ambient conditions. Any sound that is detectable is (at least in theory) capable of eliciting a disturbance or avoidance reaction by some marine mammals or of masking signals of comparable frequency that are generated by marine mammals (e.g., whale calls) (WesternGeco, 2001). An incidental harassment take is presumed to occur when marine mammals in the vicinity of the seismic source, the seismic vessel, other vessels, or aircraft show a disturbance or avoidance reaction to the generated sounds or to visual cues.

When the received levels of noise exceed some behavioral reaction threshold, cetaceans will show disturbance reactions. The levels, frequencies, and types of noise that will elicit a response vary between and within species, individuals, locations, and seasons. Behavioral changes may be subtle alterations in the surface, respiration, and dive cycles. More conspicuous responses include changes in activity or aerial displays, movement away from the sound source, or complete avoidance of the area. The reaction threshold and degree of response are related to the activity of the animal at the time of the disturbance. Whales engaged in active behaviors, such as feeding, socializing, or mating, are less likely than resting animals to show overt behavioral reactions, unless the disturbance is directly threatening. Seismic pulses have been observed to cause strong avoidance reactions by many of the bowhead whales occurring within a distance of several kilometers, including changes in surfacing, respiration and dive cycles, and to sometimes cause avoidance or other changes in bowhead behavior at considerably greater distances (Richardson *et al.*, 1995; Rexford, 1996; MMS, 1997; Miller *et al.*, 1999). Airgun pulses may also disturb some other marine mammal species occurring in the area. Ringed seals within a few hundred meters of an airgun array showed variable reaction to the noise, with some moving somewhat farther away and other seals not moving far at all (Harris *et al.*, 1997, 1998, in press; Lawson and Moulton, 1999; Moulton and Lawson, 2000). It is likely that avoidance distances around nearshore seismic operations of the type planned for 2001 may be less than those around some of the seismic operations that were done in the Beaufort Sea before 1996 for the following reasons: (1) The recent seismic operations have been in shallow water, (2) the recent seismic operations have been limited to a confined area at any one time, and (3) the recent seismic operations have employed smaller airgun arrays than those that were used in the past.

Although some limited masking of low-frequency sounds (e.g., bowhead and gray whale calls) is a possibility, the intermittent nature of seismic survey pulses used by WesternGeco (1 second in duration every 16 to 24 seconds), as well as the fact that airgun operations are expected to occur no more than 50 percent of the time, will limit the extent of masking. Bowhead whales are known to continue calling in the presence of seismic survey sounds, and their calls can be heard between seismic pulses (Greene *et al.*, 1997, 1999; Richardson *et al.*, 1986). Masking effects are expected to be absent in the case of beluga whales, given that sounds utilized by them are at much higher frequencies (in the 2 to 6 kilohertz (kHz) range) (Sjare and Smith, 1986) than airgun sounds from WesternGeco's seismic surveys (dominant frequency components will extend up to 188 hertz(Hz)) (WesternGeco, 2001).

Permanent hearing damage is not expected to occur during the project. There is no direct evidence that the hearing systems of marine mammals close to an airgun array would be at risk of temporary or permanent hearing impairment; however, depending on the species, the equipment being used, and the number of pulses to which the animal is exposed, temporary threshold shift (TTS) is a theoretical possibility for animals within a few hundred meters of the source (Richardson *et al.*, 1995; Finneran *et al.*, 2000).

Planned monitoring and mitigation measures, proposed by WesternGeco and described later in this document, are designed to avoid sudden onsets of seismic pulses at full power, to detect marine mammals occurring near the array, and to avoid exposing them to sound pulses that have any possibility of causing hearing impairment.

For a discussion on the anticipated effects of ships, boats, and aircraft on marine mammals and their food sources, and for a more complete review of the best available information

available on the potential effects of seismic surveys to marine mammals in the Arctic, please refer to the application (WesternGeco, 2001) and the **Federal Register** notice of June 14, 2001 (66 FR 32321).

Numbers of Marine Mammals Expected to Be Taken

Based on an analysis provided in their application, WesternGeco estimates that the following numbers of marine mammals may be subject to Level B harassment, as defined in 50 CFR 216.3:

Species	Population Size	Harassment Takes in 2001	
		Possible	Probable
Bowhead	8,200	.....	.....
160 dB criterion	.....	1,000	<500
2 0km criterion	.....	2,630	<1,300
Gray whale	26,000	<10	0
Beluga whale	39,258	250	<150
Ringed seal[3]	1-1.5 million	400	<200
Spotted seal[3]	>200,000	<10	<2
Bearded seal[3]	>300,000	50	<15

1 The maximum number that might be taken if seismic surveys are operable during the September/October period and the bowhead migration passes unusually close to shore as in 1997.
2 The number that could be taken under the most likely operating conditions.
3 Some individual seals may be harassed more than once

At the 2001 open water peer-review workshop held in Seattle on June 5th and 6th, the attendees agreed on support of the following statement based on methods and results reported in Miller *et al.* (1999): ''Monitoring studies of 3-D seismic exploration (6–18 airguns totaling 560–1500 in^3) in the nearshore Beaufort Sea during 1996–1998 have demonstrated that nearly all bowhead whales will avoid an area within 20 km of an active seismic source, while deflection may begin at distances up to 35 km. Sound levels received by bowhead whales at 20 km ranged from 117–135 dB re 1 micro Pa rms and 107–126 dB re 1 micro Pa rms at 30 km. The received sound levels at 20–30 km are considerably lower levels than have previously been shown to elicit avoidance in bowhead or other baleen whales exposed to seismic pulses.'' NMFS adopts the Miller *et al.* research and the peer review workshop's statement as the best scientific information available on bowhead whale reactions to seismic sources. Given this information, NMFS utilized the 20 km criterion estimates of take for bowhead whales provided by WesternGeco in determining the number of harassment takes to be authorized under the IHA for the 2001 open water season.

Estimates of Marine Mammal Takes

Estimates of takes by harassment will be made through vessel and/or aerial surveys. Preliminarily, WesternGeco will estimate the number of (1) marine mammals observed within the area ensonified strongly by the OBC seismic vessel (see Mitigation section of this document for description of safety radii); (2) marine mammals observed showing apparent avoidance or disturbance reactions to seismic pulses (e.g., heading away from the seismic vessel in an atypical direction); (3) marine mammals estimated to be subject to take by type (1) or (2) when no monitoring observations were possible; and (4) bowhead whales whose migration routes come within 20 km (actual distance dependent on a combination of 1996–1998 and 2001 data) of the operating OBC seismic vessel, or would have if they had not been displaced farther offshore.

Effects of Seismic Noise and Other Activities on Subsistence Needs

The disturbance and potential displacement of marine mammals by sounds from seismic activities are the principle concerns related to subsistence use of the area. The harvest of marine mammals (mainly bowhead whales, but also ringed and bearded seals) is central to the culture and subsistence economies of the coastal North Slope communities. In particular, if migrating bowhead whales are displaced farther offshore by elevated noise levels, the harvest of these whales could be more difficult and dangerous for hunters. The harvest could also be affected if bowhead whales become more ''skittish'' when exposed to seismic noise.

The location of the proposed seismic activity is south of the center of the westward migration route of bowhead whales, but there is some limited overlap with the southern limit of the migration. Seismic monitoring results from 1996–1998 indicate that most bowhead whales avoid the area within about 20 km (12.4 mi) around the airgun array when it is operating, and some avoid the area within 30 km (18.6 mi). In addition, bowhead whales may be able to hear the sounds emitted by the seismic array out to a distance of 50 km (31.1 mi) or more, depending on the ambient noise level and the efficiency of sound propagation along the path between the seismic vessel and the whale (Miller *et al.*, 1997).

Nuiqsut is the community closest to the area of the proposed activity. The communities of Barrow and Kaktovik also harvest resources that pass through the general area, but do not regularly hunt in the planned seismic exploration area. Subsistence hunters from all three communities conduct an annual hunt for migrating bowhead whales during the autumn months. In recent years, Nuiqsut whalers have typically taken two to four whales each year (WesternGeco, 2001). Nuiqsut whalers concentrate their efforts on areas north and east of Cross Island, generally in water depths greater than 20 m (65 ft). Cross Island, the principle field camp location for Nuiqsut whalers, is located within the general area of the proposed 2001 seismic area.

Whalers from the village of Kaktovik search for whales east, north, and west of the village. Kaktovik is located 72 km (45 mi) east of the easternmost end of WesternGeco's planned 2001 seismic exploration area.

Whalers from the village of Barrow search for bowhead whales >200 km (125 mi) to the west of the planned seismic area (WesternGeco, 2001).

Nuiqsut hunters also hunt seals for subsistence purposes. Most seal hunting has been during the early summer in open water. Boat crews hunt ringed, spotted, and bearded seals. The most important sealing area for Nuiqsut

hunters is off the Colville Delta, extending as far west as Fish Creek and as far east as Pingok Island. The planned seismic exploration during the summer has some potential to influence seal hunting activities by residents of Nuiqsut. During BP and Western Geophysical's 1996-2000 seismic programs, an operating airgun array apparently did not displace seals by more than a few hundred meters.

The possibility and timing of potential seismic operations in the Cross Island area and in Nuiqsut sealing areas required WesternGeco to provide NMFS with either (1) a Plan of Cooperation with the Alaska Eskimo Whaling Commission (AEWC) and the North Slope whaling communities, or (2) measures that have been or will be taken to avoid any unmitigable adverse impact on the availability of these animals for subsistence needs. The timing of seismic operations has been addressed in a Conflict Avoidance Agreement (CAA) between WesternGeco, the Nuiqsut and Kaktovik whalers, and the AEWC (WesternGeco, 2001). In addition, WesternGeco's application identifies, and the IHA has incorporated, mitigation and monitoring measures that will be taken to minimize any adverse effect on subsistence uses and improve the state of knowledge on the effects of seismic exploration on the accessibility of bowhead whales to hunters.

Anticipated Impact on Habitat

The proposed seismic activity is not expected to cause significant and permanent impacts on habitats used by marine mammals, or to the food sources they utilize. The main impact issue associated with the proposed activity will be temporarily elevated noise levels. For a more detailed analysis of anticipated impact on habitat refer to the application (WesternGeco, 2001) and the **Federal Register** notice of June 14, 2001 (66 FR 32321).

The 2001 OBC survey area may overlap with areas identified as ''Boulder Patch'' habitat. WesternGeco is required by the State of Alaska to consult with NMFS as to the location and resources of the Stephansson Sound Boulder Patches so that they may be avoided.

Mitigation

For the 2001 seismic operations, WesternGeco will reduce its primary airgun array from the 1,500 in3 used in 1998 to 1,210 in^3. This reduction in volume will lower the source levels and result in lower received levels at each distance compared to Western Geophysical's 1998 project. The smaller volume 640 in3 airgun array consists of sixteen 40 in^3 airguns in four 4-gun clusters. The airguns comprising this small volume array will be spread out horizontally, such that the energy from the array, like that from the 1,210 in^3 array, will be directed downward insofar as possible. The distances within which received levels (see the proposed safety radii below) can exceed 190 dB and 180 dB re 1 micro-Pa have been measured at two airgun depths (2.3 and 5 m or 7.5 and 16.4 ft) and in two water depths (8 and 23 m or 26.2 and 75.5 ft) (Greene and McLennan, 2000), and are reduced relative to those around the 1998 array. The shallower depth at which the 640 in^3 array will operate will tend to reduce the source level (and hence the 190 and 180 dB safety radii) even farther; however, as a precautionary approach, the 190 and 180 dB radii for the 1,210 in^3 airgun operating at 2.3 m (7.5 ft) depth will be assumed to apply to the 640 in^3 array operating at 1 m (3.3 ft) gun depth.

The safety radii for OBC seismic operations in 2001 are based on comprehensive measurements of the sounds recorded in the water near the OBC array in 1999 and analyzed by Greene and McLennan (2000).

Vessel-based observers will monitor marine mammal presence in the vicinity of the seismic arrays throughout the seismic program. To avoid the potential for injury, WesternGeco will immediately shut down the seismic source if seals and/or whales are sighted within the safety radii. The safety radii are as follows:

SOURCE (in^3)	AIRGUN DEPTH (m/ft)	WATER DEPTH (m/ft)	SAFETY RADII(m/ft)	
			190 dB (Seals)	180 dB (Whales)
1210	2.3/7.5	<10/<32.8	100/328	150/492
1210	2.3/7.5	>10/>32.8	160/525	550/1,804
1210	5/16.4	<10/<32.8	160/525	350/1,148
1210	5/16.4	>10/>32.8	260/853	900/2,953
640	1/3.3	<10/<32.8	100/328	150/492
640	1/3.3	>10/>32.8	160/525	550/1,804

In addition, WesternGeco will ramp-up the 1,210 in^3 and 640 in^3 seismic sources to operating levels at a rate no greater than 6 dB per minute. Under normal operational conditions (source vessel speed at least 4 knots), a ramp-up will be required after the array has been inactive for a period lasting 1 minute or longer. If the towing speed is reduced to 3 knots or less, a ramp-up will be required after the array has been inactive for a period lasting 2 minutes or longer. Ramp-up will begin with an air volume discharge not exceeding 80 in^3 for the 1,210 in^3, and 40 in^3 for the 640 in^3 array. Additional guns will be added at appropriate intervals so as to limit the rate of increase in source level to 6 dB per minute.

Monitoring

As part of its application, WesternGeco provided a monitoring plan for assessing impacts to marine mammals from seismic surveys in the Beaufort Sea. This monitoring plan is described in WesternGeco (2001) and in LGL, Ltd. and Greeneridge Sciences Inc. (2001).

The monitoring plan submitted to NMFS on April 16, 2001, was reviewed at a peer-review workshop held in Seattle, WA, on June 5–6, 2001. The monitoring plan, with minor modifications, was accepted by NMFS at this meeting. A copy of the monitoring plan is available upon request (see **ADDRESSES**).

WesternGeco plans to conduct the following monitoring:

Vessel-based Visual Monitoring

One or two marine mammal observers aboard the seismic source vessels will search for and observe marine mammals whenever seismic operations are in progress and for at least 30 minutes before the planned start of seismic transmissions. These observers will scan the area immediately around the vessels with reticle binoculars during the daytime. Laser rangefinding binoculars will be available to assist with distance estimation. If operations continue after mid-August, when the duration of

darkness increases, image intensifiers and additional light sources will be used to illuminate the safety zone (see application for more detail).

A total of three observers (two trained biologists and one Inupiat observer/communicator) will be based aboard the seismic source vessel *Arctic Star*. Two observers must be on active watch 30 minutes prior to and during the start of seismic transmissions and a minimum of one observer needs to be on active watch aboard the *Arctic Star* whenever the seismic sources are operating during daylight hours.

A total of two observers will be based aboard the seismic source vessel *Peregrine*. A minimum of one observer must be on active watch 30 minutes prior to and during the start of seismic transmissions and a minimum of one observer must be on active watch aboard the *Peregrine* for a total of 16 hours during any given 24 hour period when seismic operations are taking place. In addition, wheelhouse staff aboard the *Peregrine* will assist in maintaining a watch for marine mammals. During the hours when a marine mammal observer is not on duty, wheelhouse personnel must actively watch for marine mammals, follow all shut-down procedures if a marine mammal is sighted within the designated safety zones, and notify the marine mammal observer(s) any time a shut-down occurs.

Vessel-based monitoring will include recording information on seismic operations, vessel activities, marine mammals sighted, and other relevant activity in a standardized format.

Aerial Surveys

If OBC seismic work continues after August 31, 2001, aerial surveys by WesternGeco's marine mammal contractor, LGL Ltd., will occur from the date on which OBC seismic operations commence until 1 day after the OBC seismic operations end. If OBC seismic work is suspended during the bowhead subsistence hunting season, but resumes later in the autumn, aerial surveys will commence (or resume) when OBC seismic work resumes. WesternGeco will continue aerial surveys until 1 day after OBC seismic work ends. It should be noted that the proposed duration for aerial surveys would be a reduction from previous years. WesternGeco believes this reduction is appropriate because some of the main questions about disturbance to bowhead whales from a nearshore seismic operation have been answered through the 1996–1998 monitoring projects. In addition, the MMS expects to conduct its broad-scale aerial survey work from approximately August 31 until the end of the bowhead migration in October. WesternGeco believes that this combined aerial survey data will provide sufficient information to estimate the numbers of bowhead whales taken by harassment.

The primary objective of WesternGeco's aerial surveys will be to document the occurrence, distribution, and movements of bowhead whales, and (secondarily) beluga and gray whales in and near the area where they might be affected by the seismic pulses. These observations will be used to estimate the level of harassment takes and to assess the possibility that seismic operations affect the accessibility of bowhead whales for subsistence hunting. Pinnipeds will be recorded when seen, although survey altitude will be too high for systematic surveys of these species. Sonobuoys will be dropped to document seismic and ambient noise at offshore locations, including locations near whales.

WesternGeco will fly at 300 m (1,000 ft) in areas where no whaling is underway, with a minimum altitude of no less than 275 m (900 ft) under low cloud conditions. In addition, and subject to the terms of the 2001 CAA with subsistence communities, surveys will be flown at 457 m (1500 ft) altitude over areas where whaling is occurring and will avoid direct overflights of whaleboats and Cross Island.

The daily aerial surveys are designed to cover a grid of 18 north-south lines spaced 8 km (5 mi) apart and extending seaward to about the 100 m (328 ft) depth contour (typically about 65 km (40.4 mi) offshore). This grid will extend from about 65 km (40.3 mi) east to 65 km (40.3 mi) west of the area in which seismic operations are underway on that date. This survey design will provide extended coverage to determine the eastward and westward extent of the offshore displacement of whales by seismic operations. Because of the inshore nature of the 2001 seismic surveys, few whales are expected to occur within 20 km (12.4 mi) of the operations; therefore, no ''intensive'' grid surveys are planned.

Detailed information on the aerial survey program can be found in WesternGeco (2001) and in LGL Ltd. and Greeneridge Sciences Inc. (2001), which are incorporated in this document by citation.

Acoustical Measurements

The acoustic measurement program for 2001 is designed to provide, in conjunction with existing results from previous years (see LGL and Greeneridge Sciences Inc., 1997, 1998, 1999), the specific acoustic data needed to document the seismic sounds to which marine mammals will be exposed in 2001. This measurement program will only be operable if seismic operations continue after August 31, 2001. Proposed emphasis is on situations and locations not studied in detail during previous operations.

WesternGeco has two basic objectives for collecting acoustic measurements, one physical and one biological. The physical acoustics objective is to determine the characteristics of airgun array pulses as received in the bowhead migration corridor at varying distances offshore and to the east of the area of seismic exploration in 2001 and in 1996– 98 plus 2001 combined. Pulse characteristics to be determined are received levels and pulse durations versus range offshore and to the east, spectral properties, and signal-to-ambient ratios. The biological objective is to determine whether there are differences in the pattern of bowhead call detection rates near, offshore of, and east of the seismic exploration area at times with and without active seismic operations based on 2001 data and combined 1996–98 and 2001 data. If there are differences, then WesternGeco will use the combined acoustic and aerial survey data to evaluate whether the noise-related differences in call detection rate are attributable to differences in calling behavior, whale distribution, or a combination of the two.

In 2001, the acoustic measurement program is planned to include (1) deployment in late August/September of autonomous seafloor acoustic recorders (ASARs) to provide continuous acoustic data for extended periods, and (2) use of air-dropped sonobuoys in September/October. WesternGeco will use these methods only if OBC surveys occur in September/October.

For a more detailed description of planned monitoring activities, please refer to the application and the Technical Monitoring Plan (WesternGeco, 2001; LGL Ltd. and Greeneridge Sciences Inc., 2001) and the **Federal Register** notice of June 14, 2001 (66 FR 32321).

Reporting

WesternGeco will provide an initial report on 2001 activities to NMFS within 90 days after the end of the seismic program. This report will summarize dates and locations of seismic operations, marine mammal sightings (dates, times, locations, behaviors, associated seismic survey activities), estimates of the amount and nature of all takes by harassment or in other ways, and any apparent effects on

accessibility of marine mammals to subsistence users.

A final technical report will be provided by WesternGeco within 20 working days of receipt of the document from the contractor, but no later than April 30, 2002. The final technical report will contain a description of the methods, results, and interpretation of all monitoring tasks.

Consultation

Under section 7 of the Endangered Species Act (ESA), NMFS completed consultation with MMS on oil and gas exploration and associated activities in the Alaskan Beaufort Sea on May 25, 2001. This consultation includes a review of seismic and related noise sources used by the oil and gas industry. The finding of that consultation was that oil and gas activities in the Alaskan Beaufort Sea, and the issuance by NMFS of a small take authorization for oil and gas activities, are not likely to jeopardize the continued existence of the bowhead whale. In formulating this opinion, NMFS used the best available information, including information provided by MMS, recent research on the effects of oil and gas activities on the bowhead whale, and the traditional knowledge of Native hunters and the Inupiat along Alaska's North Slope. A copy of the Biological Opinion issued as a result of this consultation is available upon request (see **ADDRESSES**).

National Environmental Policy Act (NEPA)

In conjunction with the 1996 notice of proposed authorization (61 FR 26501, May 28, 1996) for open water seismic operations in the Beaufort Sea, NMFS released an Environmental Assessment (EA) that addressed the impacts on the human environment from issuance of the authorization and the alternatives to the proposed action. No comments were received on that document and, on July 18, 1996, NMFS concluded that neither implementation of the proposed authorization for the harassment of small numbers of several species of marine mammals incidental to conducting seismic surveys during the open water season in the U.S. Beaufort Sea nor the alternatives to that action would significantly affect the quality of the human environment. As a result, the preparation of an environmental impact statement on this action is not required by section 102 (2) of NEPA or its implementing regulations.

In 1999, NMFS determined that a new EA was warranted. This determination was based on (1) the proposed construction of the Northstar project by BP, Alaska, (2) the collection of data from 1996 through 1998 on Beaufort Sea marine mammals and the impacts of seismic activities on these mammals, and (3) the analysis of scientific data indicating that bowhead whales avoid nearshore seismic operations by a distance of approximately 20 km (12.4 mi). Accordingly, a review of the impacts expected from the issuance of an IHA have been assessed in the EA, in the **Federal Register** notice of June 14, 2001 (66 FR 32321), and in this document. NMFS has determined that there will be no more than a negligible impact on marine mammals from the issuance of the IHA and that there will not be any unmitigable impacts to subsistence communities, provided the mitigation measures required under the authorization are implemented. As a result, NMFS determined, as in 1999, that neither implementation of the authorization for the harassment of small numbers of several species of marine mammals incidental to conducting seismic surveys during the open water season in the U.S. Beaufort Sea nor the alternatives to that action would significantly affect the quality of the human environment. Since this proposed action falls into a category of actions that do not individually or cumulatively have a significant impact on the human environment, as determined through the 1999 EA, this action is categorically excluded from further NEPA analysis (NOAA NAO 216–6). A copy of the 1999 EA is available upon request (see **ADDRESSES**).

Coastal Zone Management Act Consistency

The State of Alaska, Department of Natural Resources, Division of Oil and Gas issued a proposed Alaska Coastal Management Program consistency determination on June 21, 2001, for WesternGeco's planned 3–D seismic surveys on state tide and submerged lands in the Beaufort Sea during the open water season of 2001. Based on the State's review, performed under 6 AAC 50, the State concurred that the project is consistent with the ACMP as long as: (1) Operations beyond September 1 will be considered on a case-by-case basis if the Director, Division of Oil and Gas, in consultation with NMFS, determines that: (a) a suitable whale monitoring program will be conducted and appropriate measures to minimize conflict with the Nuiqsuit subsistence whale harvests will be taken; or (b) the Village of Nuiqsuit has completed its whale hunt for 2001; or (c) NMFS has issued an IHA; (2) all operations must be conducted in a manner that will assure minimum conflict with other users of the area, including coordination with local whaling crews as needed to avoid conflicts with the subsistence whale hunt; (3) seismic activities shall avoid or minimize interference with traditional food gathering and access to subsistence resources; and (4) permittee will consult with NMFS' Alaskan Offices as to the location and resources of the Stephansson Sound Boulder Patches and any operational changes made in response to this consultation will be disclosed in the completion report.

Determinations

Based on the evidence provided in the application, the EA, the **Federal Register** notice (66 FR 32321), and this document, and taking into consideration the comments submitted on the application and proposed authorization notice, NMFS has determined that there will be no more than a negligible impact on marine mammals from the issuance of the harassment authorization to WesternGeco, LLC and that there will not be any unmitigable adverse impacts to subsistence communities. NMFS has determined that the short-term impact of conducting OBC seismic operations in the Alaskan Beaufort Sea will result, at worst, in a temporary modification in behavior by certain species of pinnipeds and cetaceans. Behavioral modifications may be made by these species to avoid noise from seismic operations; however, this behavioral change is expected to have a negligible impact on marine mammal species and stocks mentioned here. Due to the distribution and abundance of marine mammals during the projected period of activity and the location of the seismic operations in waters generally too shallow and distant from the edge of the pack ice for most marine mammals of concern, the number of potential harassment takings is estimated to be small.

Since (1) the number of potential harassment takings of bowhead whales, gray whales, beluga whales, ringed seals, spotted seals, and bearded seals is estimated to be small; (2) no take by injury and/or death is anticipated; (3) the potential for temporary or permanent hearing impairment is low and will be avoided through the incorporation of the mitigation measures mentioned in this document and required under the IHA; and (4) no rookeries, mating grounds, year-round areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the planned area of operations during the season of operations, NMFS has determined that the requirements of section 101 (a)(5)(D) of the MMPA have

been met and the authorization can be issued.

Appropriate mitigation measures to avoid an unmitigable adverse impact on the availability of bowhead whales for subsistence needs have been the subject of a CAA between WesternGeco, the AEWC, and Nuiqsut and Kaktovik whalers. This agreement consists of three main components: (1) Communications, (2) conflict avoidance, and (3) dispute resolution, and has been concluded for the 2001 open-water seismic season.

WesternGeco estimates that 2,630 bowheads could potentially be exposed to its OBC seismic survey activities and, more probably, a total of less than 1,300 bowheads may be harassed based on the number of bowheads that might potentially be within 20 km of the airgun arrays. NMFS concurs and is therefore authorizing a take for bowhead whales by Level B harassment of 1,965 animals (based on the average of 2,630 and 1,300 animals). NMFS believes that no bowheads will be killed or seriously injured by WesternGeco's activity and accordingly has not authorized takings for injury or mortality.

Open-water seismic exploration in the Alaskan Beaufort Sea does have some potential to influence seal hunting activities by residents of Nuiqsut. However, because the main summer sealing by the village of Nuiqsut is conducted off the Colville Delta, west of the proposed survey area, and the zone of influence by seismic sources on seals is expected to be fairly small (less than a few hundred meters), NMFS believes that WesternGeco's OBC seismic survey will not have an unmitigable adverse impact on the availability of seals for subsistence uses.

Authorization

Accordingly, NMFS has issued an IHA to WesternGeco, LLC for the ocean bottom cable seismic survey operations described in this notice during the 2001 open water season in the Alaskan Beaufort Sea provided the mitigation, monitoring, and reporting requirements described in this document and in the IHA are undertaken.

Dated: August 1, 2001.

Donald Knowles,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–20281 Filed 8–10–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080601C]

Pacific 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 Pacific Fishery Management Council's (Council) Salmon Technical Team (STT) will hold a work session by telephone conference, which is open to the public.

DATES: The telephone conference will be held Monday, August 27, 2001, from 2 p.m. to 4 p.m.

ADDRESSES: Listening stations will be available at several locations. See **SUPPLEMENTARY INFORMATION** for specific locations.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the work session is to finalize the Queets River coho stock assessment report, including developing recommendations to the Council.

Location of Listening Stations

1. Washington Department of Fish and Wildlife, Natural Resource Building, Room 682, 1111 Washington Street SE, Olympia, WA 98501; Contact: Mr Doug Milward; (360) 902–2739.
2. Pacific Fishery Management Council, Executive Director's Office, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384; Contact: Mr. Chuck Tracy; (503) 326–6352.
3. NMFS Southwest Fisheries Science Center, Auditorium, Room 188, 110 Shaffer Road, Santa Cruz, CA 95060; Contact: Mr. Michael Mohr; (831) 420–3922.

Although nonemergency issues not contained in the meeting agenda may come before the STT for discussion, those issues may not be the subject of formal STT action during this meeting. STT 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 STT's intent to take final action to address the emergency.

Special Accommodations

This 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: August 8, 2001.

Richard W. Surdi,

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

[FR Doc. 01–20284 Filed 8–10–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080201D]

Marine Mammals; File No. 1007–1629

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Leszek Karczmarski, Ph.D., Marine Mammal Research Program, Texas A&M University, 4700 Avenue U, Building 303, Galveston, Texas 77551, has been issued a permit to take Hawaiian spinner dolphins (*Stenella longirostris*) for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before September 12, 2001.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376;

Protected Species, Pacific Islands Area Office, NMFS, 1601 Kapiolani Blvd., Room 1110, Honolulu, HI 96814–4700; phone (808) 973–2935; fax (808) 973–2941; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980-4001; fax (562) 980–4018.

FOR FURTHER INFORMATION CONTACT: Jill Lewandowski, Trevor Spradlin or Lynne Barre, 301/713–2289.

SUPPLEMENTARY INFORMATION: On May 24, 2001, notice was published in the **Federal Register** (66 FR 28733) that a

request for a scientific research permit to take Hawaiian spinner dolphins had been submitted by the above-named individual.

Specific research objectives include: (a) comparing population structure and social behavior; (b) assessing the genetic differences between the groups/populations in the three atolls and estimating the rate of gene flow; (c) determining intra- and inter-group associations and intra- and inter-sexual relationships; (d) assessing the effects of social behavior on genetic diversity and population structure relative to the geographic distance between the atolls; and (e) producing an evolutionary model of spinner dolphin social structure and mating system relative to habitat, where both ecological and social selective pressures are considered.

In meeting these research objectives, the applicant requested authorization to take 1,400 individual spinner dolphins annually by photo-identification and behavioral observation (both above and below water) and 400 individual spinner dolphins annually through the collection of genetic swab samples with a maximum of 700 swab samples collected over the course of the permit. The applicant also requests authorization to take additional individual spinner dolphins incidental to the above listed research activities.

The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: August 7, 2001.

Eugene T. Nitta,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–20283 Filed 8–10–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) 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: United States Patent and Trademark Office (USPTO).

Title: Patent Term Extension.

Form Number(s): No forms associated.

Agency Approval Number: 0651–0020.

Type of Request: Revision of a currently approved collection.

Burden: 30,903 hours annually.

Number of Respondents: 26,858 responses per year.

Avg. Hours Per Response: The time needed to respond is estimated to range from 1 to 25 hours, depending upon the complexity of the situation. It is estimated that the time needed to complete the applications, petitions, declarations, and requests associated with the patent term and interim extensions ranges from 1 to 25 hours. It is estimated that the time needed to complete a petition for reconsideration of a patent term adjustment determination is approximately one hour, and the petition for reinstatement of reduced patent term adjustment is estimated to take approximately two hours. This includes time to gather the necessary information, create the documents, and submit the completed requests.

Needs and Uses: The United States Patent and Trademark Office (USPTO), together with the Secretary of Health and Human Services and the Department of Agriculture, administers the Federal Food, Drug and Cosmetic Act, 35 U.S.C. 156. This Act permits the USPTO to restore the patent term lost due to certain types of regulatory review by the Federal Food and Drug Administration or the Department of Agriculture. Only patents for drug products, medical devices, food additives, and color additives are eligible for extension. The maximum length that a patent may be extended (the maximum of patent term that may be restored) is five years.

An application for patent term extension must identify the approved product, the patent to be extended, the claims of the patent that claim the approved product, a method of use of the approved product, or a method of manufacturing the approved product. In addition, the application for patent term extension must provide a brief description of the activities undertaken by the applicant during the regulatory review period with respect to the approved product and the significant dates of these activities.

The statute (35 U.S.C. 156) requires the USPTO to extend the term of various patents past their original expiration dates, to grant interim extensions, to review applications for patent term extension and final eligibility decisions, to obtain additional information from the public that might influence the extension of the patent term, and to withdraw an application for a patent term extension.

The USPTO administers 35 U.S.C. through 37 CFR 1.705–1.791, which permits the public to submit application to the USPTO to extend the term of a patent past its original expiration date; to petition for reviews of informal extensions of applications, final eligibility decisions, and interim extensions; and to withdraw an application requesting a patent term extension after it is submitted.

Use of the USPTO's information allows the Director of the USPTO, the Secretary of Health and Human Services, and the Secretary of Agriculture to have access to the information required to determine whether the applicant is eligible for a patent term extension or reconsideration of patent term adjustment determination and, if so, the period of the extension or adjustment.

Affected Public: Business or other for-profit; individuals or households; not-for-profit institutions; farms; the Federal Government; and state, local or tribal Government.

Frequency: On occasion.

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 Susan K. Brown, Records Officer, Office of Data Management, Data Administration Division, (703) 308–7400, USPTO, Suite 310, 2231 Crystal Drive, Washington, DC 20231, or by e-mail at *susan.brown@uspto.gov.*

Written comments and recommendations for the proposed information collection should be sent on or before September 12, 2001 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: August 7, 2001.

Susan K. Brown,

Records Officer, USPTO, Office of Data Management, Data Administration Division.

[FR Doc. 01–20252 Filed 8–10–01; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 12, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 7, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: National Assessment of Educational Progress (NAEP), 2002 Field Test for the 2003 Full Scale Assessment.

Frequency: Pilot and field test.

Affected Public: Individuals or household; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden

Responses: 97,750.

Burden Hours: 24,500.

Abstract: The NAEP Technology Based Assessment Project (TBA) is meant to explore the feasibility and best methods for assessing mathematics and writing on line. It is also intended to explore students' abilities to solve problems in technology-rich environments. It is anticipated that in the future such technology-based assessments will reduce assessment burden by allowing, among other things, for online administration and scoring of assessment instruments. The pilot study uses background questions and items from suitable subject questionnaires, including questions about computer use that are currently cleared for other NAEP studies.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (540) 776–7742 or via her internet address Kathy.Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–20180 Filed 8–10–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–134–000]

Lakefield Junction, L.P. and Great River Energy; Notice of Filing

August 7, 2001.

Take notice that on July 27, 2001, Lakefield Junction, L.P. (Lakefield) and Great River Energy (GRE) filed an application pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby Lakefield will transfer its jurisdictional assets to GRE. The transfer involves Lakefield's transfer to GRE of substantially all of Lakefield's assets and liabilities, including its 550-MW generating facility located in Minnesota.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 17, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–20178 Filed 8–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–468–001]

Texas Eastern Transmission, LP; Notice of Compliance Filing

August 7, 2001.

Take notice that on July 31, 2001, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing pro forma tariff sheets in compliance with Order No. 637 and in conformance with order of the Commission issued in the captioned docket on June 12, 2001.

Texas Eastern states that the purpose of this filing is to comply with the requirement of Order No. 637 *et seq.* to file pro forma tariff sheets for the purpose of implementing certain tariff changes relating to scheduling procedures, capacity segmentation, imbalance management, and penalties, or to explain why the Order No. 637 requirements do not apply to the pipeline's tariff and operating practices and with the Commission's June 12, 2001 order to refile, as appropriate, Order No. 637 pro forma tariff sheets.

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–20243 Filed 8–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–69–000, et al.]

Elwood Energy LLC, et al.; Electric Rate and Corporate Regulation Filings

August 6, 2001.

Take notice that the following filings have been made with the Commission:

1. Elwood Energy LLC

[Docket No. EG99–69–000]

Take notice that on August 1, 2001, Elwood Energy LLC (Elwood) filed with the Federal Energy Regulatory Commission an application for redetermination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Elwood, Elwood Energy II, LLC (Elwood II) and Elwood Energy III, LLC (Elwood III) are all exempt wholesale generators owned 50%, directly or indirectly, by subsidiaries (Dominion Entities) of Dominion Resources, Inc. (Dominion), a public utility holding company registered under the 1935 Act, and 50% by subsidiaries (PEC Entities) of Peoples Energy Corporation (PEC), an exempt public utility holding company under the 1935 Act. The mergers of Elwood II, LLC and Elwood III, LLC, with and into Elwood as the surviving entity, and certain related mergers among the Dominion Entities and among the PEC Entities (collectively, the Mergers) were authorized by the Commission in its July 20, 2001 Order Authorizing Disposition of Jurisdictional Facilities and Corporate Reorganization in Docket No. ER01–121–000. Upon completion of the Mergers, Elwood will be owned 50% by Dominion Elwood, Inc., a Delaware corporation, a wholly-owned subsidiary of Dominion Energy, Inc. which, in turn, is a wholly-owned subsidiary of Dominion, and 50% by Peoples Elwood, LLC, a wholly-owned subsidiary of PERC Power, Inc., which, in turn, is a wholly-owned subsidiary of Peoples Energy Resources Corp., which, in turn, is a wholly-owned subsidiary of PEC.

Upon completion of the Mergers, Elwood will own, in addition to the generation facilities it owned before the Mergers, those generation facilities formerly owned by Elwood II and Elwood III, all of which previously have been determined by the Commission to eligible facilities in connection with its orders determining Elwood, Elwood II and Elwood III to be exempt wholesale generators. Elwood also will own interconnection facilities, including generator leads, step up transformers and associated circuit breakers, used solely for interconnection with the transmission system of Commonwealth Edison Company.

Comment date: August 27, 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. Dominion North Star Generation, Inc.

[Docket No. EG01–272–000]

Take notice that on August 1, 2001, Dominion North Star Generation, Inc. (Dominion North Star) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Dominion North Star, a Delaware corporation, is a wholly owned subsidiary of Dominion Energy, Inc., which in turn is a wholly owned subsidiary of Dominion Resources, Inc.

Dominion North Star will, through its affiliate North Star Generation, LLC, be exclusively engaged in the business of owning, operating and selling electricity exclusively at wholesale from an electric generating facility located in North Star Township, Gratiot County, Michigan. The Facility will consist of three gas-fired GE 7FA turbine generator sets and related ancillary equipment and structures and will have a combined nominal rating of approximately 510 MW. The Facility will also include as yet undetermined transmission interconnection facilities. The facility will be interconnected with the transmission system of the Michigan Electric Transmission Company.

Comment date: August 27, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Dominion North Star Generation, Inc.

[Docket No. EG01–273–000]

Take notice that on August 1, 2001, Dominion North Star Generation, Inc. (Dominion North Star) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Dominion North Star, a Delaware corporation, is a wholly owned subsidiary of Dominion Energy, Inc., which in turn is a wholly owned subsidiary of Dominion Resources, Inc.

Dominion North Star will, through its affiliate North Star Generation, LLC, be exclusively engaged in the business of owning, operating and selling electricity exclusively at wholesale from an electric generating facility located in North Star Township, Gratiot County, Michigan. The Facility will consist of three gas-fired GE 7FA turbine generator sets and related ancillary equipment and structures and will have a combined nominal rating of approximately 510 MW. The Facility will also include as yet undetermined transmission interconnection facilities. The facility will be interconnected with the transmission system of the Michigan Electric Transmission Company.

Comment date: August 27, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Dominion Upshur, LLC

[Docket No. EG01–274–000]

Take notice that on August 1, 2001, Dominion Upshur, LLC (Dominion Upshur) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Dominion Upshur, a Delaware limited liability company, is a wholly owned subsidiary of Dominion Upshur, Inc, a Delaware corporation. Dominion Upshur, Inc., is a wholly-owned subsidiary of Dominion Energy, Inc. which in turn is a wholly-owned subsidiary of Dominion Resources, Inc.

Dominion Upshur will be directly and exclusively engaged in owning, operating and selling electricity at wholesale from a generating facility with a net capacity of approximately 450 MW located in Upshur County, West Virginia. The facility will consist of two coal and waste coal circulating fluidized bed boilers, one steam generator, an approximately four mile 138 kV transmission line and related ancillary equipment and structures. The facility will be interconnected with the transmission system of Allegheny Power.

Comment date: August 27, 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.

5. Dominion Upshur, Inc.

[Docket No. EG01–275–000]

Take notice that on August 1, 2001, Dominion Upshur, Inc. filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Dominion Upshur, Inc., a Delaware corporation, is a wholly-owned subsidiary of Dominion Energy, Inc. which in turn is a wholly-owned subsidiary of Dominion Resources, Inc.

Dominion Upshur, Inc. will, through its affiliate Dominion Upshur, LLC, be exclusively engaged in the business of owning, operating and selling electricity exclusively at wholesale from an electric generating facility with a net capacity of approximately 450 MW located in Upshur County, West Virginia. The facility will consist of two coal and waste coal circulating fluidized bed boilers, one steam generator, an approximately four mile 138 kV transmission line and related ancillary equipment and structures. The facility will be interconnected with the transmission system of Allegheny Power.

Comment date: August 27, 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.

6. Consolidated Edison Company of New York

[Docket Nos. EL01–45–002 and ER01–1385–003]

Take notice that on July 30, 2001, the New York Independent System Operator, Inc. (NYISO) filed a timetable for implementation of the revised Localized Market Power Mitigation Measures proposed by Consolidated Edison Company of New York, Inc., and approved by the Commission's order issued on July 20, 2001 in the above-captioned dockets.

The NYISO has served a copy of this filing upon parties on the official service lists maintained by the Commission for the above-captioned dockets.

Comment date: August 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Bangor Hydro-Electric Company

[Docket No. EL01–99–000]

Take notice that on July 3, 2001, Bangor Hydro-Electric Company (Bangor Hydro) submitted for filing a Petition for Declaratory Order, in order to separate Bangor Hydro's overall transmission and distribution requirement into its components. The Maine Public Utility Commission has approved this transmission and distribution split pursuant to Order No. 888's seven factors test.

Copies of this filing were served on all affected customers under Bangor Hydro's OATT and upon the Maine Public Utilities Commission and the Maine Public Advocate.

Comment date: September 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Electricity Capital, LLC, El Cap I, LLC, El Cap II, LLC

[Docket No. ER01–1612–000, Docket No. ER01–1613–000, Docket No. ER01–1614–000]

Take notice that on August 1, 2001 Electricity Capital, LLC, El Cap I, LLC and El Cap II, LLC (Applicants) withdrew their respective Petitions for Acceptance of Initial Rate Schedule, Waivers and Blanket Authority.

The Applicants experienced a change in conditions and circumstances requiring them to withdraw their Petitions without prejudice and resubmit their Petitions in the future.

Comment date: August 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. San Diego Gas & Electric Company, Complainant, v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange, Respondents; Investigation of Practices of the California Independent System Operator and the California Power Exchange; California Independent System; Operator Corporation; Investigation of Wholesale Rates of Public Utility Sellers of Energy and Ancillary Services In the Western Systems Coordinating Council

[Docket No. EL00–95–040; Docket No. EL00–98–038; Docket Nos. RT01–85–000 and RT01–85–001; Docket No. EL01–68–003]

Take notice that on July 30, 2001, the California Independent System Operator Corporation (ISO) tendered for filing changes to Section 2.5.27.7 of the ISO Tariff as proposed in the ISO's July 10, 2001, filing to comply with the Commission's June 19, 2001, order in the above-captioned proceeding, San Diego Gas & Electric Co.v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, et al., 95 FERC ¶ 61,418 (2001) and the Commission's May 25, 2001, order in the above-captioned proceeding, San Diego Gas & Electric Co. v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, et al., 95 FERC ¶ 61,275 (2001). The ISO's July 30, 2001, filing replaces the term

''Marginal Proxy Clearing Price'' as used in Section 2.5.27.7 with the term ''Hourly Ex Post Price.'' The ISO's July 30, 2001, filing also corrects a typographical error on one Tariff sheet filed on July 10. The ISO states that this filing has been served upon all parties in this proceeding.

Comment date: August 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Company of New Mexico

[Docket No. ER01–2747–000]

Take notice that on August 1, 2001, Public Service Company of New Mexico (PNM) submitted for filing two executed service agreements with Exelon Generation Company, LLC (Exelon), under the terms of PNM's Open Access Transmission Tariff. One agreement is for short-term firm point-to-point transmission service and one is for non-firm point-to-point transmission service. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

The effective date for the agreements is July 26, 2001, the date of execution.

Copies of the filing have been sent to Exelon and to the New Mexico Public Regulation Commission.

Comment date: August 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Southwest Power Pool, Inc.

[Docket No. ER01–2748–000]

Take notice that on August 1, 2001, Southwest Power Pool, Inc. (SPP) submitted for filing three executed service agreements for Firm Point-to-Point Transmission Service, Non-Firm Point-to-Point Transmission Service, and Loss Compensation Service with Omaha Public Power District (Transmission Customer).

SPP seeks an effective date of July 27, 2001 for each of these service agreements.

A copy of this filing was served on the Transmission Customer.

Comment date: August 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER01–2749–000]

Take notice that on August 1, 2001, Cinergy Services, Inc. (Cinergy) tendered for filing a Market-Based Service Agreement under Cinergy's Market-Based Power Sales Standard Tariff-MB (the Tariff) entered into between Cinergy and FPL Energy Power Marketing, Inc. (FPLEPM).

Cinergy and FPLEPM are requesting an effective date of July 2, 2001.

Comment date: August 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Cinergy Services, Inc.

[Docket No. ER01–2750–000]

Take notice that on August 1, 2001, Cinergy Services, Inc. (Cinergy) tendered for filing a Market-Based Service Agreement under Cinergy's Market-Based Power Sales Standard Tariff-MB (the Tariff) entered into between Cinergy and Alliance Energy Services Partnership (Alliance).

Cinergy and Alliance are requesting an effective date of July 2, 2001.

Comment date: August 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Northern Maine Independent System Operator

[Docket No. ER01–2753–000]

Take notice that on August 1, 2001, the Northern Maine Independent System Administrator (NMISA) tendered for filing with the Federal Energy Regulatory Commission (FERC) a notice of cancellation of Service Agreement No. 6 to FERC Electric Tariff, Original Volume No. 1.

NMISA requests an effective date of July 6, 2001.

Comment date: August 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Nevada Power Company

[Docket No. ER01–2754–000]

Take notice that on August 1, 2001, Nevada Power Company (Nevada Power) tendered for filing Service Agreement No. 100 to the Sierra Pacific Resources Operating Companies FERC Electric Tariff, First Revised Volume No. 1, which is Nevada Power's Open Access Transmission Tariff. This Service Agreement is an unexecuted Transmission Service Agreement (TSA) between Nevada Power and Pinnacle West Energy Company.

Nevada Power requests that this TSA be made effective as of July 1, 2001.

Comment date: August 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Nevada Power Company

[Docket No. ER01–2755–000]

Take notice that on August 1, 2001, Nevada Power Company (Nevada Power) tendered for filing Service Agreement No. 101 to the Sierra Pacific Resources Operating Companies FERC Electric Tariff, First Revised Volume No. 1, which is Nevada Power's Open Access Transmission Tariff. This Service Agreement is an unexecuted Transmission Service Agreement (TSA) between Nevada Power and Reliant Energy Services, (Reliant—Arrow Canyon).

Nevada Power requests that this TSA be made effective as of July 1, 2001.

Comment date: August 22, 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 this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–20179 Filed 8–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Surrender of Exemption and Soliciting Comments, Motions To Intervene, and Protests

August 7, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of Exemption.

b. *Project No:* 6132–006.

c. *Date Filed:* July 11, 2001.

d. *Applicant:* Facilitators Improving Salmonid Habitat (FISH).

e. *Name of Project:* John C. Jones.

f. *Location:* On the North Branch of Marsh Stream (a Penobscot River tributary) in the towns of Winterport and Frankfort, Maine.

g. *Filed pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Clinton B. Townsend, P.O. Box 467, Skowhegan, Maine 04976, (207) 474–9411.

i. *FERC Contact:* Questions about this notice can be answered by Jack Hannula at (202) 219–0116. 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 and/or motions:* 30 days from the issuance 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.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commissions to serve a copy of that document on each person whose name appears on 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 the resource agency. Please include the project number (P–6132–006) on any comments or motions filed.

Comments, terms and conditions, motions to intervene, and protests may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. *Description of Surrender:* The project is no longer profitable to operate. Applicant proposes to remove the entire structure, including the dam, powerhouse, fishway and cinder block building across the entire breath of the river, as well as the asphalt from the parking lot but not the slab.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington DC, or by calling (202) 208–1371. This filing may also be viewed on *http://www.ferc.gov* using the ''RIMS'' link-select ''Docket #'' and follow the instructions (call (202) 208–2222 for assistance).

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 date for the particular application.

Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATION FOR TERMS AND CONDITIONS'', ''PROTESTS'', 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. 01–20245 Filed 8–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6032–041]

Niagara Mohawk Power Corporation and Fourth Branch Associates; Notice of Site Visit

August 7, 2001.

On Wednesday, August 22, 2001 the Office of Energy Projects staff will conduct a site visit of the Mechanicville Project licensed to the Niagara Mohawk Power Corporation and Fourth Branch Associates. The purpose of the site visit is to review the project features identified by commentors and intervenors in the implied surrender proceeding currently before the Commission. The inspection will begin at 2 PM at the Mechanicville Project located on New York State Route 32 in the Town of Half Moon, New York.

All interested parties may attend the inspection. For further information, please contact the Commission's Office of External Affairs at (202) 208–0004.

David P. Boergers,

Secretary.

[FR Doc. 01–20244 Filed 8–10–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7027–2]

Notice of the Year 2001 Clean Air Excellence Awards Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency established the Clean Air Excellence Awards Program (CAEAP) on February 28, 2000, by **Federal Register** Notice (65 FR 10490). This notice announces the second year (Year 2001) of this awards program.

AWARDS PROGRAM NOTICE: Pursuant to 42 U.S.C. 7403 (a) (1) and (2), notice is hereby given that the Clean Air Excellence Awards Program (CAEAP) will be sponsored by the Office of Air and Radiation (OAR) in the U.S. Environmental Protection Agency for the year 2001. The intent of the program is to recognize and honor outstanding, innovative efforts that help to make progress in achieving cleaner air. The CAEAP is open to both public and private entities. Entries are limited to the United States. There are six award categories: (1) Clean Air Technology; (2) Community Development/Redevelopment; (3) Education/Outreach; (4) Regulatory/Policy Innovations; (5) Transportation Efficiency Innovations; and (6) Outstanding Individual Achievement Award. Awards are recognition only and will be given on an annual basis.

ENTRY REQUIREMENTS AND DEADLINE: All applicants are asked to submit their entry on a CAEAP entry form, contained in the CAEAP Entry Package, which may be obtained from the CAAAC web site at *www.epa.gov/oar/caaac/index.html* or contacting Mr. Paul Rasmussen, U.S. EPA at 202–564–1306 or 202–564–1352 (Fax), mailing address: Office of Air and Radiation, Room 6510A (Mail Code: 6102A), 1200 Pennsylvania Avenue, NW., Washington DC 20004. The entry form is a simple, three-part form asking for general information on the applicant and the proposed entry; asking for a description

of why the entry is deserving of an award; and requiring information from three (3) independent references for the proposed entry. Applicants should also submit additional supporting documentation as necessary. Specific directions and information on filing an entry form are included in the Entry Package available through the directions above. The deadline for all submission of entries is September 28, 2001.

JUDGING AND AWARD CRITERIA: Judging will be accomplished through a screening process conducted by EPA staff, with input from outside subject experts, as needed. Advice on the awards will be obtained from the Clean Air Act Advisory Committee (CAAAC), a policy-level advisory committee to EPA. This advice will be forwarded to the EPA Assistant Administrator for Air and Radiation, who will make the final decisions. All decisions on the awards will be the responsibility of EPA. Entries will be judged using both general criteria and criteria specific to each individual category. There are four (4) general criteria: (1) The entry directly or indirectly (*i.e.*, encouraging actions) reduces emissions of criteria pollutants, and/or hazardous/toxic air pollutants; (2) The entry demonstrates innovation and uniqueness; (3) The entry provides a model for others to follow (*i.e.*, it is replicable); and (4) The positive outcomes from the entry are continuing/sustainable. Although not required to win an award, the following general criteria will also be considered in the judging process: (1) The entry has positive effects on other environmental media in addition to air; (2) The entry demonstrates effective collaboration and partnerships; and (3) The individual or organization submitting the entry has effectively measured/evaluated the outcomes of the project, program, technology, etc. As mentioned above, additional criteria will be used for each individual award category. These criteria are listed in the 2001 Entry Package.

FOR FURTHER INFORMATION Concerning this new awards program please use the CAAAC Web site cited above or contact Paul Rasmussen at the telephone and address cited above.

Dated: July 31, 2001.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 01–20218 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7026–7]

EPA Science Advisory Board; Notification of Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the National-Scale Air Toxics Assessment (NATA) Review Panel (hereafter, ''NATA Review Panel'') of the USEPA Science Advisory Board's (SAB) Executive Committee (EC) will meet on August 29, 2001 from 11 a.m. to 1 p.m., Eastern Standard Time.

Purpose of the Meeting—The purpose of the meeting is for the NATA Review Panel to reach closure on its draft report in review of the EPA document entitled ''National-Scale Air Toxics Assessment for 1996,'' EPA–453/R–01–003, dated January 2001 and supporting appendices. This EPA document represents an initial national-scale assessment of the potential health risks associated with inhalation exposures to 32 air toxics identified as priority pollutants by the Agency's Integrated Urban Air Toxics Strategy, plus diesel emissions. The Panel will also accept *brief* oral comments on the following questions: (1) Has the NATA Review Panel adequately responded to the questions posed in the charge?; (2) Are any statements or responses made in the draft unclear?; and, (3) Are there any technical errors?

Supplementary Information—The teleconference will be hosted out of the EPA Science Advisory Board Conference Room (Room 6013), Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20004. Interested members of the public may attend in person or connect to the teleconference by phone. More information about the previous meetings can be found in 66 FR 9846, February 12, 2001, 66 FR 24137, May 11, 2001, and 66 FR 28904, May 25, 2001.

After this August 29, 2001 conference call, the NATA review Panel intends to finalize the edits and forward the revised draft advisory to the SAB Executive Committee for final review and approval, prior to transmittal to the Agency. This EC review meeting will be announced in a subsequent **Federal Register** document.

Providing Comments—In accordance with the Federal Advisory Committee Act (FACA), the public and the Agency are invited to submit written or oral comments on the above three questions. The SAB will have a brief period available during the teleconference (no more than 15 minutes) for applicable oral public comment. Anyone wishing to make oral comments on the three focus questions above, but that are not duplicative of the written comments previously submitted on this topic, must contact Dr. K. Jack Kooyoomjian, Designated Federal Officer for the NATA Review Panel (see contact information below) *in writing* no later than August 22, 2001. In order to be accepted into the public record, all written comments must be received no later than the date of the meeting.

Availability of Review Materials—The NATA Report, the Appendices, and all briefing and presentation materials previously provided to the SAB may be obtained on the web at the following URL site: *http://www.epa.gov/ttn/uatw/sab/sabrev.html/*. Further information on obtaining the Agency's review document and supporting appendices is found in previous **Federal Register** notices (see citations above).

For Further Information—Any member of the public wishing further information concerning this meeting should contact Dr. K. Jack Kooyoomjian, Designated Federal Officer, US EPA Science Advisory Board (1400A), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; telephone (202) 564–4557; FAX (202) 501–0582; or via e-mail at *kooyoomjian.jack@epa.gov.* To obtain information on how to participate in the conference call, please contact Ms. Betty Fortune, EPA Science Advisory Board, Mail Code 1400A, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. (Telephone (202) 564–4534, FAX (202) 501–0582; or via e-mail at *fortune.betty@epa.gov*). The SAB draft report and a draft meeting agenda for the teleconference will be posted on the SAB website (*www.epa.gov/sab*) approximately one week prior to the conference call.

Providing Oral or Written Comments at SAB Meetings

Please see the previous **Federal Register** documents (see citations above) for details on how to provide comments.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact the appropriate Dr. Kooyoomjian at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: July 27, 2001.

Donald G. Barnes,

Staff Director, EPA Science Advisory Board.

[FR Doc. 01–20216 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7031–8]

Office of Research and Development; Board of Scientific Counselors Subcommittee Review of the National Center for Environmental Research

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of review.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2) notification is hereby given that the Environmental Protection Agency, Office of Research and Development (ORD), Board of Scientific Counselors Subcommittee will meet to review the National Center for Environmental Research.

DATES: The review will be held on September 13–14, 2001. On Thursday, September 13, 2001, the review will begin at 9 a.m., and will recess at 3 p.m. On Friday, September 14, 2001, the review will reconvene at 8:30 a.m. and adjourn at approximately 12 noon. All times noted are Eastern Time.

ADDRESSES: The review will be held at the Ronald Reagan building, 1300 Pennsylvania, NW., Room 51109, Washington, DC 2004.

SUPPLEMENTARY INFORMATION: Anyone desiring a draft agenda may fax their request to Betty Overton (202) 565–2444. The meeting is open to the public. Any member of the public wishing to make comments at the meeting should contact Betty Overton, Designated Federal Officer, U.S. Environmental Protection Agency, Board of Scientific Counselors, Office of Research and Development (8701R), 1200 Pennsylvania Avenue, NW., Washington, DC 20460 by telephone at (202) 564–6848. In general, each individual making on oral presentation will be limited to three minutes.

FOR FURTHER INFORMATION CONTACT: Betty Overton, Designated Federal Officer, U.S. Environmental Protection Agency, Office of Research and Development (8701R), 1200 Pennsylvania Avenue, NW., DC 20460, (202) 564–6848.

Dated: August 7, 2001.

Peter W. Preuss,

Director, National Center for Environmental Research.

[FR Doc. 01–20213 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7027–1]

Office of Research and Development; Board of Scientific Counselors Subcommittee Review of the National Risk Management Research Laboratory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of review.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2) notification is hereby given that the Environmental Protection Agency, Office of Research and Development (ORD), Board of Scientific Counselors Subcommittee will meet to review the National Risk Managemennt Research Laboratory.

DATES: The review will be held on August 21–22, 2001. On Tuesday, August 21, 2001, the meeting will begin at 8 a.m., and will recess at 5 p.m. On Wednesday, August 22, 2001, the meeting will reconvene at 8 a.m. and adjourn at approximately 1 p.m. All times noted are Eastern Time.

ADDRESSES: The review will be held at the Andrew W. Breidenbach Environmental Research Center, 26 W. Martin Lurther King Drive, Room 120–126, Cincinnati, OH 45268.

SUPPLEMENTARY INFORMATION: Anyone desiring a draft agenda may fax their request to Shirley R. Hamilton (202) 565–2444. The meeting is open to the publlc. Any member of the public wishing to make comments at the meeting should contact Shirley Hamilton, Designated Federal Officer, U.S. Environmental Protection Agency, Board of Scientific Counselors, Office of Research and Development (8701R), 1200 Pennsylvania Avenue, NW., Washington, DC 20460 by telephone at (202) 564–6853. In general, each individual making an oral presentation will be limited to three minutes.

FOR FURTHER INFORMATION CONTACT: Shirley R. Hamilton, Designated Federal Office, U.S. Environmental Protection Agency, Office of Research and Development (8701R), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564–6853.

Dated: July 31, 2001.

John C. Puzak,

Deputy Director, National Center for Environmental Research.

[FR Doc. 01–20214 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

August 6, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 12, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0430.

Title: 47 CFR 1.1206, Permit-But-Disclose Proceedings.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, state, local or tribal governments, and federal government.

Number of Respondents: 10,000.

Estimated Time Per Response: .50 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement.

Total Annual Burden: 5,000 hours.

Total Annual Cost: N/A.

Needs and Uses: The Commission's rules require that a public record be made of ex parte presentations in ''permit-but-disclose'' proceedings, such as notice-and-comment rulemakings. Persons making such presentations are required to file copies of written presentations and memoranda of new data or arguments made in oral presentations. The availability of the ex parte materials helps ensure that interested parties have fair notice of presentations made to the Commission and the development of a complete record. This information collection is being submitted to the Office of Management and Budget (OMB) extending the collection for an additional three years.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–20155 Filed 8–10–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 28, 2001.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Karlton Conrad Adam, Pierre, South Dakota; to acquire voting shares of Blunt Bank Holding Company, Blunt, South Dakota, and thereby indirectly acquire voting shares of Dakota State Bank of Blunt, Blunt, South Dakota.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Eugene A. Ludwig, Washington, D.C., and Evan G. Galbraith, New York, New York; to act as voting trustees, and acquire voting shares of Laredo National Bancshares, Inc., Laredo, Texas, and thereby indirectly acquire voting shares of Laredo National Bank, Laredo, Texas, and South Texas National Bank, Laredo, Texas.

Board of Governors of the Federal Reserve System, August 8, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–20286 Filed 8–10–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 7, 2001.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Banknorth Group, Inc., Portland, Maine; to acquire and merge with Andover Bancorp, Inc., Andover Massachusetts, and thereby indirectly acquire Andover Bank, Andover, Massachusetts, and Gloucester Bank & Trust Company, Gloucester, Massachusetts.

In connection with this application, Applicant also has applied to acquire a 15.9 percent interest in Gloucester Investment Corp., Gloucester, Massachusetts, and thereby engage in making loans to small businesses and investments in industrial and commercial enterprises in the City of Gloucester and the area known as Cape Ann, pursuant to § 225.28(b)(12) of Regulation Y.

B. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. F.N.B. Financial Corporation, Naples, Florida; to acquire and merge with Promistar Financial Corporation, and thereby indirectly acquire Promistar Bank, both of Johnstown, Pennsylvania.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Cisco Bancshares, Inc., Cisco, Texas, and Cisco Bancshares of Nevada, Inc., Carson City, Nevada; to become bank holding companies by acquiring 100 percent of the voting shares of First National Bank, Cisco, Texas.

2. Olney Bancshares of Texas, Inc., Olney, Texas, and Olney Bancorp of Delaware, Inc., Wilmington, Delaware; to acquire 100 percent of the voting shares of Friona State Bank, Friona, Texas.

Board of Governors of the Federal Reserve System, August 8, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–20287 Filed 8–10–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Notice

TIME AND DATE: 10 a.m. (EDT), August 13, 2001.

PLACE: 4th Floor, Conference Room 4506, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the July 9, 2001, Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Review of KPMG LLP audit reports:

(a) System Availability and Capacity Readiness Review of the Thrift Savings Plan System at the United States Department of Agriculture, National Finance Center.

(b) Pre-Implementation Review of the New Thrift Savings Plan System's Selected Business Processes and Data Conversion Controls at the United States Department of Agriculture, National Finance Center.

4. Review of investment policy.
5. Review of Arthur Andersen semiannual financial review.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: August 8, 2001.

Elizabeth S. Wooddruff,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 01–20360 Filed 8–9–01; 9:04 am]

BILLING CODE 6760–01–M

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (''FTC'').

ACTION: Notice.

SUMMARY: The Federal Trade Commission (FTC) has submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act (PRA) information collection requirements contained in its Used Motor Vehicle Trade Regulation Rule (''Used Car Rule'' or ''Rule''). The FTC is seeking public comments on its proposal to extend through September 30, 2004 the current PRA clearance for information collection requirements contained in the Rule. That clearance expires on September 30, 2001.

DATES: Comments must be submitted on or before September 12, 2001.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, DC 20503, Attn.: Desk Officer for the Federal Trade Commission, and to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. All comments should be captioned ''Used Car Rule: Paperwork comment.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to John C. Hallerud, Attorney, Midwest Region, Federal Trade Commission, 55 East Monroe, Suite 1860, Chicago, Illinois 60603, (312) 960–5634.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. On May 22, 2001, the FTC sought comment on the information collection requirements associated with the Used Car Rule, 16 CFR Part 455 (Control Number: 3084–0108). See 66 FR 28164. No comments were received. Pursuant to the OMB regulations that implement that PRA (5 CFR Part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the Rule.

The Used Car Rule facilitates informed purchasing decisions by consumers by requiring used car dealers to disclose information about warranty coverage, if any, and the mechanical condition of used cars they offer for sale. The Rule requires that used car dealers display a Buyers Guide that, among other things, discloses information about warranty coverage on each used car offered for sale.

Burden Statement

Estimated total annual hours burden: 1,925,000 hours.

The Rule has no recordkeeping requirements. The estimated buyers relating solely to disclosure is 1,925,000 hours. This estimate is based on the number of used car dealers (approximately 80,000 [1]), the number of used cars sold by dealers annually (approximately 30,000,000 [2]), and the time needed to fulfill the information collection tasks required by the Rule.[3] Staff retains its prior annual burden estimate as the changes in the approximate number of dealers and used cars they sold are marginal.[4]

The Rule requires that used car dealers display a one-page, double-sided Buyers Guide in the window of each used care they offer for sale. The component tasks associated with this requirement include: (1) Ordering and stocking Buyers Guide forms; (2) entering applicable data on Buyers Guides; (3) posting the Buyers Guides on vehicles; and (4) making any necessary revisions in Buyers Guides.

Dealers should need no more than an average of one hour per year to obtain Buyers Guide forms, which are readily available from many commercial printers or can be produced by an office word-processing or desk-top publishing system. Based on a universe of 80,000 dealers, the annual hours burden for producing or obtaining and stocking Buyers Guides is 80,000 hours.

For used cars sold ''as is,'' copying vehicle-specific data from dealer inventories to the Buyers Guide forms and checking off the ''no warranty'' box may take up to two minutes per vehicle if done by hand, and only seconds for those dealers who have automated the process. Staff conservatively assumes that this task, on average, will require 1.5 minutes. For used cars sold under warranty, checking off the warranty box and adding warranty information may take an additional one minute, i.e., 2.5 minutes. Based on input from industry sources, staff estimates that approximately 60% of used cars sold by dealers are sold ''as is,'' with the remainder sold under warranty. Thus, staff estimates the time required to enter data for used cars sold without warranty is 450,000 hours (30,000,000 × 60% × 1.5 minutes ÷ 60 minutes/hour) and 500,000 hours for used cars sold under warranty (30,000,000 × 40% × 2.5 minutes ÷ 60 minutes/hour), for an overall total of 950,000 hours.

[1] The Used Car Market Report 2001 (''Manheim Market Report''), p. 24, published by Manheim Auctions, 1400 Lake Hearn Drive NE, Atlanta, Georgia 30319, citing NADA, CNW Marketing Research. Prior issues of The Used Market Report were published by ADT Automotive. The Manheim Market Report indicates the number of dealerships in 2000 to be 77,750. See *http://www.manheimauctions.com/HTML/ucmr/dealership.html#*. For rounding purposes, staff retains its prior estimate of 80,000.

[2] Manheim Market Report, p. 15. The Manheim Market Report estimates the number of used cars sold by dealers in 2000 to be 29,800,000. For rounding purposes, staff retains its prior estimate of 30,000,000.

[3] A relatively small number of dealers opt to contract with outside companies to perform the various tasks associated with complying with the Rule. Staff assumes that outside contractors would require about the same amount of time and incur similar cost as dealers to perform these tasks. Accordingly, the hour and cost burden totals shown, while referring to ''dealers,'' incorporate the time and cost borne by outside companies in performing the tasks associated with the Rule.

[4] See notes 1 and 2.

Although the time required to post the Buyers Guides on each used car may vary substantially, FTC staff estimates that, on average, dealers will spend 1.75 minutes per vehicle to match the correct Buyers Guide to the vehicle and place it in or on the vehicle. For the 30,000,000 vehicles sold, the burden associated with this task is 875,000 hours. To the extent dealers are able to integrate this process into other activities performed in their ordinary course of business, this estimate likely overstates the actual burden.

If negotiations between buyer and seller over warranty coverage produce a sale on terms other than those originally entered on the Buyers Guide, the dealer must revise the Guide to reflect the actual terms of sale. According to the rulemaking record, bargaining over warranty coverage rarely occurs. Allowing for revision in 2% of sales, at two minutes per revision, staff estimates that dealers will spend 20,000 hours annually revising Buyers Guides.

Estimated annual cost burden: 28,250,000 consisting of $19,250,000 in labor costs and $9,000,000 in non-labor costs.

Labor costs: Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. Staff has determined that all of the tasks associated with ordering forms, entering data on Buyers Guides, posting Buyers Guides on vehicles, and revising them as needed are typically done by clerical or low-level administrative personnel. Using a clerical cost rate $10 per hour and an estimate of 1,925,000 burden hours for disclosure requirements, the total labor cost burden would be approximately $19,250,000.

Capital or other non-labor costs: The cost of the Buyers Guide form itself estimated to be 30 cents per form, so that forms for 30 million vehicles would cost dealers $9,000,000. In making this estimate, staff conservatively assumes that all dealers will purchase preprinted forms instead of producing them internally, although dealers may produce them at minimal expense using current office automation technology. Capital and start-up costs associated with the Rule are minimal.

John D. Graubert,

Acting General Counsel.

[FR Doc. 01–20276 Filed 8–10–01; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The Federal Trade Commission (FTC) has submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act (PRA) information collection requirements contained in its Appliance Labeling Rule (''Rule''), promulgated pursuant to the Energy Policy and Conservation Act of 1975 (''EPCA''). The FTC is seeking public comments on its proposal to extend through September 30, 2004 the current PRA clearance for information collection requirements contained in the Rule. The clearance expires on September 30, 2001.

DATES: Comments must be submitted on or before September 12, 2001.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, DC 20503, Attn.: Desk Officer for the Federal Trade Commission, and to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. All comments should be captioned ''Appliance Labeling Rule Paperwork comment.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection requirements should be addressed to Hampton Newsome, Attorney, Bureau of Consumer Protection, Division of Enforcement, Room 4616, Federal Trade Commission, 600 Pennsylvania Ave., NW., Washington, DC 20580 (202–326–2889).

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. On June 1, 2001, the FTC sought comment on the information collection requirements associated with the Appliance Labeling Rule, 16 CFR part 305 (Control Number: 3084–0069). See 66 FR 29807. No comments were received, including with regard to staff's PRA burden estimates. Pursuant to the OMB regulations that implement the PRA (5 CFR part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the Rule.

The Rule establishes testing, reporting, recordkeeping, and labeling requirements for manufacturers of major household appliances (refrigerators, refrigerator-freezers, freezers, water heaters, clothes washers, dishwashers, room air conditioners, furnaces, central air conditioners, heat pumps, pool heaters, certain lighting products, and certain plumbing products). The requirements relate specifically to the disclosure of information relating to energy consumption and water usage. The Rule's testing and disclosure requirements enable consumers purchasing appliances to compare the energy use or efficiency of competing models. In addition, EPCA and the Rule require manufacturers to submit relevant data to the Commission regarding energy or water usage in connection with the products they manufacture. The Commission uses this data to compile ranges of comparability for covered appliances for publication in the **Federal Register**. These submissions, along with required records for testing data, may also be used in enforcement actions involving alleged misstatement on labels or in advertisements.

Burden Statement

Estimated annual hours burden: 445,000 hours

The estimated hours burden imposed by section 324 of EPCA and the Commission's Rule include burdens for testing (338,292) hours); reporting (1,324 hours); recordkeeping (767 hours); labeling (101,333 hours); and retail catalog disclosures (2,550 hours). The total burden for these activities is 445,000 hours (rounded to the nearest thousand). This estimate is lower than previous estimates because of revised assumptions regarding the number of basic models subjected to FTC-required testing each year (see discussion below).

The following estimates of the time needed to comply with the requirements of the Rule are based on census data, Department of Energy figures and estimates, general knowledge of manufacturing practices, and industry input and figures. Because compliance burden falls almost on manufacturers and importers (with a de minimis burden for retailers), burden estimates are calculated on the basis of the number of domestic manufacturers and/or the number of units shipped domestically in the various product categories.

A. Testing

Under the Rule, manufacturers of covered products must test each basic model they produce to determine energy

usage (or, in the case of plumbing fixtures water consumption). The burden imposed by this requirement is determined by the number of basic models produced, the average number of units tested per model, and the time required to conduct the applicable test.

Manufacturers need not subject each basis model to testing annually; they must retest only if the product design changes in such way as to affect energy consumption. Previously, staff based its burden estimate on the assumption that manufacturers generally test each model at least once a year. Staff then conservatively assumed that this annual testing meant that all basic models were either replaced or subject to design changes during the year that necessitated testing under the Rule. Based on input from industry representatives for most manufacturer categories, however, staff now believes that the frequency with which models are tested every year ranges roughly between 10% and 50% and that the actual percentage of basic models tested varies by appliance category. In addition, it is likely that only a small portion of the tests conducted is attributable to the Rule's requirements. Given the lack of specific data on this point, staff will conservatively assume that all of the tests conducted are attributable to the Rule's requirements and will use the high end of the range noted above. Accordingly, the burden estimates are based on the assumption that 50% of all basic models are tested annually. Thus, the estimated testing burden for the various categories of products covered by the Rule is as follows:

Category of manufacturer	Number of basic models	Percentage of models tested (FTC required)	Avg. number of units tested per model	Labor hours per unit tested	Total annual testing burden hours
Refrigerators, Refrigerator-freezers, and Freezers	3,075	50	2	4	12,300
Dishwashers	393	50	2	1	393
Clothes washers	500	50	2	2	1,000
Water heaters	650	50	2	24	15,600
Room air conditioners	1,092	50	2	8	8,736
Furnaces	1,900	50	2	8	15,200
Central A/C	1,270	50	2	24	30,480
Heat pumps	903	50	2	72	65,016
Pool heaters	250	50	2	12	3,000
Fluorescent lamp ballasts	975	50	4	3	5,850
Lamp products	2,100	50	12	14	176,400
Plumbing fittings	1,700	50	2	2	3,400
Plumbing fixtures	22,000	50	1	.0833	917
					338,292

B. Reporting

Reporting burden estimates are based on information from industry representatives. Manufacturers of some products, such as appliances and HVAC equipment (furnaces, boilers, central air conditioners, and heat pumps), indicate that, for them, the reporting burden is best measured by the estimated time required to report on each model manufactured, while others, such as makers of fluorescent lamp ballasts and lamp products, state that an estimated number of annual burden house by manufacturer is a more meaningful way to measure. The figures below reflect these different methodologies as well as the varied burden hour estimates provided by manufacturers of the different product categories that use the latter methodology.

Appliances, HVAC Equipment, and Pool Heaters

Staff estimates that the average reporting burden for these manufacturers is approximately two minutes per basic model. Based on this estimate, multiplied by a total of 10,033 basic models of these products, the annual reporting burden for the appliance, HVAC equipment, and pool heater industry is an estimated 334 hours (2 minutes × 10,033 models ÷ 60 minutes per hour).

Fluorescent Lamp Ballasts, Lamp Products, and Plumbing Products

The total annual reporting burden for manufacturers of fluorescent lamp ballasts, lamp products, and plumbing products is based on the estimated average annual burden for each category of manufacturers, multiplied by the number of manufacturers in each respective category, as shown below:

Category of manufacturer	Annual burden hours per manufacturer	Number of manufacturers	Total annual reporting burden hours
Fluorescent lamp ballasts	6	20	120
Lamp products	15	50	750
Plumbing products	1	120	120

Total Reporting Burden Hours

The total reporting burden for industries covered by the Rule is 1,324 hours annually (334+120+750+120).

C. Recordkeeping

EPCA and the Appliance Labeling Rule require manufacturers to keep records of the test data generated in performing the tests to derive information included on labels and required by the Rule. As with reporting, burden is calculated by number of models for appliances, HVAC equipment, and pool heaters, and by number of manufacturers for fluorescent lamp ballasts, lamp products, and plumbing products.

Appliances, HVAC Equipment, and Pool Heaters

The recordkeeping burden for manufacturers of appliances, HVAC equipment, and pool heaters varies

directly with the number of tests performed. Staff estimates total recordkeeping burden to be approximately 167 hours for these manufacturers, based on an estimated average of one minute per record stored (whether in electronic or paper format), multiplied by 10,033 tests performed annually (1 × 10,033 ÷ 60 minutes per hour).[1]

Fluorescent Lamp Ballasts, Lamp Products, and Plumbing Products

The total annual recordkeeping burden for manufacturers of fluorescent lamp ballasts, lamp products, and plumbing products is based on the estimated average annual burden for each category of manufacturers (derived from industry sources), multiplied by the number of manufacturers in each respective category, as shown above:

Cartegory of manufacturer	Annual burden hours per manufacturer	Number of manufacturers	Total annual recordkeeping burden hours
Fluorescent lamp ballasts	2	20	40
Lamp products	10	50	500
Plumbing products	.5	120	60

Total Recordkeeping Burden Hours

The total recordkeeping burden for industries covered by the Rule is 767 hours annually (167+40+500+60).

D. Labeling

EPCA and the Rule require that manufacturers of covered products provide certain information to consumers, through labels, fact sheets, or permanent markings on the products. The burden imposed by this requirement consists of (1) the time needed to prepare the information to be provided, and (2) the time needed to provide it, in whatever form, with the products. The applicable burden for each category of products is described below:

Appliances, HVAC Equipment, and Pool Heaters

EPCA and the Rule specify the content, format, and specifications for the required labels, so manufacturers need only add the energy consumption figures derived from testing. In addition, most larger companies use automation to generate labels, and the labels do not change from year to year. Given these considerations, staff estimates that the time to prepare labels for appliances, HVAC equipment, and pool heaters is no more than four minutes per basic model. Thus, for appliances, HVAC equipment, and pool heaters, the approximate annual drafting burden involved in labeling in 669 hours per year (10,033 (all basic models) × four minutes (drafting time per basic model) ÷ 60 (minutes per hour)).

Industry representatives and trade associations have estimated that it takes between 4 and 8 seconds to affix each label to each product. Based on an average of six seconds per unit, the annual burden for affixing labels to appliances, HVAC equipment, and pool heaters is 83,522 hours [six (seconds) × 50,113,098 (the number of total products shipped in 2000) divided by 3,600 (seconds per hour)].

The Rule also requires that HVAC equipment manufacturers disclose energy usage information on a separate fact sheet or in an approved industry-prepared directory of products. Staff has estimated the preparation of these fact sheets requires approximately 30 minutes per basic model. Manufacturers producing at least 95 percent of the affected equipment, however, are members of trade associations[2] that produce approved directories (in connection with their certification programs independent of the Rule) that satisfy the fact sheet requirement. Thus, the drafting burden for fact sheets for HVAC equipment is approximately 102 hours annually [4,073 (all basic models) × .5 hours × .05 (proportion of equipment for which fact sheets are required)].

The Rule allows manufacturers to prepare a directory containing fact sheet information for each retail establishment as long as there is a fact sheet for each basis model sold. Assuming that six HVAC manufacturers (i.e., approximately 5% of HVAC manufacturers), produce fact sheets instead of having required information shown in industry directories, and each spends approximately 16 hours per year distributing the fact sheets to retailers and in response to occasional consumer requests, the total time attributable to this activity would also be approximately 96 hours.

The total annual labeling burden for appliances, HVAC equipment, and pool heaters is 668 hours for preparation plus 83,522 hours for affixing, or 84,191 hours. The total annual fact sheet burden is 102 hours for preparation and 96 hours for distribution, or 198 hours. The total annual burden for labels and fact sheets for the appliance, HVAC, and pool heater industries is, therefore, estimated to be 84,389 hours (84,191+198).

Fluorescent Lamp Ballasts

The statute and the Rule require that labels for fluorescent lamp ballasts contain an ''E'' within a circle. Since manufacturers label these ballasts in the ordinary course of business, the only impact of the Rule is to require manufacturers to reformat their labels to include the ''E'' symbol. Thus, the burden imposed by the Rule for labeling fluorescent lamp ballasts is minimal.

Lamp Products

The burden attributable to labeling lamp products is also minimal, for similar reasons. The Rule requires certain disclosures on packaging for lamp products. Since manufacturers were already disclosing the substantive information required under the Rule prior to its implementation, the practical effect of the Rule was to require that manufacturers redesign packaging materials to ensure they include the disclosures in the manner and form prescribed by the Rule. Because this effort is now complete, there is no ongoing labeling burden imposed by the Rule for lamp products.

Plumbing Products

The statute and the Rule require that manufacturers disclose the water flow rate for plumbing fixtures. Manufacturers may accomplish this disclosure by attaching a label to the product, through permanent markings imprinted on the product as part of the manufacturing process, or by including

[1] The amount of annual tests performed is derived by multiplying the number of basic models within the relevant product categories by the average number of units tested per model within each category (the underlying information may be drawn from the table in Section A).

[2] These associations include the Air-Conditioning and Refrigeration Institute, the Gas appliance Manufacturers Association, and the Hydronics Institute.

the required information on packaging material for the product. While some methods might impose little or no additional incremental time burden and cost on the manufacturer, other methods (such as affixing labels) could. Thus, staff estimate an overall blended average burden associated with this disclosure requirement of one second per unit sold. Staff also estimates that there are approximately 9,000,000 covered fixtures and 52,000,000 fittings sold annually in the country. Therefore, the estimated annual burden to label plumbing products is 16,944 hours [61,000,000 (units) × 1 (seconds) ÷ 3,600 (seconds per hour)].

Total Burden for Labeling

The total labeling burden for all industries covered by the Rule is 100,333 hours (84,389 + 16,944) annually.

E. Retail Sales Catalogs Disclosures

The Rule requires that sellers offering covered products through retail sales catalogs (i.e., those publications from which a consumer can actually order merchandise) disclose in the catalog energy (or water) consumption for each covered product. Because this information is supplied by the product manufacturers, the burden on the retailer consists of incorporating the information into the catalog presentation.

In the past, staff has estimated that there are 100 sellers who offer covered products through paper retail catalogs. While the Rule initially imposed a burden on catalog sellers by requiring that they draft disclosures and incorporate them into the layouts of their catalogs, paper catalog sellers now have substantial experience with the Rule and its requirements. Energy and water consumption information has obvious relevance to consumers, so sellers are likely to disclose much of the required information with or without the Rule. Accordingly, given the small number of catalog sellers, their experience with incorporating energy and water consumption data into their catalogs, and the likelihood that many of the required disclosures would be made in the ordinary course of business, staff believes that any incremental burden the Rule imposes on these paper catalog sellers would be minimal.

Staff estimates that there are an additional 150 new online sellers of covered products who are subject to the Rule's catalog disclosure requirements. Many of these sellers may not have the experience the paper catalog sellers have in incorporating energy and water consumption data into their catalogs. Staff estimates that these online sellers each require approximately 17 hours per year to incorporate the data into their online catalogs. This estimate is based on the assumption that entry of the required information takes 1 minute per covered product and an assumption that the average online catalog contains approximately 1,000 covered products (based on a sampling of websites of affected retailers). Given that there is a great variety among sellers in the volume of products they offer online, it is very difficult to estimate such volume with precision. In addition, this analysis assumes that information for all 1,000 products is entered into the catalog. This is a conservative assumption because the number of incremental additions to the catalog from year to year is likely to be much lower after initial start-up efforts have been completed. The total catalog disclosure burden for all industries covered by the Rule is 2,550 hours (150 sellers × 17 hours annually.

Estimated annual cost burden: ($7,826,750 in labor costs and $3,519,422 in capital or other non-labor costs)

Labor Costs: Staff derived labor costs by applying appropriate estimated hourly cost figures to the burden hours described above. In calculating the cost figures, staff assumes that test procedures are conducted by skilled technical personnel at an hourly rate of $20.00, and that recordkeeping and reporting, and labeling, marking, and preparation of facts sheets, generally are performed by clerical personnel at an hourly rate of $10.00.

Based on the above estimates and assumptions, the total annual labor costs for the five different categories of burden under the Rule, applied to all the products covered by it, is $7,827,000 (rounded to the nearest thousand), derived as follows:

Activity	Burden hours per year	Wage category/hourly rate	Total annual labor cost
Testing	338,292	Skilled clerical/$20	$6,765,840
Reporting	1,324	Clerical/$10	13,240
Recordkeeping	934	Clerical/$10	9,340
Labeling, marking, and fact sheet preparation	101,333	Clerical/$10	1,013,330
Catalog disclosures	2,550	Clerical/$10	25,500
			7,827,250

Capital or Other Non-Labor Costs: $3,519,000 (rounded), determined as follows:

Staff has examined the five distinct burdens imposed by EPCA through the Rule—testing, reporting, recordkeeping, labeling, and retail catalog disclosures—as they affect the 11 groups of products that the Rule covers. Staff concludes that there are no current start-up costs associated with the Rule. Manufacturers have in place the capital equipment necessary—especially equipment to measure energy and/or water usage—to comply with the Rule.

Under this analysis, testing, recordkeeping, and retail catalog disclosures are activities that incur no capital or other non-labor costs. As mentioned above, testing has been performed in these industries in the normal course of business for many years as has the associated recordkeeping. The same is so for regarding compliance applicable to the requirements for paper catalogs. Manufacturers and retailers who make required disclosures in catalogs already are producing catalogs in the ordinary course of their businesses; accordingly, capital cost associated with such disclosure would be minimal or nil. Staff recognizes that there may be initial costs associated with posting online disclosure, and it invites further comment to reasonably quantify such costs.

Manufacturers that submit required reports to the Commission directly (rather than through trade associations) incur some nominal costs for paper and postage. Staff estimates that these costs do not exceed $2,500. Manufacturers must also incur the cost of procuring labels and fact sheets used in compliance with the Rule. Based on estimates of 50,113,098 units shipped

and 128,650 fact sheets prepared,[3] at an average cost of seven cents for each label or fact sheet, the total (rounded) labeling cost is $3,516,922.

The total cost for labeling, marking and preparing fact sheets for all industries covered by the Rule is, therefore, $3,519,422 annually ($43,516,922 + $2,500), rounded to $3,519,000.

John D. Graubert,

Acting General Counsel.

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[3] The units shipped total is based on combined actual or estimated industry figures for calendar year 2000 across all of the product categories, except for fluorescent lamp ballasts, lamp products, and plumbing products. Staff has determined that, for those product categories, these are little or no costs associated with the labeling requirements. The fact sheet estimation is based on the previously noted assumption that five percent of HVAC manufacturers produce fact sheets on their own. Based on total HVAC units shipped (10,291,965), five percent amounts to 514,598 HVAC units. Because manufacturers generally list more than one unit on a fact sheet, staff has estimated that manufacturers independently preparing them will use one sheet for every four of these 514,598 units. Thus, staff estimates that HVAC manufacturers produce approximately 128,650 fact sheets.

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The Federal Trade Commission (FTC) has submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act (PRA) information collection requirements contained in (1) the Rule Concerning Disclosure of Written Consumer Product Warranty Terms and Conditions; (2) the Rule Governing Pre-Sale Availability of Written Warranty Terms; and (3) the Informal Dispute Settlement Procedures Rule (collectively, ''Warranty Rules''). The FTC is seeking public comments on its proposal to extend through September 30, 2004 the current PRA clearance for these information collection requirements. These clearances expire on September 30, 2001.

DATES: Comments must be submitted on or before September 12, 2001.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, DC 20503, Attn.: Desk Officer for the Federal Trade Commission, and to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. All comments should be captioned ''Warranty Rules: Paperwork comment.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Carole Danielson, Investigator, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Room H–238, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–3115.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. On May 31, 2001, the FTC sought comment on the information collection requirements associated with the Warranty Rules, 16 CFR parts 701, 702, and 703 (OMB Control Numbers 3084–0111, 3084–0112, and 3084–0113, respectively). See 66 FR 29571. No comments were received.

The Warranty Rules implement the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 *et seq.* (''the Act''), which governs written warranties on consumer products. The Act directed the FTC to promulgate rules regarding the disclosure of written warranty terms and conditions, rules requiring that the terms of any written warranty on a consumer product be made available to the prospective purchaser before the sale of the product, and rules establishing minimum standards for informal dispute settlement mechanisms that are incorporated into a written warranty. Pursuant to the Act, the Commission published the instant three rules.[1]

Consumer Product Warranty Rule (''Warranty Rule'')

The Warranty Rule specifies the information that must appear in a written warranty on a consumer product. It sets forth what warrantors must disclose about the terms and conditions of the written warranties they offer on consumer products that cost the consumer more than $15.00. The Rule tracks the disclosure requirements suggested in section 102(a) of the Act,[2] specifying information that must appear in the written warranty and, for certain disclosures, mandates the exact language that must be used. The Warranty Rule requires that the information be conspicuously disclosed in a single document in simple, easily understood language. In promulgating this rule, the Commission determined that the items required to be disclosed are material facts about product warranties, the non-disclosure of which would be deceptive or misleading.[3]

The Rule Governing Pre-Sale Availability of Written Warranty Terms (''Pre-Sale Availability Rule'')

In accordance with section 102(b)(1)(A) of the Act, the Pre-Sale Availability Rule establishes requirements for sellers and warrantors to make the text of any written warranty on a consumer product available to the consumer before sale. Following the Rule's original promulgation, the Commission amended it to provide sellers with greater flexibility in how to make warranty information available.[4]

Among other things the amended Rule requires sellers to make the text of the warranty readily available either by (1) displaying in close proximity to the product or (2) furnishing it on request and posting signs in prominent locations advising consumers that the warranty is available. The Rule requires warrantors to provide materials to enable sellers to comply with the Rule's requirements, and also sets out the methods by which warranty information can be made available before the sale if the product is sold through catalogs, mail order, or door-to-door sales.

Informal Dispute Settlement Rule (''Informal Dispute Settlement Rule'')

This rule specifies the minimum standards that must be met by any informal dispute settlement mechanism incorporated into a written consumer product warranty and that the consumer must use before pursuing legal remedies in court. In enacting the Warranty Act, Congress recognized the potential benefits of consumer dispute mechanisms as an alternative to the judicial process. Section 110(a) of the Act, 15 U.S.C. 2310(a), sets out the Congressional policy to ''encourage warrantors to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms'' (''IDSMs'') and erected a framework for their establishment. As an incentive to warrantors to establish IDSMs. Congress provided in section 110(a)(3), 15 U.S.C. 2310(a)(3), that warrantors may incorporate into their written consumer product warranties a

[1] 40 FR 60168 (December 31, 1975).

[2] 15 U.S.C. 2302(a).

[3] 40 FR 60168, 60169–60170.

[4] 52 FR 7569 (March 12, 1987).

requirement that a consumer must resort to an IDSM before pursuing a legal remedy under the Act for breach of warranty. To ensure fairness to consumers, however, Congress also directed that, if a warrantor were to incorporate such a ''prior resort requirement'' into its written warranty, the warrantor must comply with the minimum standards set by the Commission for such IDSMs. Section 110(a)(2) directed the Commission to establish those minimum standards.

The Informal Dispute Settlement Rule contains extensive procedural standards for IDSMs. These standards include requirements concerning the mechanism's structure (e.g., funding, staffing, and neutrality), the qualifications of staff or decision makers, the mechanism's procedures for resolving disputes (e.g., notification, investigation, time limits for decisions, and follow-up), recordkeeping, and annual audits. The Rule requires that warrantors establish written operating procedures and provide copies of those procedures upon request. The Rule's recordkeeping requirements specify that all records may be kept confidential or otherwise made available only on terms specified by the mechanism. However, the records are available for inspection by the Commission and other law enforcement personnel to determine compliance with the Rule, and the records relating to a specific dispute as available to the parties in that dispute. In addition, the audits and certain specified records are available to the general public for inspection and copying.

The Rule applies only to those firms that choose to be bound by it by placing a prior resort requirement in their written consumer product warranties. Neither the Rule nor the Act requires warrantors to set up IDSMs. Furthermore, a warrantor is free to set up an IDSM that does not comply with this rule as long as the warranty does not contain a prior resort requirement.

Warranty Rule Burden Statement

Total annual hours burden: 34,000 hours. In 1998, the FTC estimated that the cumulative information collection burden of including the disclosures required by the Warranty Rule in consumer product warranties was approximately 34,000 hours for affected manufacturers. Since the Rule's paperwork requirements have not changed since then, and staff believes that the population affected is largely unchanged, staff concludes this its prior estimate remains reasonable. Moreover, since most warrantors would disclose this information even were there no statute or rule requiring them to do so, this estimate and those below pertaining to the Warranty Rule likely overstate the paperwork burden attributable to it. The Rule has been in effect since 1976, and most warrantors have already modified their warranties to include the information the Rule requires.

The above estimate is derived as follows. Based on conversations with various warrantors' representatives over the years, staff concluded that eight hours per year is a reasonable estimate of warrantors' paperwork burden attributable to the Warranty Rule. This estimate includes the task of ensuring that new warranties and changes to existing warranties comply with the rule. In 1995, staff reported that the most recently published census data indicated that there was a 17% increased in manufacturing establishments during the 1980s. Adjusting for these increases, staff estimated in 1995 that the number of manufacturing entities subject to the commission's jurisdiction had increased to 4,241 ($3,625 \times 1.17$), which produced an adjusted burden figure of 33,928 ($4,241 \times 8$ hours annually/manufacturer), rounded to 34,000. As staff does not believe that the population affected nor the burden per entity has changed materially, the prior estimate is still valid.

Total annual labor costs: Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. The work required to comply with the Warranty Rule is predominantly clerical. Based on an average hourly rate of $10 for clerical employees and 34,000 total burden hours, the annual labor cost is approximately $340,000.

Total annual capital or other non-labor costs: The Rule imposes no appreciable current capital or start-up costs. The vast majority of warrantors have already modified their warranties to include the information the Rule requires. Rule compliance does not require the use of any capital goods, other than ordinary office equipment, which providers would already have available for general business use.

Pre-Sale Availability Rule Burden Statement

Total annual hours burden: Staff estimates that the burden of including the disclosures required by the Pre-Sale Availability rule in consumer product a warranties is 2,760,000 hours, rounded to the nearest thousand.

In 1998, FTC staff estimated that the information collection burden of including the disclosures required by the Pre-Sale Availability rule in consumer product warranties was approximately 2,759,700 hours per year per manufacturer. Since then, some online retailers have begun to cost warranty information on their web sites, which should reduce their cost of providing the required information. However, this method of compliance is still evolving and involves a relatively small number of firms. Furthermore, those online retailers that also operate ''brick-and-mortar'' operations would still have to provide paper copies of the warranty for review by those customers who do not do business online. Thus, online methods of complying with the Rule do not yet appear to be sufficiently widespread so as to significantly alter the measure of burden associated with the Rule.

Given no change in the Rule's paperwork requirements since 1998, the considerations noted above, and staff's belief that the population affected is largely unchanged, staff believes that its prior estimate remains reasonable. That estimate was based on the following information and calculations regarding retailers and manufacturers. As of 1995, there were 6,552 large retailers, 422,100 small retailers, 146 large manufacturers, and 4,095 small manufacturers subject to the Commission's jurisdiction under the Rule. Because of the reduced burden due to the Rule's amendments, large retailers now spend an average of 26 hours per year and small retailers an average of 6 hours per year to comply with the Rule. This yields a total burden of 2,702,952 hours for retailers. Large manufacturers spend an average of 52 hours per year and small manufacturers spend an average of 12 hours per year, for a total burden estimate of 56,732 hours. Thus, the combined total burden is 2,760,000 hours, rounded to the nearest thousand.

Total annual labor cost: The work required to comply with the Pre-Sale Availability rule is predominantly clerical, e.g., providing copies of manufacturer warranties to retailers and retailer maintenance of them. Assuming a clerical labor cost rate of $10/hours, the total annual labor cost burden is approximately $27,600,000.

Total annual capital or other non-labor costs: De minimis. The vast majority of retailers and warrantors already have developed systems to provide the information the Rule requires. Compliance by retailers typically entails simply filing warranties in binders and posting an inexpensive sign indicating warranty availability. Manufacturer compliance entails providing retailers with a copy of the warranties included with their products.

Informal Dispute Settlement Rule Burden Statements

Total annual hours burden: 34,000 hours. The primary burden from the Informal Dispute Settlement Rule comes from its recordkeeping requirements that apply to IDSMs incorporated into a consumer product warranty. Staff estimates that recordkeeping and reporting burdens are 24,625 hours per year and the disclosure burdens are 9,235 hours per year. The total estimated burden imposed by the Rule is thus approximately 34,000 hours, rounded to the nearest thousand. This marks an increase over staff's estimates relating to the FTC's prior clearance request regarding the Rule. At that time, staff estimated that recordkeeping and reporting burden was 4,334 hours per year and 1,625 hours per year for disclosure requirements or, cumulatively, approximately 6,000 hours.

Although the Rule's paperwork requirements have not changed since the FTC's immediately preceding PRA clearance request, staff believes that more manufacturers have since chosen to be covered by the Rule. The calculations underlying these increased estimates follow.

Recordkeeping: The Rule requires that IDSMs maintain individual case files, update indexes, complete semi-annual statistical summaries, and submit an annual audit report to the FTC. The greatest amount of time to meet recordkeeping requirements is devoted to compiling individual case records. Since maintaining individual case records is a necessary function for any IDSM, much of the burden would be incurred in any event; however, staff estimates that the Rule's recordkeeping requirements impose an additional burden of 30 minutes per case. Staff also has allocated 10 minutes per case for compiling indexes, statistical summaries, and the annual audit required by the Rule, resulting in a total recordkeeping requirement of 40 minutes per case.

The amount of work required will depend on the total number of dispute resolution proceedings undertaken in each IDSM. The 1999 audit report for the BBB AUTO LINE states that, during calendar year 1999, it handled 21,392 warranty disputes on behalf of 14 manufacturers (including General Motors, Saturn, Honda, Volkswagen, Isuzu, and Nissan, as well as smaller companies such as Rolls Royce and Land Rover). Industry representatives have informed staff that all domestic manufacturers and most importers now include a ''prior resort'' requirement in their warranties, and thus are covered by the Informal Dispute Settlement Rule. Therefore, staff assumes that virtually all of the 21,392 disputes handled by the BBB fall within the Rule's parameters. Apart from the BBB audit report, 1999 reports were also submitted by the two mechanisms that handle dispute resolution for Toyota and Ford, both of which are covered by the Rule.[5] The Ford IDSM states that it handled 7,246 total disputes. The audit of the Toyota IDSM did not state the total number of disputes handled; however, based on consumer publications tracking the auto industry, staff conservatively estimates that the Toyota IDSM handled approximately 3,600 total disputes. All of the Toyota and Ford disputes are covered by the Informal Dispute Settlement Rule. Daimler-Chrysler is the only major domestic auto manufacturer for which staff has not data. However, assuming that the incidence of disputes relative to sales is proportional to that experienced by Ford, the number of disputes handled by Chrysler's IDSM[6] would be approximately two-thirds of the Ford total, i.e., roughly 4,700 disputes. Based on the above data and assumptions, staff projects that the total number of disputes handled by the Rule's mechanisms total is 36,938. Thus, staff estimates the total burden to be approximately 24,625 hours (36,938 disputes × 40 minutes ÷ 60 min./hr.).

Disclosure: The Rule requires that information about the mechanism be disclosed in the written warranty. Any incremental costs to the warrantor of including this additional information in the warranty are negligible. The majority of such costs would be borne by the IDSM, which is required to provide to interested consumers upon request copies of the various types of information the IDSM possesses, including annual audits. Consumers who have dealt with the IDSM also have a right to copies of records relating to their disputes. (IDSMs are permitted to charge for providing both types of information.) Given the small number of entities that have operated programs over the years, staff estimates that the burden imposed by the disclosure requirements is approximately 9,235 hours per year for the existing IDSMs to provide copies of this information. This estimate draws from the estimated number of consumers who file claims each year with the IDSMs (36, 938) and the assumption that each consumer individually requests copies of the records relating to their dispute. Staff estimates that the copying would require approximately 15 minutes per consumer, including copies of the annual audit.[7] Thus, the IDSMs currently operating under the Rule would have a total estimated burden of about 9,235 hours (36,938 disputes × 15 min. ÷ 60 min./hr.).

Total annual labor cost: $461,725.

Assuming that IDSMs use skilled clerical or technical support staff to compile and maintain the records required by the Rule at an hourly rate of $15, the labor cost associated with the 24,625 recordkeeping burden hours would be $369,375. If IDSMs use clerical support at an hourly rate of $10 to reproduce records, the labor costs of the 9,235 disclosure burden hours is approximately $92,350. The combined total labor cost for recordkeeping and disclosures is $461,725.

Total annual capital or other non-labor costs: $300,000.

Total capital and start-up costs: The Rule imposes no appreciable current capital or start-up costs. The vast majority of warrantors have already developed systems to retain the records and provide the disclosures required by the Rule. Rule compliance does not require the use of any capital goods, other than ordinary office equipment, to which providers would already have access.

The only additional cost imposed on IDSMs subject to the Rule that would not be incurred for other IDSMs is the annual audit requirement. One of the IDSMs currently operating under the Rule, the BBB AUTO LINE, estimated the total annual costs of this requirement to be under $100,000.[8] Since there are three IDSMs operating under the Rule, staff estimates the total non-labor costs associated with the Rule to be three times that amount, or $300,000. This extrapolated total, however, also reflects an estimated $120,000 for copying costs, which is accounted for separately under the category below. Thus, estimated costs attributable solely to capital or start-up expenditures is $180,000.

Other non-labor costs: $120,000 in copying costs. This total is based on

[5] So far as staff is aware, all or virtually all of the IDSMs subject to the Rule are within the auto industry.

[6] Toyota and Chrysler share the same IDSM, though each company is reported separately.

[7] This estimate incorporates any additional time needed to reproduce copies of audit reports for consumers upon their request. Inasmuch as consumers request such copies in only a minority of cases, this estimate is likely an overstatement.

[8] The BBB did not break down this estimate by cost item. Staff conservatively included the entire $100,000 in its estimate of capital and other non-labor costs, even though some of this burden is likely already accounted for as labor costs.

estimated copying costs of 5 cents per page and several conservative assumptions or estimates. Staff estimates that the ''average'' dispute-related file is about 25 pages long and that a typical annual audit file is about 200 pages in length. For purposes of estimating copying costs, staff assumes that every consumer complainant (or approximately 36,938 consumers) requests a copy of the file relating to his or her dispute. Staff also assumes that, for about 7,388 (20%) of the estimated 36,938 disputes each year, consumers request copies of warrantors' annual audit reports (although, based on requests for audit reports made directly to the FTC, the indications are that considerably fewer requests are actually made). Thus, the estimated total annual copying costs for average-sized files would be approximately $46,173 (25 pages/file × 36,938 requests) and $73,880 for copies of annual audits (200 pages/audit report × .05 × 7,388 requests), for total copying costs of $120,053, rounded to $120,000).

John D. Graubert,

Acting General Counsel.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Agency for Toxic Substances and Disease Registry

[Program Announcement 02004]

Public Health Conference Support Grant Program; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) announce the availability of fiscal year (FY) 2002 funds for a grant program for Public Health Conference Support. This program addresses the health promotion and disease prevention objectives of ''Healthy People 2010''. This announcement is related to the focus areas of Arthritis, Osteoporosis, Chronic Back Conditions, Cancer, Diabetes, Disability and Secondary Conditions, Educational and Community-Based Programs, Environmental Health, Heart Disease and Stroke, Immunization and Infectious Diseases, Injury and Violence Prevention, Maternal, Infant and Child Health, Occupational Safety and Health, Oral Health, Physical Activity and Fitness, Public Health Infrastructure, Respiratory Diseases, Sexually Transmitted Diseases, and Tobacco Use. For a copy of ''Healthy People 2010'' visit the internet site http://www.health.gov/healthypeople

Conferences on Access to Quality Health Services, Family Planning, Food Safety, Health Communications, Medical Product Safety, Nutrition and Overweight, Substance Abuse, and Vision and Hearing, are not priority focus areas of CDC or ATSDR, and should be directed to other Federal Agencies. HIV is not included in this Program Announcement.

The purpose of conference support funding is to provide partial support for specific non-federal conferences (not a series) in the areas of health promotion and disease prevention information and education programs, and applied research.

Because conference support by CDC/ATSDR creates the appearance of CDC/ATSDR co-sponsorship, there will be active participation by CDC/ATSDR in the development and approval of the conference agenda. CDC/ATSDR funds will be expended only for approved portions of the conference.

The mission of CDC is to promote health and improve the quality of life by preventing and controlling disease, injury, and disability.

CDC supports local, Tribal, State, academic, national, and international health efforts to prevent unnecessary disease, disability, and premature death, and to improve the quality of life. This support often takes the form of education, and the transfer of high quality research findings and public health strategies and practices through symposia, seminars, and workshops. Through the support of conferences and meetings (not a series) in the areas of public health research, education, prevention research in program and policy development in managed care and prevention application, CDC is meeting its overall goal of dissemination and implementation of new cost-effective intervention strategies.

ATSDR focus areas are: (1) Health effects of hazardous substances in the environment; (2) disease and toxic substance exposure registries; (3) hazardous substance removal and remediation; (4) emergency response to toxic and environmental disasters; (5) risk communication; (6) environmental disease surveillance; and (7) investigation and research on hazardous substances in the environment. The mission of ATSDR is to prevent both exposure and adverse human health effects that diminish the quality of life associated with exposure to hazardous substances from waste sites, unplanned releases, and other sources of pollution present in the environment.

ATSDR's systematic approaches are needed for linking applicable resources in public health with individuals and organizations involved in the practice of applying such research. Mechanisms are also needed to shorten the time frame between the development of disease prevention and health promotion techniques and their practical application. ATSDR believes that conferences and similar meetings (not a series) that permit individuals to engage in hazardous substances and environmental health research, education, and application (related to actual and/or potential human exposure to toxic substances) to interact, are critical for the development and implementation of effective programs to prevent adverse health effects from hazardous substances.

B. Eligible Applicants

Applications for CDC support may be submitted by public and private non-profit organizations. Public and private non-profit entities include State and local governments or their bona fide agents, voluntary associations, foundations, civic groups, scientific or professional associations, universities, and Federally-recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Only conferences planned for May 1, 2002 through September 30, 2003 are eligible to apply under this announcement.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal Funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

Applications for ATSDR support may be submitted by the official public health agencies of the States, or their bona fide agents. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and Federally-recognized Indian Tribal governments. State organizations, including State universities, State colleges, and State research institutions must establish that they meet their respective State's legislature definition of a State entity or political subdivision to be considered an eligible applicant.

Also eligible are nationally recognized associations of health professionals and other chartered organizations generally recognized as demonstrating a need for information to protect the public from the health effects of exposure to hazardous substances.

C. Availability of Funds

Approximately $1,100,000 may be available from CDC in FY 2002 to fund approximately 50 to 60 awards. It is expected that the average award will be $20,000. For FY 2002, awards will be made for three cycles (A, B, and C) each with a 12-month budget period within a 12-month project period. Funding estimates may change.

Approximately $50,000 is available from ATSDR in FY 2002 to fund approximately six awards. It is expected that the average award will be $8,000, ranging from $5,000 to $10,000. It is expected that the awards will begin on or about thirty days before the date of the conference and will be made for a 12-month budget period within a 12-month project period. Funding estimates may change.

D. Use of Funds

1. Funds may be used for direct cost expenditures: salaries; speaker fees (for services rendered); rental of necessary conference related equipment; registration fees; and transportation costs (not to exceed economy class fare) for non-Federal individuals.

2. Funds may be used for only those parts of the conference specifically supported by CDC or ATSDR as documented in the grant award.

3. Funds may not be used for the purchase of equipment; payments of honoraria (for conferring distinction); alterations or renovations; organizational dues; support entertainment or personal expenses; food or snack breaks; cost of travel and payment of a Federal employee; per diem or expenses for local participants (other than local mileage). Travel for federal employees will be supported by CDC/ATSDR. Travel for other Federal employees will be supported by the employees Federal agency.

4. Funds may not be used for reimbursement of indirect costs.

5. CDC and ATSDR will not fund 100 percent of any conference proposed under this announcement. Part of the cost of the proposed conference must be supported with other than Federal funds.

6. CDC and ATSDR will not fund a conference after it has taken place.

7. Although the practice of handing out novelty items at meetings is often employed in the private sector to provide participants with souvenirs, Federal funds cannot be used for this purpose.

E. Program Requirements

Grantees must meet the following requirements:

1. The conference organizer(s) may use CDC's/ATSDR's name only in factual publicity for the conference. CDC/ATSDR involvement in the conference does not necessarily indicate support for the organizer's general policies, activities, or products or the content of speakers' presentations.

2. Any conference co-sponsored under this announcement shall be held in facilities that are fully accessible to the public as required by the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Accessibility under ADAAG addresses accommodations for persons with sensory impairments as well as persons with physical disabilities or mobility limitations.

3. Manage all activities related to program content (e.g., objectives, topics, attendees, session design, workshops, special exhibits, speaker's fees, agenda composition, and printing). Many of these items may be developed in concert with assigned CDC or ATSDR project personnel.

4. Provide draft copies of the agenda and proposed ancillary activities to CDC or ATSDR for approval. All but 10 percent of the total funds awarded for the proposed conference will be initially restricted pending approval of a full final agenda by CDC or ATSDR. The remaining 90 percent of funds will be released by letter to the grantee upon the approval of the final agenda. CDC and ATSDR reserves the right to terminate co-sponsorship at any time.

5. Determine and manage all promotional activities (e.g., title, logo, announcements, mailers, press, etc.). CDC or ATSDR must review and approve any materials with reference to CDC or ATSDR involvement or support.

6. Manage all registration processes with participants, invitee, and registrants (e.g., travel, reservations, correspondence, conference materials and handouts, badges, registration procedures, etc.).

7. Plan, negotiate, and manage conference site arrangements, including all audio-visual needs.

8. Analyze data from conference activities that pertain to the impact of prevention. Adequately assess increased knowledge, attitudes, and behaviors of the target audience.

F. Application Content

A letter of intent (LOI) is required for this Program Announcement.

Letter of Intent (LOI) instructions: Interested applicants are required to submit an original and two copies of a two to three-page in-depth typewritten Letter of Intent (LOI). Use English only and avoid jargon and unusual abbreviations. Upon review of the LOI's, CDC or ATSDR will extend written invitations to perspective applicants to submit applications. CDC or ATSDR will accept applications by invitation only. Availability of funds may limit the number of applicants, regardless of merit, that receive an invitation to submit applications. The LOI should specifically describe the following required information:

1. Justification of the conference, including the problems it intends to clarify and the developments it may stimulate;

2. Title of the proposed conference—include the term ''Conference,'' ''Symposium,'' ''Workshop,'' or similar designation;

3. Location of conference—city, state, and physical facilities required for the conduct of the meeting;

4. Expected registration—the intended audience, approximate number and profession of persons expected to attend;

5. Date(s) of conference—inclusive dates (not a series) of conference (LOIs without date of conference will be considered non-responsive to this program announcement and returned to the applicant without review);

6. Summary of conference format—projected agenda (including list of principal areas or topics to be addressed), including speakers or facilitator. In addition, information should be provided about all other national, regional, and local conferences held on the same or similar subject during the last three years; and also include on the first page:

a. The name of the organization.

b. Primary contact person's name.

c. Mailing address.

d. Telephone number.

e. And if available, fax number and e-mail address.

The LOI must include the estimated total cost of the conference and the percentage of the total cost (which must be less than 100 percent) being requested from CDC or ATSDR. Requests for 100 percent funding will be considered non-responsive to this program announcement and will be returned to the applicant without review. No Appendices, booklets, or other documents accompanying the LOI will be considered.

An invitation to submit an application will be made on the basis of the proposed conference's relationship, as outlined in the LOI, to the CDC or ATSDR funding priorities and availability of funds. LOIs should be provided by overnight mail service, or U.S. postal service.

The three-page limitation (inclusive of letterhead and signatures), must be observed or the letter of intent will be returned without review.

Application

Applicants may apply to CDC or ATSDR for conference support only after their LOI has been reviewed by CDC and ATSDR and a written invitation, including an application form, has been received by the prospective applicant.

An invitation to submit an application does not constitute a commitment on the part of CDC or ATSDR to fund the application.

In addition to the following required information, use the information in the Program Requirements and Evaluation Criteria sections to develop the application content:

1. A project summary cover sheet that includes:
(a) Name of organization.
(b) Name of conference.
(c) Location of conference.
(d) Date(s) of conference.
(e) Intended audience and number.
(f) Dollar amount requested.
(g) Total conference budget amount.

2. A brief background of the organization—include the organizational history, purpose, and previous experience related to the proposed conference topic.

3. A clear statement of the need for and purpose of the conference. This statement should also describe any problems the conference will address or seek to solve, and the action items or resolutions it may stimulate.

4. An elaboration on the conference objectives and target audience. A list should be included of the principal areas or topics to be addressed. A proposed or final agenda must be included.

5. A clear description of the evaluation plan and how it will assess the accomplishments of the conference objectives. A sample of the evaluation instrument that will be used must be included and a step-by-step schedule and detailed operation plan of major conference planning activities necessary to attain specified objectives.

6. Biographical sketches are required for the individuals responsible for planning and implementing the conference. Experience and training related to conference planning and implementation as it relates to the proposed topic should be noted.

7. Letters of endorsement or support—Letters of endorsement or support for the sponsoring organization and its capability to perform the proposed conference activity.

8. Budget plan and justification—A clearly justified budget narrative that is consistent with the purpose, objectives, and operation plan of the conference. This will consist of a budget that includes the share requested from this grant as well as those funds from other sources, including organizations, institutions, conference income and/or registration fees.

General Instructions: The narrative should be no more than 12 double-spaced pages, printed on one side, with one-inch margins, and 12-point font. Use English only and avoid jargon and unusual abbreviations. Pages must be clearly numbered, and a complete index to the application and its appendices must be included. The original and two required copies of the application must be submitted unstapled and unbound. Materials which should be part of the basic plan should not be in the appendices.

Send LOIs and Applications to: Edna M. Green, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146.

G. Submission and Deadline for All Applicants

Letter of Intent (LOI)

Letter of Intent Due Dates:

Cycle A: October 1, 2001, For conferences May 1, 2002–April 30, 2003

Cycle B: January 2, 2002, For conferences August 1, 2002–July 31, 2003

Cycle C: April 1, 2002, For conferences November 1, 2002–September 30, 2003

The letter of intent (LOI) must be submitted on or before October 1, 2001, January 2, 2002, and April 1, 2002. The applicant must submit an original and two signed copies of the LOI to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Application

Applicants invited to apply should also submit the original and two copies of PHS form 5161–1, (OMB Number 0937–0189). Forms are in the application kit. Forms are also available at: http://forms.psc.gov/forms/PHS/PHS–5161–1.pdf

Application due dates	Earliest possible award dates
CYCLE A: December 10, 2001.	April 1, 2002.
CYCLE B: March 8, 2002.	July 1, 2002.
CYCLE C: June 17, 2002.	September 30, 2002.

Deadline: Filing deadlines have now been imposed for all conference support grants and dates should be strictly followed by applicants to ensure that there LOI's are received in a timely manner.

There will be three Conference Support reviews per year and awards will be made in the months of April 2002, July 2002, and September 2002.

If your Conference dates fall between Oct 1, 2001 to April 30, 2002, you should have applied under the previous program Announcement 01002 otherwise your LOI will be considered unresponsive to Cycle A under the 2002 Announcement.

If your Conference dates fall between May 1, 2002 to April 30, 2003, you can apply under Cycle A 2002.

If your Conference dates fall between August 1, 2002 to July 31, 2003, you can apply in Cycle B 2002.

If your Conference dates fall between November 1, 2002 to September 31, 2003, you can apply under Cycle C 2002.

Letters of Intent and Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the date, or

2. Postmarked on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service Postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in 1. or 2. above are considered late applications, will not be considered, and will be returned to the applicant.

H. Evaluation Criteria

Letter of Intent

A conference is a symposium, seminar, workshop, or any other organized and formal meeting lasting portions of one or more days, where persons assemble to exchange information and views or explore or clarify a defined subject, problem, or

area of knowledge, whether or not a published report results from such meeting. The conference should support CDC or ATSDR's public health principles in furtherance of CDC's mission or ATSDR's mission. CDC will review the LOIs and compare conference objectives with our respective missions and funding priorities to determine if a full application will be invited. Less than 33 percent of LOI applicants are invited to submit full applications.

Application

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

Section 1.a., is ATSDR specific

Section 1.b., is CDC specific

Section 1.c., and all other sections in these criteria are applicable to both CDC and ATSDR

1. Proposed Program and Technical Approach (25 points).

a. The public health significance of the proposed conference including the degree to which the conference can be expected to influence the prevention of exposure and adverse human health effects and diminished quality of life associated with exposure to hazardous substances from waste sites, unplanned releases and other sources of pollution present in the environment. (Applicable to ATSDR applications only).

b. The applicant's description of the proposed conference as it relates to specific non-Federal conferences in the areas of health promotion and disease prevention information/education programs (except mental health, and substance abuse), including the public health need of the proposed conference and the degree to which the conference can be expected to influence public health practices. Evaluation will be based also on the extent of the applicant's collaboration with other organizations serving the intended audience. (Applicable to all CDC applications except ATSDR)

c. The applicant's description of conference objectives in terms of quality, specificity, and the feasibility of the conference based on the operational plan.

2. Applicant's Capability (10 points).

Adequacy of applicant's resources (additional sources of funding, organization's strengths, staff time, proposed physical facilities, etc.) available for conducting conference activities.

3. The Qualification of Program Personnel (20 points).

Evaluation will be based on the extent to which the application has described:

a. The qualifications, experience, and commitment of the principal staff person, and his/her ability to devote adequate time and effort to provide effective leadership.

b. The competence of associate staff persons, discussion leaders, speakers, and presenters to accomplish conference objectives.

c. The degree to which the applicant demonstrates the knowledge of nationwide and educational efforts currently underway which may affect, and be affected by, the proposed conference.

4. Conference Objectives (25 points).

a. The overall quality, reasonableness, feasibility, and logic of the designed conference objectives, including the overall work plan and timetable for accomplishment.

b. The likelihood of accomplishing conference objectives as they relate to disease prevention and health promotion goals, and the feasibility of the project in terms of the operational plan.

5. Evaluation Methods (20 points).

Evaluation instrument(s) for the conference should adequately assess increased knowledge, attitudes, and behaviors of the target audience.

6. Budget Justification and Adequacy of Facilities (not scored).

The proposed budget will be evaluated on the basis of its reasonableness; concise and clear justification; and consistency with the intended use of grant funds. The application will also be reviewed as to the adequacy of existing or proposed facilities and resources for conducting conference activities.

I. Other Requirements

Technical Reporting Requirements

Provide the CDC with original plus two copies of:

1. a performance report, or in lieu of a performance report, proceedings of the conference, no later than 90 days after the end of the budget/project period.

2. financial status report, no later than 90 days after the end of the budget/project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–7 Executive Order 12372 Review

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

AR–13 Prohibition on Use of CDC Funds for Certain Gun Control Activities

AR–15 Proof of Non-Profit Status

AR–20 Conference Support

J. Authority and Catalog of Federal Domestic Assistance Number

The CDC program is authorized under Section 317 (k)(2) of the Public Health Service Act, [42 U.S.C. 241] as amended. The Catalog of Federal Domestic Assistance number is 93.283.

The ATSDR program is authorized under Sections 104(i)(14) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), [42 U.S.C. 9604(i)(14) and (15)]. The Catalog of Federal Domestic Assistance number is 93.161 for ATSDR.

K. Where To Obtain Additional Information

To receive additional written information, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest. See also the CDC home page on the Internet: http://www.cdc.gov/od/pgo/funding/02004.htm

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Edna M. Green, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146, Telephone: (770) 488–2743, Email address: ecg4@cdc.gov

For program technical assistance, contact: C.E. Criss Crissman, Resource Analysis Specialist, Office of the Director Extramural Services Activity, Public Health Practice Program Office (PHPPO), Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE, MS K–38, Atlanta, Georgia 30341–3714, Telephone: (770) 488–2513, Email address: cec1@cdc.gov

Dated: August 7, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–20221 Filed 8–10–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–235]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection;

Title of Information Collection: Data Use Agreement and Information Collection Requirements, model language, and Supporting Regulations in 45 CFR, Section 5b;

Form No.: CMS–R–235 (OMB# 0938–0734);

Use: This agreement is used as a binding agreement stating conditions under which CMS will disclose and user will maintain CMS data that are protected by the Privacy Act.;

Frequency: On occasion;

Affected Public: Not-for-profit institutions;

Number of Respondents: 1,500;

Total Annual Responses: 1,500;

Total Annual Hours: 750.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access CMS's web site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address and phone number, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 17, 2001.

John P. Burke III,

CMS Reports Clearance Officer, CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–20226 Filed 8–10–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–4003]

Medical Devices; Guidance for Saline, Silicone Gel, and Alternative Breast Implants; Final Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Guidance for Saline, Silicone Gel, and Alternative Breast Implants; Final Guidance for Industry.'' This guidance provides important preclinical, clinical, and labeling information that should be presented in an investigational device exemption (IDE), a premarket approval (PMA), or a product development protocol (PDP) application for any breast implant.

DATES: Submit written comments at any time.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the guidance document entitled ''Guidance for Saline, Silicone Gel, and Alternative Breast Implants; Final Guidance for Industry'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments on the document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Samie Allen, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–3090.

SUPPLEMENTARY INFORMATION:

I. Background

This final guidance provides important preclinical (chemistry, toxicology, and mechanical), clinical, and labeling information that should be presented in an IDE, PMA, or PDP application. The information discussed is relevant to breast implants filled with silicone gel, saline, or alternative filler intended for breast augmentation, breast reconstruction, and revision.

This final guidance serves to update the information provided in the draft guidance entitled ''Guidance on Preclinical and Clinical Data and Labeling for Breast Prostheses'' (64 FR 54028, October 5, 1999). FDA received two comments. The first comment requested FDA to strengthen the language used throughout the guidance. The second comment involved points to consider with regard to the device description, preclinical testing, and clinical sections of the guidance. This update is based on our additional scientific review and analysis of published studies, reviews of breast implant applications, the comments received, and discussions and correspondence between the Center for Devices and Radiological Health's Plastic and Reconstructive Surgery Devices Branch and breast implant sponsors. Although some minor updates were made in the chemistry and toxicological sections of the guidance, the primary revisions were to the mechanical testing and clinical data sections to reflect our current thinking on these topics. Additionally, FDA expanded the labeling section to address all essential pieces of labeling. The manufacturing section of the draft guidance was deleted because FDA concluded that it did not provide necessary information and, instead, wanted the guidance to focus on preclinical, clinical, and labeling issues.

II. Significance of Guidance

This guidance document represents the agency's current thinking on preclinical and clinical data and labeling for breast implants. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute and regulations.

The agency has adopted good guidance practices (GGPs), and published the final rule, which set forth the agency's regulations for the development, issuance, and use of guidance documents (21 CFR 10.115; 65 FR 56468, September 19, 2000). This guidance document is issued as a level 1 guidance in accordance with the GGP regulations.

III. Electronic Access

In order to receive ''Guidance for Saline, Silicone Gel, and Alternative Breast Implants; Final Guidance for Industry'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt, press 1 to order a document. Enter the document number (1354) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. Guidance documents are also available on the Dockets Management Branch Internet site at http://www.fda.gov/ohrms/dockets/default.htm.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this guidance at any time. Submit two copies of any comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 2, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 01–20159 Filed 8–10–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0220]

Draft ''Guidance for Industry: Biological Product Deviation Reporting for Blood and Plasma Establishments;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Guidance for Industry: Biological Product Deviation Reporting for Blood and Plasma Establishments'' dated August 2001. The draft guidance document provides licensed blood establishments, unlicensed registered blood establishments, and transfusion services with the agency's current thinking related to the requirements for biological product deviation reporting. The draft guidance document will assist blood and plasma establishments in determining when a report is required, who submits the report, the timeframe for reporting, and how to submit the report.

DATES: Submit written or electronic comments on the draft guidance to ensure their adequate consideration in preparation of the final document by November 13, 2001. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of ''Guidance for Industry: Biological Product Deviation Reporting for Blood and Plasma Establishments'' dated August 2001 to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Joseph L. Okrasinski, Jr., Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled ''Guidance for Industry: Biological Product Deviation Reporting for Blood and Plasma Establishments'' dated August 2001. This draft guidance document is intended to provide assistance to blood and plasma establishments regarding the reporting of any event associated with the manufacturing, testing, processing, packing, labeling, or storage or with the holding or distribution of blood or a blood component in which the safety, purity, or potency of a distributed product may be affected as required under §§ 600.14 and 606.171 (21 CFR 600.14 and 606.171) (65 FR 66621, November 7, 2000). The draft guidance document provides additional information regarding the regulations in § 606.171, which describe who must report, what must be included in the report, when the establishment must report, and provide that the establishment must report either electronically or by mail using a standardized reporting format. Examples of reportable and nonreportable events concerning donor suitability, product collection, component preparation, testing, labeling, quality control, and distribution are discussed. These examples may not apply to all establishments because they include deviations and unexpected events related to standard operating procedures implemented at individual establishments and may not be an

industry standard or a procedure at your facility. The draft guidance document also contains a biological product deviation reporting flowchart to aid in determining if an event is reportable.

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance document represents the agency's current thinking with regard to the reporting of biological product deviations in manufacturing by blood and plasma establishments. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations. As with other guidance documents, FDA does not intend this document to be all-inclusive and cautions that not all information may be applicable to all situations. The document is intended to provide information and does not set forth requirements.

II. Comments

The draft document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this draft guidance document. Submit written or electronic comments to ensure adequate consideration in preparation of the final document by November 13, 2001. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cber/guidelines.htm.

Dated: July 6, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–20157 Filed 8–10–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0221]

Draft ''Guidance for Industry: Biological Product Deviation Reporting for Licensed Manufacturers of Biological Products Other Than Blood and Blood Components;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Guidance for Industry: Biological Product Deviation Reporting for Licensed Manufacturers of Biological Products Other Than Blood and Blood Components,'' dated August 2001. The draft guidance document provides licensed manufacturers of biological products other than blood and blood components with the agency's current thinking related to the biological product deviation reporting requirements. The draft guidance document will assist the licensed manufacturers of biological products other than blood and blood components in determining when a report is required, who submits the report, the timeframe for reporting, and how to submit the report.

DATES: Submit written or electronic comments on the draft guidance to ensure their adequate consideration in preparation of the final document by November 13, 2001. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Joseph L. Okrasinski, Jr., Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled ''Guidance for Industry: Biological Product Deviation Reporting for Licensed Manufacturers of Biological Products Other Than Blood and Blood Components,'' dated August 2001. This draft guidance document is intended to provide assistance to licensed manufacturers of biological products other than blood and blood components regarding the reporting of any event associated with the manufacturing, testing, processing, packing, labeling, and storage, or with the holding or distribution of a biological product in which the safety, purity, or potency of a distributed product may be affected as required under § 600.14 (21 CFR 600.14) and 21 CFR 606.171 (65 FR 66621, November 7, 2000). The draft guidance document provides additional information regarding the regulations in § 600.14 which describe who must report, what must be included in the report, when the licensed manufacturer must report, and provide that the licensed manufacturer must report either electronically or by mail using a standardized reporting format. Examples of reportable and nonreportable events concerning incoming material specifications, process controls, product specifications, product testing, product labeling, quality control procedures, and product distribution are discussed. These examples may not apply to all establishments because they include deviations and unexpected events related to standard operating procedures implemented at individual establishments and may not be an industry standard or a procedure at your facility. The draft guidance document also contains a Biological Product Deviation Reporting Flowchart to aid in determining if an event is reportable.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This draft guidance document represents the agency's current thinking with regard to the reporting of biological product deviations in the licensed

manufacturing of biological products other than blood and blood components. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations. As with other guidance documents, FDA does not intend this document to be all-inclusive and cautions that not all information may be applicable to all situations. The document is intended to provide information and does not set forth requirements.

II. Comments

This draft document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this draft guidance document. Submit written or electronic comments to ensure adequate consideration in preparation of the final document by November 13, 2001. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance document at http://www.fda.gov/cber/guidelines.htm.

Dated: July 6, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–20158 Filed 8–10–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

Public Health Service

The National Toxicology Program (NTP), National Institute of Environmental Health Sciences (NIEHS), Center for the Evaluation of Risks to Human Reproduction (CERHR) (1) announces an upcoming evaluation of 1-bromopropane (CASRN: 106–94–5) and 2-bromopropane (CASRN: 75–26–3), (2) solicits the nomination of individuals qualified to serve on an Expert Panel, and (3) requests public input on these chemicals.

Background

The NTP and the NIEHS established the NTP CERHR (**Federal Register**, Vol. 63, No. 239, page 68782) in June 1998. The purpose of the CERHR is to provide scientifically-based, uniform assessments of the potential for adverse effects on reproduction and development caused by agents to which humans may be exposed. A scientific expert panel reviews the scientific evidence on the chemical(s) under review, receives public comments, and then prepares a report on the chemical(s). The Expert Panel Report is made available for review and public comment on the CERHR web site (*http://cerhr.niehs.nih.gov*) and upon request from Dr. Michael Shelby, CERHR Director (see address below). Following the expert panel evaluation, the NTP staff prepares the NTP Center Report on the evaluated chemical(s). This report integrates background information on the chemical(s), findings of the expert panel, and a discussion of any pertinent studies published after the expert panel's evaluation. The NTP Center Report includes all public comments received on the Expert Panel Report. The NTP Center Report is made publicly available and is distributed to interested stakeholders and appropriate regulatory and research agencies. A summary of the complete review process was recently published in the **Federal Register** (Vol. 66, No. 136, pages 37047–37048) and can be found on the CERHR web site. A hardcopy may be requested from CERHR at the address given below.

Evaluation of 1- and 2-Bromopropane

1-Bromopropane (CASRN: 106–94–5) and 2-bromopropane (CASRN: 75–26–3) have been selected for the third CERHR expert panel evaluation. 1-Bromopropane is used as a spray adhesive; as a solvent for fats, waxes, or resins; and as an intermediate in the synthesis of other compounds. 2-Bromopropane is used in the synthesis of pharmaceuticals, dyes, and other compounds and is present as a contaminant in 1-bromopropane. Bromopropanes are being considered as replacement chemicals for hydrochlorofluorocarbons and chlorinated solvents. The scientific database on these chemicals includes studies on neurotoxicity, reproductive toxicity, and occupational exposures. 2-Bromopropane is reported to be a reproductive toxicant in humans. It is anticipated that the expert panel evaluation of 1- and 2-bromopropane will occur December 5–7, 2001, in Alexandria, VA.

An expert panel of approximately 12 scientists, selected for their scientific expertise in various aspects of reproductive and developmental toxicology and other relevant areas of science, will conduct these evaluations. The expert panel meeting will be open to the public with an opportunity scheduled for oral public comment.

Request for Public Input

(1) The CERHR invites input from the public on 1- and 2-bromopropane including toxicology information from completed and ongoing studies, information on planned studies, as well as current production data, human exposure information, use patterns, and environmental occurrence. Information and comments should be forwarded to Dr. Shelby at the address given below. Information and comments received by September 27, 2001 will be made available to CERHR staff and the Expert Panel and considered in the evaluation.

(2) The CERHR also invites nominations of qualified scientists to serve on the Bromopropane Expert Panel. Panelists are primarily drawn from the CERHR Expert Registry and/or the nomination of other scientists who meet the criteria for listing in that registry. Criteria for listing in the CERHR Expert Registry listing include: formal academic training and experience in a relevant scientific field, publications in peer-reviewed journals, membership in relevant professional societies, certification by an appropriate scientific Board or other entities, and participation in similar committee activities. Scientists on the expert panel will represent a wide range of expertise including developmental toxicology, reproductive toxicology, epidemiology, general toxicology, neurotoxicology, pharmacokinetics, exposure assessment, and biostatistics. Nominations received by September 27, 2001, publication will be considered for the Bromopropane Expert Panel and/or inclusion in the CERHR Expert Registry. Nominations should be forwarded to Dr. Shelby at the address given below.

Request for Nomination of Chemicals for Future CERHR Reviews

The CERHR welcomes the nomination of chemicals for possible future evaluation. The nominations can be made through the CERHR's web site (*http://cerhr.niehs.nih.gov*) or by contacting Dr. Shelby at the address given below.

Michael D. Shelby, Ph.D., Director, NTP Center for the Evaluation of Risks to Human Reproduction, 79 T.W.

Alexander Drive, Building. 4401, Room 102, P.O. Box 12233, EC–32, Research Triangle Park, NC 27709 Phone: (919) 541–3455, Fax: (919) 316–4511, shelby@niehs.nih.gov.

Dated: August 2, 2001.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 01–20190 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Susan S. Rucker, J.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7056 ext. 245; fax: 301/402–0220; e-mail: ruckers@od.nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Modified Leptin

YP Loh, NX Cawley (both of NICHD)
Serial No. 60/290,722 filed 14 May 2001

This invention described and claimed in this patent application provides for an improved method for producing human leptin *in vitro* or in *in vivo*. In particular, the patent application describes compositions and methods which are based on a modified form of human leptin where the regulated secretory pathway (RSP) sorting signal has been modified to provide for the constitutive secretion of leptin via the nonregulated secretory pathway (NRSP) in a mammalian cell. This invention can be applied to a non-invasive method of gene therapy to achieve sustained delivery of this therapeutic protein.

Modified Growth Hormone

YP Loh, NX Cawley (both of NICHD), BJ Baum (NIDCR), and CR Snell
Serial No. 60/290,836 filed 14 May 2001

This invention described and claimed in this patent application provides for an improved method for producing human growth hormone *in vitro* or in *in vivo*. In particular, the patent application describes compositions and methods which are based on a modified form of human growth hormone where the regulated secretory pathway (RSP) sorting signal has been modified to provide for the constitutive secretion of human growth hormone via the nonregulated secretory pathway (NRSP) in a mammalian cell. This invention can be applied to a non-invasive method of gene therapy to achieve sustained delivery of this therapeutic protein.

Dated: August 6, 2001.

Jack Spiegel,

Director, Division of Technology, Development and Transfer, Office of Technology Transfer, National Institues of Health.

[FR Doc. 01–20193 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the National Advisory Research Resources Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Research Resources Council Executive Subcommittee.
Date: September 13, 2001.
Open: 8:00 am to 9:00 am.
Agenda: To discuss policy issues.
Place: National Center for Research Resources, National Institutes of Health, Conference Room 3B13, Building 31, Bethesda, MD 20892.
Contact Person: Louise E. Ramm, PhD, Deputy Director, National Center for Research Resources, National Institutes of Health, Building 31, Room 3B11, Bethesda, MD 20892, 301–496–6023.

Name of Committee: National Advisory Research Resources Council.
Date: September 13, 2001.
Open: 9:15 am to 3:00 pm.
Agenda: Report of Center Director and other issues.
Place: National Institutes of Health, 9000 Rockville Pike, Conference Room 10, Building 31C, Bethesda, MD 20892.
Closed: 3:00 pm to Adjournment.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 9000 Rockville Pike, Conference Room 10, Building 31C, Bethesda, MD 20892.
Contact Person: Louise E. Ramm, PhD, Deputy Director, National Center for Research Resources, National Institutes of Health, Building 31, Room 3B11, Bethesda, MD 20892, 301–496–6023.

Information is also available on the Institute's/Center's home page: www.ncrr.nih.gov/newspub/minutes.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: August 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20207 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: August 27, 2001.

Time: 9:00 am to 10:30 am.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Rm. 5E03, Bethesda, MD 20892, 301–435–6908.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: August 1, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20196 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis panel.

Date: August 29, 2001.

Time: 9:30 am to 11:00 am.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Rm. 5E03, Bethesda, MD 20892, 301–435–6908.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: August 2, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20197 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: August 13, 2001.

Time: 9:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, 9000 Rockville Pike, 6100 Bldg., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: August 2, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20198 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; ZDK1 GRB–403).

Date: August 27, 2001.

Time: 8:30 am to 1:00 pm.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, 1300 Concourse Drive, Linthicum, MD 21090.

Contact Person: William E. Elzinga, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 747, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8895.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 2, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20199 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: September 10–11, 2001.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Robert C. Goldman, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301 496–8424, rg159w@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 2, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20200 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Deafness and Other Communications Disorders Special Emphasis Panel, July 19, 2001, 10:00 am to July 19, 2001, 11:30 am, 6120 Executive Blvd., Executive Plaza South, Rockville, MD 20892 which was published in the **Federal Register** on July 11, 2001, 66 FR 36293.

The meeting to be held July 19, 2001 will now be held on August 9, 2001. The meeting is closed to the public.

Dated: August 1, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20201 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: August 20, 2001.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Willco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Eugene G. Hayunga, PhD, Chief, Scientific Review Branch, OSA, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Willco Building, Suite 409, 6000 Executive Boulevard, MSC 7003, Bethesda, MD 20892–7003, 301–443–2860, ehayunga@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alchol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: August 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20202 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

Date: September 10, 2001.

Time: 8:30 am to 11:00 am.

Agenda: To review and evaluate grant applications.

Place: 45 Natcher Bldg., Rm 5As.25u, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Tracy A. Shahan, PhD, Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, Natcher Building, MSC 6500, 45 Center Drive, 5AS–25H, Bethesda, MD 20892, 301–594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: August 3, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20203 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice if hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel MIDARP.

Date: August 16, 2001.

Time: 1 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Building, Conference Rooms C & D, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Kesinee Nimit, MD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1432.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: August 3, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20204 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council for Nursing Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Nursing Research.

Date: September 11–12, 2001.

Open: September 11, 2001, 1:00 pm to 5:00 pm.

Agenda: For discussion of program policies and issues.

Place: Natcher Bldg., Conference Room D, 45 Center Drive, Bethesda, MD 20892.

Closed: September 12, 2001, 9:30 am to Adjournment.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Natcher Building, Conference Room D, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Mary Leveck, PhD, Deputy Director, NINR, NIH, Building 31, Room 5B05, Bethesda, MD 20892, (301) 594–5963.

Information is also available on the Institute's/Center's home page: www.nih.gov/ninr/a_advisory.html, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: August 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20205 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Mental Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Mental Health Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Mental Health Council.

Date: September 13–14, 2001.

Open: September 13, 2001, 10:00 am to recess.

Agenda: Presentation of NIMH Director's report and discussion of NIMH program and policy issues.

Place: National Institutes of Health, 9000 Rockville Pike, Conference Room 6, Building 31C, Bethesda, MD 20892.

Closed: September 14, 2001, 8:00 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892.

Contact Person: Jane A. Steinberg, PhD, Director, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9609, 301–443–5047.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations

may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: www.nimh.nih.gov/council/advis.cfm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: August 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20208 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel IFCN–7(10).
Date: August 7, 2001.
Time: 8:30 am to 3:00 pm.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, Conference Center, One Washington Circle, Washington, DC 20037.
Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MS 7844, Bethesda, MD 20892, (301) 435–1242.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 8, 2001.
Time: 2:00 pm to 3:00 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 8, 2001.
Time: 12:00 pm to 1:00 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Daniel R. Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, 301–435–1255.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 20, 2001.
Time: 11:00 am to 12:00 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, dhindsad@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 20, 2001.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692, tathamt@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 23, 2001.
Time: 10 a.m. to 11a.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Davis J. Remondini, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2210, MSC 7890, Bethesda, MD 20892, (301) 435–1038, remondid@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–20206 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Melanoma Antigens and Their Use in Diagnostic and Therapeutic Methods

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the inventions embodied in U.S. Patent Applications S/N 08/231,565, filed on April 22, 1994, and now U.S. Patent 5,874,560, which issued on February 23, 1999; S/N 08/417,174, filed on April 5, 1995, and now U.S. Patent 5,844,075; S/N 09/007,961, filed on January 16, 1998, and now U.S. Patent 5,994,523, issued November 30, 1999; S/N 09/073,138, filed on May 5, 1998; and S/N 09/267,439, filed on March 12, 1999, all entitled ''Melanoma Antigens and Their Use in Diagnostic and Therapeutic Methods'', to BioVex Limited, of the United Kingdom. The patent rights in these inventions have

been assigned to the United States of America.

The prospective exclusive license territory will be worldwide and the field of use may be limited to herpesvirus vectors encoding MART–1 and/or gp100 for use as immunotherapeutic vaccines against melanoma in humans, and specifically excluding the use of MART–1 and/or gp100 in any other manner or form.

DATES: Only written comments and/or license applications which are received by the National Institutes of Health on or before October 12, 2001 will be considered.

ADDRESSES: Requests for copies of the patent/patent applications, inquiries, comments and other materials relating to the contemplated exclusive license should be directed to: Elaine White, M.B.A., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD. 20852–3804; Telephone: (301) 496–7056, x282; Facsimile (301) 402–0220; E-mail eg46t@nih.gov.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: August 3, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–20194 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Antibodies and Other Ligands Directed Against KIR2DL4 Receptor For Production of Interferon Gamma

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the invention embodied in: United States Patent Application 60/242,419 entitled ''Antibodies and Other Ligands Directed Against KIR2DL4 Receptor For Production of Interferon Gamma'' filed on October 23, 2000, to InterMune, Inc., having a place of business in Brisbane, California. The patent rights in this invention have been assigned to the United States of America.

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before October 12, 2001 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Peter Soukas, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Email: ps193c@nih.gov; Telephone: (301) 496–7056, ext. 268; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: This invention concerns the natural production of interferon gamma by the stimulation of the KIR2DL4 receptor by an antibody or other ligand. Human natural killer (NK) cells express several killer cell immunoglobulin (Ig)-like receptors (KIRs) that inhibit their cytotoxicity upon recognition of human histocompatibility leukocyte antigen (HLA) class I molecules on target cells. Unlike other HLA class I-specific KIRs, which are clonally distributed on NK cells, KIR2DL4 is expressed at the surface of all NK cells. This invention may be used to treat infections and cancer.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to therapy and prevention of human diseases.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: August 2, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–20192 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Melanoma Antigens and Their Use in Diagnostic and Therapeutic Methods, and Identification of TRP–2 as a New Human Tumor Antigen Recognized by Cytotoxic T Lymphocytes

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the inventions embodied in U.S. Patent Applications S/N 08/231,565, filed on April 22, 1994, and now U.S. Patent 5,874,560, which issued on February 23, 1999; S/N 08/417,174, filed on April 5, 1995, and now U.S. Patent 5,844,075; S/N 09/007,961, filed on January 16, 1998, and now U.S. Patent 5,994,523, issued November 30, 1999; S/N 09/073,138, filed on May 5, 1998; and S/N 09/267,439, filed on March 12, 1999, all entitled ''Melanoma Antigens and Their Use in Diagnostic and Therapeutic Methods' and U.S. Patent Applications S/N 08/725,736, filed on October 4, 1996, and now U.S. Patent 5,831,016 which issued on November 3, 1998; S/N 09/161,877 (DIV of 08/725,736), filed on September 28,

1998, and now U.S. Patent 6,132,980 which issued on October 17, 2000; S/N 09/162,368 (DIV of 08/725,736), filed on September 28, 1998, and now U.S. Patent 6,083,703 which issued on July 4, 2000; and S/N 09/651,210 (DIV of 08/725,736), filed on August 30, 2000, all entitled ''Identification of TRP–2 as a New Human Tumor Antigen Recognized by Cytotoxic T Lymphocytes' and PCT Patent Application PCT/US97/02186 (based upon U.S. Patent Applications S/N 08/599,602 and 08/725,736) filed on February 6, 1997, entitled ''Human Cancer Antigen of Tyrosinase-Related Protein 1 and 2 and Genes Encoding Same'', to Mojave Therapeutics, Inc. of Tarrytown, New York. The patent rights in these inventions have been assigned to the United States of America.

The prospective exclusive license territory will be worldwide and the field of use may be limited to gp100 and/or TRP–2 peptides, proteins, glycoproteins, and/or polynucleotides which are covalently or non-covalently bound to heat shock proteins for use as immunotherapeutic vaccines against melanoma in humans, and specifically excluding the use of gp100 and/or TRP–2 in any other manner or form.

DATES: Only written comments and/or license applications which are received by the National Institutes of Health on or before October 12, 2001 will be considered.

ADDRESSES: Requests for copies of the patent/patent applications, inquiries, comments and other materials relating to the contemplated exclusive license should be directed to: Elaine White, M.B.A., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD. 20852–3804; Telephone: (301) 496–7056, x282; Facsimile (301) 402–0220; E-mail eg46t@nih.gov.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: August 2, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–20195 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Biotechnology Activities Recombinant DNA Research: Proposed Actions Under the NIH Guidelines

AGENCY: National Institutes of Health (NIH), PHS, DHHS.

ACTION: Notice of proposed actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines).

SUMMARY: The NIH is proposing to amend Appendix B–I of the NIH Guidelines to establish criteria for designating strains of *E. coli* as risk group 1 agents.

DATES: The public is encouraged to submit written comments on the proposed change. Comments may be submitted to the NIH Office of Biotechnology Activities (OBA) in paper or electronic form. Comments received on or before September 12, 2001 will be considered by NIH. All comments received in response to this notice will be available for public inspection in the NIH OBA office, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892–7985, 301–496–9838, weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions, or want additional information about these proposed changes, please contact OBA by e-mail at *oba@od.nih.gov,* or telephone at 301–496–9838. Comments can be submitted to the same e-mail address, by fax to 301–496–9839, or mail to the Office of Biotechnology Activities address set forth above.

SUPPLEMENTARY INFORMATION: The University of Florida has asked OBA to set the risk group level for strain B of the common bacterium *E. coli,* which is non-virulent. Strain B is widely used in industry for large-scale work (greater than 10 liters of culture) due to increased stability of cloned sequences in this strain versus *E. coli* K–12. Currently, the only non-virulent strain of *E. coli* designated as a risk group 1 agent (agents not associated with disease in healthy adult humans) in the NIH Guidelines is strain K–12. Potentially pathogenic strains of E. coli are designated as risk group 2 agents in the NIH Guidelines.

At the March 2001 RAC meeting, a recommendation was made to define the criteria for designating strains of *E. coli* as risk group 1 agents. The establishment of general criteria is preferable to narrowly addressing a single strain. The suggested criteria were: ''(1) they [the *E. coli* strain] carry deletions in metabolic genes to engender the requirement for specialized laboratory media; and (2) they do not pose a threat of disease: they do not carry any active virulence markers nor do they make any toxins (nor do they carry the genes for these toxins).''

Following the March 2001 meeting, the University of Florida Institutional Biosafety Committee responded that the investigator, Dr. Luli (Adjunct Professor in Microbiology and Cell Science at the University of Florida and also Research Director for BC International Corp.), who made the initial request had reservations regarding the requirement for deletions in metabolic genes. Dr. Luli stated that the use of specialized laboratory media would pose a problem for large-scale, industrial work. Dr. Luli suggested that instead of an absolute requirement for specialized laboratory media, that the ''* * * scope of the [first] requirement be broadened to simply demonstrate ''crippled'' or adversely affected metabolism.'' The rationale for this modification is that the strains of *E. coli* B that Dr. Luli proposes to use have reduced growth rates compared to wild type *E. coli* even in complete, rich laboratory media.

The proposed criteria for designating an *E. coli* strain as a risk group 1 agent were revisited at the June 2001 RAC meeting. *Ad hoc* consultant, Dr. James Kaper, University of Maryland School of Medicine, also participated in the RAC review and discussion. During the June meeting discussion, it was pointed out that a growth requirement is not a current criteria in the NIH Guidelines for designation of *E. coli* K–12 as a risk group 1 agent. Accordingly, the criteria for designating strains of *E. coli* as risk group 1 agents were revised as follows: ''(1) they [the *E. coli* strain] do not possess a complete lipopolysaccharide (i.e., they lack the O antigen and have a ''rough'' colony morphology); and (2) they do not carry any active virulence factors—such as—toxin, or colonization factors nor do they carry genes for these factors.'' A ''rough'' colony morphology is indicative of the absence of a

complete coat that aids in survival in the intestine and environment.

The proposed use of general criteria for designating strains of *E. coli* as risk group 1 agents is not intended to eliminate the need for case-by-case consideration of the potential effects of a biological agent on those who may be exposed to it (Section II–A–2 of the NIH Guidelines) and any general criteria will be subject to reevaluation and change in light of evidence that a strain meeting those criteria is associated with disease in healthy adult humans.

Proposed Amendments to the NIH Guidelines

For the reasons stated above, it is proposed to amend Appendix B–I, Risk Group (RG1) Agents, to state:

Appendix B–I. Risk Group (RG1) Agents

RG1 agents are not associated with disease in healthy adult humans. Examples of RG1 agents include asporogenic *Bacillus subtilis* or *Bacillus licheniformis* (see Appendix C–IV–A, *Bacillus subtilis* or *Bacillus licheniformis* Host-Vector Systems, Exceptions); adeno-associated virus (AAV) types 1 through 4; and recombinant AAV constructs, in which the transgene does not encode either a potentially tumorigenic gene product or a toxin molecule and are produced in the absence of a helper virus. A strain of *Escherichia coli* (see Appendix C–II–A, *Escherichia coli* K–12 Host Vector Systems, Exceptions) is an RG1 agent if it (1) does not possess a complete lipopolysaccharide (i.e., lacks the O antigen and has a ''rough'' colony morphology); and (2) does not carry any active virulence factor (e.g., toxins) or colonization factors and does not carry any genes encoding these factors.

Those agents not listed in Risk Groups (RGs) 2, 3 and 4 are not automatically or implicitly classified in RG1; a risk assessment must be conducted based on the known and potential properties of the agents and their relationship to agents that are listed.

Dated: August 3, 2001.

Ruth L. Kirschstein,

Acting Director, National Institutes of Health.

[FR Doc. 01–20191 Filed 8–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Continuation of the Cooperative Agreement for the State Treatment Outcomes and Performance Pilot Studies Enhancement Technical Assistance Center

AGENCY: Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Continuation of the cooperative agreement with the State Treatment Outcomes and Performance Pilot Studies Enhancement Technical Assistance Center Grantee, Johnson, Bassin and Shaw, Incorporated, for one year.

SUMMARY: This notice is to inform the public of the Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment's (CSAT) planned award to Johnson, Bassin and Shaw (JBS), Inc., to continue to serve as the Technical Assistance Center for the State Treatment Outcomes and Performance Pilot Studies Enhancement (TOPPS II) cooperative agreement program for one year. An additional year of support is needed to provide detailed statistical analyses of the final data set, to develop comprehensive written reports laying out the complete final analyses and results, and to translate the results into written and oral forms that can be understood and used by the substance abuse treatment field. In fiscal year 2001, CSAT plans to make approximately $380,000 available for the award to JBS, Inc. The award will be made if the application is scored by the initial review group and concurred with by the CSAT National Advisory Council.

Eligibility for the cooperative agreement is limited to JBS, Inc., Only JBS, Inc., may apply because they have served as the Technical Assistance Center for the multi-site study during the past 2+ years of data collection. They developed the necessary infrastructure for the collection, analysis and dissemination of TOPPS II project data, and have experience working with the current 16 TOPPS II single State agency grantees. JBS, Inc., designed and maintains the TOPPS II database, collects and cleans the grantees' admission and discharge data, and is currently receiving and processing follow-up data. It would be an impediment to the orderly conduct of the study if there were a disruption in data collection and analyses. JBS, Inc., has hired competent and capable staff with experience in conducting large, prospective, multi-site, substance abuse services performance and outcome studies. The incumbent works collaboratively with Federal and State staff, and members of the TOPPS II Steering Committee to facilitate the development of the TOPPS II data collection protocols, and to develop instruments and protocols for performance and outcome measurement, data quality management, secondary data analysis, statistical analysis and technical report writing.

Because of the incumbent's experience with this initiative, JBS, Inc., is uniquely positioned to guide the overall effort and to integrate the work of the TOPPS II study sites into a conceptual whole. To compete this announcement otherwise, would be duplicative and inefficient. Therefore, the eligibility for a continuation cooperative agreement with SAMHSA/CSAT is being limited to the incumbent, JBS, Inc.

Authority: The cooperative agreement with JBS, Inc., will be made under the authority of section 1935 (b)(1)(C) of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.238.

CONTACT: Hal Krause, CSAT, SAMHSA, Rockwall II, Suite 880, 5600 Fishers Lane, Rockville, MD 20857; telephone (301) 443–0488; e-mail: hkrause@samhsa.gov.

Dated: August 7, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–20162 Filed 8–10–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2002 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA), including Part I, A Cooperative

Agreement for a Comprehensive Program for Substance Abusing Adults Involved with the Justice System to be Rehabilitated, Provide Restitution to the Community, and have Certain Privileges Restored, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2001	Est. number of awards	Project period
Rehabilitation & Restitution	November 5, 2001	$2 million	Two	5 years.

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. Amounts may also vary based on appropriations. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: http://www.samhsa.gov

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose

The Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Treatment announces the availability of funds for cooperative agreements for Program Rehabilitation and Restitution. These cooperative agreements will study the effectiveness of a sophisticated, multi-system program for certain non-violent substance abusing ex-felons to: Improve treatment retention and outcome; reduce the stigma of past substance abuse and non-violent criminal activity by, among other things, increasing the number and percentage of persons who have their non-violent felony records sealed; reduce criminal activity, which reduces victimization; and assist program clients in becoming more fully functioning citizens of the United States.

This cooperative agreement program has been announced in response to the increasingly serious problem of non-violent substance abusing persons becoming involved with the criminal justice system, with that involvement resulting in short and long term consequences detrimental to the substance abuser, her or his family, and society. Funds are primarily available for system coordination, case management and evaluation; only a limited amount can be used for direct services as defined in the announcement.

Funding is limited to applicants in States that have laws permitting the sealing of the records of most convicted, first-time non-violent ex-felons within five years of the end of post-release supervision. This restriction is essential to the basic programmatic concepts being implemented and evaluated. Consequently, CSAT needs to place programs in States where the time period before possible sealing of records is the shortest. Further, time periods longer than five years are not acceptable given the fact the maximum permissible grant award period is five years.

Eligibility

Applications may be submitted by units of State or local government, Indian Tribes, and tribal organizations, and by public and private domestic nonprofit entities such as community-based organizations and faith-based organizations.

Availability of Funds

Subject to the availability of funds, it is estimated that $2,000,000 will be available to support two awards under this program in fiscal year 2002.

Period of Support

Support may be requested for a period of up to five years. Annual awards will be made subject to continued availability of funds and progress achieved. After the five year period, depending upon the availability of funds, supplemental awards, for purposes of supporting evaluation, may become available. The applicant should not request supplemental awards in their applications responding to this announcement.

Criteria for Review and Funding

General Review Criteria

Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications

Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number

93.230

Program Contact

For questions concerning program issues, contact: Bruce Fry, Division of Practice and Systems Development, CSAT/SAMHSA, Rockwall II, Suite 740, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–0128, E-mail: Bfry@samhsa.gov.

For questions regarding grants management issues, contact: Kathleen Sample, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9667, E-Mail: ksample@samhsa.gov.

Public Health System Reporting Requirements

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2002 activity is subject to the Public Health System Reporting Requirements.

PHS Non-Use of Tobacco Policy Statement

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372

Applications submitted in response to the FY 2002 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: August 7, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–20163 Filed 8–10–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–56]

Notice of Proposed Information Collection: Comment Request; Designation of Round III Empowerment Zones and Renewal Communities

AGENCY: Office of the Assistant Secretary for Community Planning and Development, 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: *Comment Due Date:* October 12, 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: Reports Liaison Officer, Shelia E. Jones, Department of Housing and Urban Development, 451 7th Street, SW., Room 7230, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Judith Mize at (202) 708–6339 x4167 (this is not a toll-free number) for copies of the proposed forms and other available information.

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 affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Designation of Round III Empowerment Zones and Renewal Communities.

OMB Control Number, if applicable: 2506–0173.

Description of the need for the information and proposed use: This interim rule governs the designation of Round III Empowerment Zones (EZs) and Renewal Communities (RCs) nominated by States and local governments. The designation of an area as an EZ or an RC provides special Federal income tax treatment as an incentive for businesses to be located within the area. This rule lays the foundation for designations to be made in response to applications submitted in response to the Notice Inviting Applications published in the **Federal Register**.

Agency form numbers, if applicable: None.

Members of the affected public: State, Local or Tribal Government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: An estimation of the total numbers of hours needed to prepare the information collection is 9,360, number of respondents is 200, frequency of response is 1, and the hours per response on an average is 45.

Status of the proposed information collection: Reinstatement, without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 3, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–20166 Filed 8–10–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4653–N–11]

Notice of Proposed Information Collection for Public Comment: Identification of Users of Electronic Permitting Systems

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement concerning a project to obtain information on the use of electronic permitting applications by communities 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:* October 12, 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: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 8228, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Dana Bres, Research Engineer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8134, Washington, DC 20410, telephone number (202) 708–4370 extension 5919 (this is not a toll-free number). Copies of the proposed forms and other available documents may be obtained from Mr. Bres.

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 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: Identification of Users of Electronic Permitting Systems.

Description of the need for the information and proposed use: This information collection is required to provide the information necessary to assess the scope of use and utility of electronic permitting systems in communities.

Members of affected public: Employees of building code departments using or considering using electronic permitting applications. The number of organizations is estimated to be 200. In addition, a short fax/website survey will be conducted where a short questionnaire is published in the relevant trade (code officials) publications.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Task	Number of respondents	Frequency of responses	Hours per response	Burden hours
Telephone interview	200	once	1.0	200
Mail/fax survey	1000	once	0.2	200
Total Estimated Annual Burden Hours: 400 (one time).				

Number of copies to be submitted to the Office of Policy Development and Research for evaluation: One copy only (this may be a fax or e-mail submission).

Status of the proposed information collection: Pending OMB approval.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 30, 2001.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 01–20168 Filed 8–10–01; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4655–N–21]

Notice of Proposed Information Collection: Comment Request; Automated Clearing House (ACH) Program Application Title I Insurance Charge Payments System

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: October 12, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Plaza Building, Room 8001, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Lester J. West, Director, Financial Operations Center, Department of Housing and Urban Development, telephone 518–464–4200 extension 4206 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Automated Clearing Housing (ACH) Program Application—Title I Insurance Charge Payments System.

OMB Control Number, if applicable: 2502–0512.

Description of the need for the information and proposed use: This information collection is used to collect data to establish an electronic premium payment method for the Title I program. This information collection is designed to process the payments of Title I insurance charges electronically in lieu of sending checks and other payment instruments by mail. Section 201.31 of the Title I regulations, relating to payments of insurance charges, has been amended by the final rule that was established in the **Federal Register** at 60 FR 13854. This rule permits the Secretary to require Title I lenders to pay insurance charges through the ACH program.

Agency form numbers, if applicable: HUD 56150.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: An estimation of the total numbers of hours needed to prepare the information collection is 188, number of respondents is 750, frequency of response is once per respondent, and the time per response is 15 minutes.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 4 U.S.C. Chapter 35, as amended.

Dated: August 3, 2001.

Sean Cassidy,

General Deputy Assistant Secretary for Housing.

[FR Doc. 01–20169 Filed 8–10–01; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–57]

Notice of Submission of Proposed Information Collection to OMB; Allocation of Operating Subsidies Under the Operating Fund Formula: Date Collection (Formerly the Performance Funding System (PFS))

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:* September 12, 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 (2577–0029) 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: Allocation of Operating Subsidies under the Operating Fund Formula: Date Collection (Formerly the Performance Funding System (PFS)).

OMB Approval Number: 2577–0029.

Form Numbers: HUD–52720–A, HUD–52720–B, HUD–52720–C, HUD–52721, HUD–52722–A, HUD–52722–B, HUD–52723, HUD–53087.

Description of the Need for the Information and Its Proposed Use: Public Housing Agencies (PHAs) use this information in budget submissions which are reviewed and approved by HUD Field Offices as the basis for obligating operating subsidies. This information is necessary to calculate the eligibility for operating subsidies under the Operating Fund regulations, as amended. The Operating Fund is designed to provide the amount of operating subsidy, which would be needed for well-managed PHAs. PHAs will submit the information electronically.

Respondents: State, Local or Tribal.

Frequency of Submission: Annually.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	3,200		1		.51		16,038

Total Estimated Burden Hours: 16,038.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 3, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–20167 Filed 8–10–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4630–N–32]

Announcement of Funding Awards for Fiscal Year 2001 Doctoral Dissertation Research Grant Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for the Fiscal Year 2001 Doctoral Dissertation Research Grant (DDRG) Program. The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to help doctoral candidates complete dissertations on topics that focus on housing and urban development issues.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships, U.S. Department of Housing and Urban Development, Room 8110, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1537, extension 5918. To provide service for persons who are hearing- or speech-impaired, this number may be reached via TTY by dialing the Federal Information Relay Service on (800) 877–8399, or 202–708–1455. (Telephone numbers, other than the two ''800'' numbers, are not toll free.)

SUPPLEMENTARY INFORMATION: The DDRG is administered by the Office of University Partnerships under the Assistant Secretary for Policy Development and Research (PD&R). This Office also administers PD&R's other grant programs for academics.

The DDRG Program was created as a means of expanding the number of researchers conducting research on subjects of interest to HUD. Doctoral candidates can receive grants of up to $30,000 to complete work on their dissertations. Grants are for a two-year period.

The Catalog of Federal Domestic Assistance number for this program is 14.516.

On February 26, 2001 (66 FR 12415) HUD published a Notice of Funding Availability (NOFA) announcing the availability of $600,000 in FY 2001 funds for the DDRG Program. The Department reviewed, evaluated and scored the applications received based on the criteria in the NOFA. As a result, HUD has funded the applications announced below, and in accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, U.S.C. 3545), the Department is publishing details concerning the recipients of funding awards, as set forth below. More information about the winners can be found at www.oup.org.

List of Awardees for Grant Assistance Under The FY 2001 Doctoral Dissertation Reseach Grant Program Funding Competition, by Name, Address, Phone Number, Grant Amount and Number of Students Funded

1. Boston University, Dr. Nazli Kibria, Institute on Race and Social Division, 704 Commonwealth Avenue, Boston, MA 02215, (617) 353–5834. Grant: $29,985 to Silvia Domnquez.

2. City University of New York, Dr. Thomas Kessner, Graduate Center, History Department, 365 Fifth Avenue, Suite 5114, New York, NY 10016, (212) 817–8430. Grant: $30,000 to Dan Wishnoff.

3. Cornell University, Dr. Thomas Hirsch, Department of Rural Sociology, 119 Warren Hall, Ithaca, NY 14853, (607 255–1688). Grant: $30,000 to Daniel A. Sandoval.

4. Cornell University, Dr. David Brown, Department of Rural Sociology, 119 Warren Hall, Ithaca, NY 14853, (607) 255–3159. Grant: $23,570 to Kai Schafft.

5. Georgia Institute of Technology, Dr. Nancy Green Leigh, City and Regional Planning Program, 245 Fourth Street, Atlanta, GA 30332, (404) 894–9839. Grant: $15,000 to Sarah L. Coffin.

6. Howard University, Dr. Rodney Green, Department of Economics, 2400 4th Street, NW., Washington, DC 20059, (202) 806–6717. Grant: $29,991 to LaTanya Brown.

7. North Carolina State University, Dr. James Svara, Public Administration Program, Campus Box 8102, Raleigh, NC 27695, (919) 515–2481. Grant: $30,000 to Jonathan Morgan.

8. Northwestern University, Dr. Allan Schnaiburg, 1810 Chicago Avenue, Evanston, IL 60208, (847) 491–3202. Grant: $30,000 to Matthew Z. Reed.

9. Rutgers, the State University of New Jersey, Dr. Norman Glickman, Department of Urban Planning and Policy Development, 33 Livingston Avenue, New Brunswick, NJ 08901, (732) 932–3133. Grant: $30,000 to Jennifer Altman.

10. State University of New York, Dr. Richard Smardon, College of Environmental Science and Forestry, 107 Marshall Hall, Syracuse, NY 13210, (315) 470–6636. Grant: $30,000 to Susan Thering.

11. University of California, Irvine, Department of Urban and Regional Planning, 202 Social Ecology I, Irvine, CA 92697, (949) 824–7695. Grant: $30,000 to Roxanne Ezzet-Lundquist.

12. University of Connecticut, Susan Porter Benson, Department of History, U–103, 241 Glenbrook Road, Storrs, CT 06269, (860) 486–3154. Grant: $30,000 to Leslie Frank.

13. University of Chicago, Dr. Linda J. Waite, Department of Sociology, 1126 East 59th Street, Chicago, IL 60637, (773) 256–6333. Grant: $30,000 to Jimbum Kim.

14. University of Maryland, Dr. Peter Reuter, 2101 Van Munching Hall, College Park, MD 20742, (301) 405–6367. Grant: $30,000 to Zhong Yi Tong.

15. University of Massachusetts at Boston, Dr. Yung-Ping Chien, Gerontology Institute, 100 Morrisey Blvd., Boston, MA 02125, (617) 287–7326. Grant: $30,000 to Richard W. McConaghy.

16. University of Michigan, Dr. Leon A. Pastalan, College of Architecture and Urban Planning, 2000 Bonnisteel Blvd., Ann Arbor, MI 48109, (734) 763–1275. Grant: $30,000 to Tien-Chien Tsao.

17. University of Pennsylvania, Carol Wilson Spigner, School of Social Work 3701 Locust Walk, Philadelphia, PA 19104, (215) 898–2507. Grant: $30,000 to Howard Nemon.

18. University of North Carolina at Chapel Hill, Dr. William Rohe, CB# 3410 Nickerson House, Chapel Hill, NC 27599, (919) 962–3074. Grant: $13,005 to Shannon Van Zandt.

19. University of Pennsylvania, Dr. Doug Massey, Department of Sociology, McNeil Building, 3718 Locust Walk, Philadelphia, PA 19104, (215) 898–4688. Grant: $28,730 to Susan Clampet-Lundquist.

20. University of Southern California, Dr. Peter Gordon, School of Policy, Planning and Development, University Park, RGL 331c, Los Angeles, CA 90089, (213) 740–1467. Grant: $28,150 to Falan Guan.

21. University of Washington, Suzanne Davies Withers, Department of Geography, Box 35–3550, Seattle, WA 98195, (206) 616–9064. Grant: $29,236 to Carolina M. Katz.

Dated: July 26, 2001.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 01–20164 Filed 8–10–01; 8:45 am]

BILLING CODE 4210–62–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4630–N–33]

Announcement of Funding Awards for Fiscal Year 2001 Early Doctoral Student Research Grant Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for the Fiscal Year 2001 Early Doctoral Student Research Grant (EDSRG) Program. The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to help doctoral students cultivate their research skills through the preparation of research manuscripts that focus on housing and urban development issues.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships, U.S. Department of Housing and Urban Development, Room 8110, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1537, extension 5918. To provide service for persons who are hearing- or speech-impaired, this number may be reached via TTY by dialing the Federal Information Relay Service on (800) 877–8399, or 202–708–1455. (Telephone numbers, other than the two ''800'' numbers, are not toll free.)

SUPPLEMENTARY INFORMATION: The EDSRG program is administered by the Office of University Partnerships under the Assistant Secretary for Policy Development and Research (PD&R). This Office also administers PD&R's other grant programs for academics.

The EDSRG Program was created as a means of expanding the number of researchers conducting research on subjects of interest to HUD. Students, who are in the early stages of their doctoral studies, have 15 months to complete a major research study. Grants can be up to $15,000 each.

The Catalog of Federal Domestic Assistance number for this program is 14.517.

On February 26, 2001 (66 FR 12409) HUD published a Notice of Funding Availability (NOFA) announcing the availability of $150,000 in FY 2001 funds for the EDSRG Program. The Department reviewed, evaluated and scored the applications received based on the criteria in the NOFA. As a result, HUD has funded the applications announced below, and in accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, U.S.C. 3545), the Department is publishing details concerning the recipients of funding awards, as set forth below. More information about the winners can be found at www.oup.org.

List of Awardees for Grant Assistance Under the FY 2001 Early Doctoral Student Reseach Grant Program Funding Competition, by Name, Address, Phone Number, Grant Amount and Number of Students Funded

1. Massachusetts Institute of Technology, Dr. Langley Keyes, Urban Studies and Planning, 77 Massachusetts Avenue, Cambridge, MA 02139, (617) 253–1540. Grant: $15,000 to Laurie S. Goldman.

2. Ohio State University, Dr. Robert Greenbaum, School of Public Policy and Management, 300 Fisher Hall, 2100 Neill Avenue, Columbus, OH 43210, (614) 292–9578. Grant: $15,000 to Thomas Mlay.

3. Ohio State University, Dr. Donald Haurin, College of Social and Behavioral Sciences, 1010 Derby Hall, 154 N. Oval Mall, Columbus, OH 43210, (614) 292–8448. Grant: $15,000 to Lariece M. Grant.

4. University of Colorado, Dr. Willem van Vliet, College of Architecture and Planning, Campus Box 314, Boulder, CO 80309, (303) 492–5015. Grant: $14,135 to Jennifer Steffel.

5. University of Illinois at Chicago, Dr. Janet Smith, Urban Planning and Policy Program, 412 South Peoria Street, Chicago, IL 60607, (312) 996–2151. Grant: $15,000 to Barbara A. Sherry.

6. University of Illinois at Urbana-Champaign, Dr. Gerrit Knaap, Urban and Regional Planning, 111 Temple Buell Hall, 611 Taft Drive, Champaign, IL 61820, (217) 333–3890. Grant: $15,000 to Yan Song.

7. University of North Carolina at Chapel Hill, Dr. Roberto Quercia, Center for Urban and Regional Studies, Howell Hall CB 3140, Chapel Hill, NC 27599, (919) 962–4766. Grant: $15,000 to Lisa K. Bates.

8. University of Pennsylvania, Dr. Eugenie Birch, City and Regional Planning, 127 Meyerson Hall, Philadelphia, PA 19104, (215) 898–8329. Grant: $15,000 to Laura Lanza.

9. University of Southern California, Dr. Yongheng Deng, School of Policy, Planning and Development, Lewis Hall, Room 331, Los Angeles, CA 90089, (213) 740–5000. Grant: $15,000 to Zhou Yu.

10. Washington University, Dr. Michael Sherraden, George Warren School of Social Work, One Brookings Drive, Campus Box 1196, St. Louis, MO 63130, (314) 935–6691. Grant: $15,000 to Michal Grinstein-Weiss.

Dated: July 26, 2001.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 01–20165 Filed 8–10–01; 8:45 am]

BILLING CODE 4210–62–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–033–7122–F629–EA; Closure Notice No. NV–030–01–003]

Temporary Closure of Public Lands: Douglas County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closure of approximately 640 acres of public lands in Douglas County during the conduct of an Air Soft military reenactment and encampment authorized under Special Recreation Use Permit Number NV–030–01036.

SUMMARY: The Carson City Field Office Manager announces the temporary closure of selected public lands under his administration. This action is being taken to provide for public safety during this reenactment and to provide an uninterrupted atmosphere during the conduct of the event. The permittee is required to clearly mark and monitor the area during the closure period. Only registered event participants and authorized officials may occupy the event area. The event area will be returned to a natural condition following the event. A map of the closure area may be obtained at the contact address.

EFFECTIVE DATES: August 18–19, 2001.

FOR FURTHER INFORMATION CONTACT: Terry Knight, Outdoor Recreation Planner, Carson City Field Office, Bureau of Land Management, 5665

Morgan Mill Road, Carson City, Nevada 89701, Telephone: (702) 885–6173.

SUPPLEMENTARY INFORMATION: This closure applies to all the public, on foot or in vehicles. The public lands affected by this closure are described as follows:

Mt. Diablo Meridian

T. 13 N., R. 23 E.
Section 5, S½
Section 8, N½

Aggregating approximately 640 acres.

The above restrictions do not apply to emergency or law enforcement personnel or event officials. The authority for this closure is 43 CFR 8364.1. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $1,000 and/or imprisoned for not more than 12 months.

Dated: July 27, 2001.

Richard Conrad,

Assistant Manager, Nonrenewable Resources, Carson City Field Office.

[FR Doc. 01–20173 Filed 8–10–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–090–5700–10; IDI–22311]

Notice of Realty Action, Sale of Public Lands in Ada County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of public lands in Ada County.

SUMMARY: The following-described public land has been found suitable for direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at not less than fair market value. It has been determined that the subject parcel contains no known mineral values; therefore, mineral interest will be conveyed simultaneously under Section 209. The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

Boise Meridian, Idaho

T. 4 N., R. 2 E., section 7: NW¼NE¼, NE¼NW¼.

The area described contains 80 acres, more or less.

DATES: Upon publication of the notice in the **Federal Register**, the land described above will be segregated from appropriation under the public land laws, including the mining laws, except the sale provision of the Federal Land Policy and Management Act. The segregative effect will end upon issuance of patent or 270 days from the date of publication, whichever occurs first.

ADDRESSES: Lower Snake River District, 3948 Development Avenue, Boise, Idaho, 83705.

FOR FURTHER INFORMATION CONTACT: Mike Austin, Realty Specialist, at the address shown above or telephone (208) 384–3339.

SUPPLEMENTARY INFORMATION: We are offering this land by direct sale to Ada County. Disposal of this tract will serve important public objectives for the continuation and expansion of the Seaman Gulch Sanitary Landfill. It will allow Ada County to better utilize their adjoining private property for landfill purposes.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager at the above address. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

The reservations, terms and conditions of this sale are as follows:

1. Excepting and reserving to the United States: A right-of-way thereon for ditches or canals constructed by the authority of the United States under the Act of August 30, 1890, (43 U.S.C. 945).

2. Subject to: Those rights asserted by Ada County, its successors or assigns, for an existing road exercised under RS 2477 and noted under right-of-way no. IDI–20038. Those rights for telephone line purposes granted to Qwest Corporation, its successors or assigns, by right-of-way no. IDI–20976 as to the NE¼NW¼ of section 7, T. 4 N., R. 2 E., B.M.

Dated: July 19, 2001.

Katherine Kitchel,

District Manager.

[FR Doc. 01–20171 Filed 8–10–01; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–056–1430-ES; N–41568–34 and N–74703]

Notice of Realty Action: Segregation Terminated, Leases/Conveyances for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Segregation terminated, recreation and public purposes leases/conveyances.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada was segregated for exchange purposes on July 23, 1997 under serial number N–61855. The exchange segregations on the subject land will be terminated upon publication of this notice in the **Federal Register**. The land has been examined and found suitable for leases/conveyances for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The Clark County School District proposes to use the land for elementary schools.

N–41568–34:

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E., sec. 31,
E½SW¼NE¼NW¼,
W½SE¼NE¼NW¼.
Approximately 10.0 acres

N–74703:

Mount Diablo Meridian, Nevada T. 21 S., R. 60 E., sec. 31, lots 10 and 11.

Approximately 10.0 acres

Both schools are located near Hualapai Way and Oquendo Road.

The land is not required for any federal purpose. The leases/conveyances are consistent with current Bureau planning for this area and would be in the public interest. The leases/patents, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe and will be subject to:

1. Easements in accordance with the Clark County Transportation Plan.

2. Those rights for drainage control purposes which have been granted to Clark County by Permit No. N–74363 under the Act of October 21, 1976 (43 U.S.C. 1761).

Detailed information concerning these actions is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada or by calling (702) 647–5088. Upon

publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws, and disposal under the mineral material disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed leases/conveyances for classification of the land to the Las Vegas Field Manager, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada 89108.

Classification Comments

Interested parties may submit comments involving the suitability of the land for elementary schools. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the applications and plans of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor directly related to the suitability of the land for elementary schools. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, these realty actions will become the final determination of the Department of the Interior. The classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for leases/conveyances until after the classification becomes effective.

Dated: July 26, 2001.

Judy Fry,

Acting Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 01–20175 Filed 8–10–01; 8:45 am]

BILLING CODE 4510–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–035–1430-ES; GP01–0259; OR–55163]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Oregon

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The public land, described below, in Morrow County, Oregon, has been examined and found suitable for classification for lease or conveyance to the City of Irrigon under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The City of Irrigon proposes to use the land for a wastewater treatment and disposal plant.

Willamette Meridian

T. 5 N., R. 27 E.,

Sec. 20, that portion of NW¼SW¼ lying south of the southerly right-of-way line of Highway 730, excepting from said parcel approximately 5 acres in the northwest portion.

The above described land contains 14.05 acres, more or less. The exact acreage will be determined by survey.

The 5 acres of land referenced above were examined and found to be unsuitable for classification for lease or conveyance under the Recreation and Public Purposes Act. This land was included in the City of Irrigon's R&PP application, filed May 14, 1999. The unsuitability determination is based on the discovery of historic resources determined to meet eligibility criteria for the National Register of Historic Places.

ADDRESSES: Bureau of Land Management, Baker Field Office, 3165 10th Street, Baker City, Oregon 97814.

SUPPLEMENTARY INFORMATION: The land is not needed for Federal purposes. Lease or conveyance is consistent with current Bureau of Land Management (BLM) land use planning and would be in the public interest. The lease/patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Those rights for telephone line purposes granted to Qwest Corporation by right-of-way ORE 01094.

5. Those rights for electric power line purposes granted to Umatilla Electric Cooperative Association by right-of-way OR 44472.

6. Those rights for county road purposes granted to Morrow County Public Works by right-of-way OR 54274.

7. A covenant referencing a Memorandum of Agreement (MOA) entered into by the City of Irrigon, BLM, and the State Historic Preservation Office and potentially other affected interests. The purpose of the MOA would be to implement agreed upon mitigation measures for compliance with the National Historic Preservation Act and to protect historic resources on and adjacent to the property conveyed to the City of Irrigon.

8. Any other valid rights-of-way that may exist at the time of lease or conveyance.

The subject land had previously been segregated from appropriation under the public land laws and mineral laws as a part of the Northeast Oregon Assembled Land Exchange (NOALE)(OR 51858), pursuant to the Oregon Land Exchange Act of 2000, Pub. L. 106–257 and Sec. 206 of the Act of October 21, 1976 (43 U.S.C. 1716), as amended. A decision, based on Environmental Assessment OR–035–99–05, has determined that lease or conveyance of the parcel to the City of Irrigon under provisions of the Recreation and Public Purposes Act better serves the public interest than disposing of it through a land exchange. The segregative effect on the subject land automatically terminated by operation of the law on May 23, 2001.

Upon publication of this notice in the **Federal Register**, the land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act, and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed lease/conveyance or classification of the land to the Field Manager, Baker Field Office, 3165 10th Street, Baker City, OR 97814.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a wastewater treatment and disposal plant. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the

future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a wastewater treatment and disposal plant.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Sandra L. Guches,

Acting District Manager.

[FR Doc. 01–20172 Filed 8–10–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–952–01–1420–BJ]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Robert M. Scruggs, Chief, Branch of Geographic Services, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520, 775–861–6541.

SUPPLEMENTARY INFORMATION:

1. The Plats of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on the first business day after 30 days from the publication of this notice: The plat, representing the independent resurvey of a portion of the subdivisional lines, superseding a portion of the plat approved December 2, 1881, Township 12 South, Range 70 East, of the Mount Diablo Meridian, in the state of Nevada, under Group No. 790, was accepted July 24, 2001.

The plat, in five (5) sheets, representing the dependent resurvey of the Nevada-Arizona State Line between Mile Post Nos. 306 and 311, and the Third Standard Parallel South, through a portion of Range 71 East, and the independent resurvey of a portion of the subdivisional lines, superseding a portion of the plat approved December 2, 1881, and metes-and-bounds surveys of Tracts 37 and 38, and metes-and-bounds surveys in certain sections, Township 12 South, Range 71 East, of the Mount Diablo Meridian, in the state of Nevada, under Group No. 790, was accepted July 24, 2001.

These surveys were executed to meet certain needs of the Bureau of Land Management.

2. Subject to valid existing rights, the provisions of existing withdrawals and classifications, the requirements of applicable laws, and other segregations of record, these lands are open to application, petition, and disposal, including application under the mineral leasing laws. All such valid applications received on or prior to official filing of the Plats of Survey described in paragraph 1, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: July 30, 2001.

Robert M. Scruggs,

Chief Cadastral Surveyor, Nevada.

[FR Doc. 01–20174 Filed 8–10–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1910–BJ–4599] ES–51104, Group 9, West Virginia

Notice of Filing of Plat of Survey; West Virginia

The plat of the dependent resurvey of a portion of the boundary of tract nos. 113–33, 120–09, 120–14, 121–01, 121–05, 121–09, 121–17, and 122–05 of the New River Gorge National River, Raleigh County, West Virginia, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on August 24, 2001.

The survey was made at the request of the National Park Service.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., August 24, 2001.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: June 25, 2001.

Stephen D. Douglas,

Chief Cadastral Surveyor.

[FR Doc. 01–20170 Filed 8–10–01; 8:45 am]

BILLING CODE 4310–GJ–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–093)]

NASA Advisory Council, International Space Station Management and Cost Evaluation Task Force (IMCE); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, International Space Station Management and Cost Evaluation Task Force.

DATES: Monday, August 20, 2001 from 9 a.m. until 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, 300 E Street, SW., Room MIC–7, 7H46, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Hedin, Code M, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1691.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to seating capacity of the room. The agenda for the meeting is as follows:

—NASA Organization, Budget Overview

—Human Exploration and Development of Space (HEDS)

—International Space Station

  —Program Management

  —Facilities and Research

  —International Partners

—Office of Management and Budget Perspective

—Congressional Perspective

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key

participants. Visitors will be requested to sign a visitor's register.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–20223 Filed 8–10–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–094)]

Aerospace Safety Advisory Panel (ASAP); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Wednesday, August 22, 2001, 9:30 a.m.—12:15 Eastern Daylight Time.

ADDRESSES: National Aeronautics and Space Administration Headquarters, 300 E Street, SW, Room 6H46, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Lengyel, Aerospace Safety Advisory Panel Executive Director, Code Q–1, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0391.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

To discuss the NASA response to the Aerospace Safety Advisory Panel Calendar Year 2000 Annual Report, current issues, and remaining fact-finding for Calendar Year 2001.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–20224 Filed 8–10–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–095]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Ovidium, Inc., a Delaware corporation, has applied for a partially exclusive license to practice the inventions described and claimed in U.S. Patent No. 5,416,618, entitled ''Full Complex Modulation Using Two One-Parameter Spatial Light Modulators,'' U.S. Patent No. 5,768,242, entitled ''Apparatus and Method For Focusing A Light Beam in A Three-Dimensional Recording Medium By A Dynamic Holographic Device,'' U.S. Patent No. 5,859,728, entitled ''Method and Apparatus for Improved Spatial Light Modulation,'' U.S. Patent No. 6,055,086 entitled ''Method and Apparatus for Improved Spatial Light Modulation,'' and NASA Case No. MSC–23320–1, entitled ''Spatial Light Modulators for Full Cross-Connections in Optical Networks,'' which are assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Johnson Space Center.

DATES: Responses to this notice must be received by September 12, 2001.

FOR FURTHER INFORMATION CONTACT: James Cate, Patent Attorney, NASA Johnson Space Center, Mail Stop HA, Houston, TX 77058–8452; telephone (281) 483–1001.

Dated: August 1, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–20225 Filed 8–10–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences; Committee of Visitors; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Geosciences; Committee of Visitors for the Instrumentation and Facilities Program in the Division of Earth Sciences (1755).

Date/Time: September 12–14, 2001; 8:30 am–5:00 pm each day.

Place: Room 380, NSF, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. David Lambert, Program Director, Instrumentation and Facilities Program, Division of Earth Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8558.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including program evaluation, GPRA assessments, and access to privileged materials.

Agenda

Closed: September 12 from 11:00–5:00—To review the merit review processes covering funding decisions made during the immediately preceding three fiscal years of the Instrumentation and Facilities Program

Open: September 12 from 8:30–11:00—Introductions, charge and general discussion of selection process. September 13 from 8:30–5:00 and September 14 from 8:30–5:00—To assess the results of NSF program investments in the Instrumentation and Facilities Program. This shall involve a discussion and review of results focused on NSF and grantee outputs and related outcomes achieved or realized during the preceding three fiscal years. These results may be based on NSF grants or other investments made in earlier years.

Reason for closing: During the closed session, the Committee will be reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they are disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: August 8, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–20268 Filed 8–10–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Proposal Review; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces its intent to hold proposal review meetings throughout the year. The purpose of these meetings is to provide advice and recommendations concerning proposals submitted to the NSF for financial support. The agenda for each of these meetings is to review and evaluate proposals as part of the selection process for awards. The majority of these meetings will take place at NSF, 4201 Wilson, Blvd., Arlington, Virginia 22230.

All of these meetings will be closed to the public. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data; such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act. NSF will continue to review the agenda and merits of each meeting for overall compliance of the Federal Advisory Committee Act.

These closed proposal review meetings will no longer be announced on an individual basis in the **Federal Register**. NSF intends to publish a notice similar to this on a quarterly basis. For an advance listing of the closed proposal review meetings that include the names of the proposal review panel and the time, date, place, and any information on changes, corrections, or cancellations, please visit the NSF web-site: *www.nsf.gov/home/pubinfo/advisory.htm.* This information may also be requested by telephoning 703/292–8182.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–20267 Filed 8–10–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing

The National Transportation Safety Board will convene a public hearing beginning at 9 a.m., (Eastern Daylight Time) on Wednesday, August 22–23, 2001, at the NTSB Board Room and Conference Center, 429 L'Enfant Plaza, S.W., Washington, D.C. 20024, concerning Emery Worldwide Airlines, Inc., flight 17, McDonnell Douglas DC–8–71F, accident in Rancho Cordova, California, on February 16, 2000. For more information, contact Frank Hilldrup, NTSB Office of Aviation Safety at (202) 314–6100.

Individuals requesting specific accommodations should contact Ms. Carolyn Dargan on 202–314–6305 by Friday August 17, 2001.

Dated: August 8, 2001.

Vicky L. D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 01–20228 Filed 8–10–01; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–423]

Dominion Nuclear Connecticut, Inc., et al.; Millstone Nuclear Power Station, Unit No. 3 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain requirements of Appendix G to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR part 50) for Facility Operating License No. NPF–49, issued to Dominion Nuclear Connecticut, Inc. (the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 3 (MP3), located in Waterford, Connecticut. Therefore, as required by 10 CFR 50.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from certain requirements of Appendix G to 10 CFR part 50 to allow the application of the methodology approved for determining the pressure-temperature (P–T) limit curves in the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code), Section XI, Code Case N–640 entitled, ''Alternate Reference Fracture Toughness for Development of P–T Curves for ASME Section XI, Division I.''

The proposed action is in accordance with the licensee's application for an exemption dated April 23, 2001, as supplemented by letter dated June 25, 2001.

The Need for the Proposed Action

The proposed action would modify the currently approved methodology for P–T limit calculations to incorporate the methodology approved for use in Code Case N–640. Code Case N–640 allows the use of the K_{IC} fracture toughness curve instead of the K_{IA} fracture toughness curve, as required by Appendix G to Section XI, for determining P–T limits for reactor pressure vessel (RPV) materials. The exemption is needed because Code Case N–640 uses this modification in the approved methodology in Appendix G of Section XI in determining P–T limits. The proposed action also supports the licensee's application for a license amendment, dated April 23, 2001, to revise the Technical Specifications (TSs) P–T limits.

The staff has determined that, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the regulation to protect the integrity of the reactor coolant pressure boundary will continue to be served by the implementation of the code case.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the exemption and implementation of the proposed alternative described above would provide an adequate margin of safety against brittle failure of the RPV at MP3.

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 non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological 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

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for MP3, dated December 1984.

Agencies and Persons Consulted

In accordance with its stated policy, on June 20, 2001, the staff consulted with the Connecticut State official, Michael Firsick of the Department of Environmental Protection, 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 April 23, 2001, as supplemented by letter dated June 25, 2001. 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 Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

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

For the Nuclear Regulatory Commission.

Victor Nerses, Sr.,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–20235 Filed 8–10–01; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974: New System of Records

AGENCY: Office of Personnel Management (OPM)

ACTION: Notice of a new system of records.

SUMMARY: OPM proposes to add a new system of records to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the agency (5 U.S.C. 552a(e)(4)).

DATES: The new system will be effective without further notice on September 24, 2001, unless we receive comments that result in a contrary determination.

ADDRESSES: Send written comments to the Office of Personnel Management, ATTN: Mary Beth Smith-Toomey, Office of the Chief Information Officer, 1900 E Street, NW., Room 5415, Washington, DC 20415–7900.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, 202–606–8358.

SUPPLEMENTARY INFORMATION: The Adjudications Officer Control Files records system will contain records of individuals, other than OPM employees: (1) Who work on an OPM-Investigations Service (IS) contract; (2) who need to access IS facilities or use IS equipment; or (3) about whom OPM–IS has provided a suitability or security adjudication advisory opinion at the request of another Federal agency's adjudication or security office. OPM will collect data by compilation of various documents related to the process of adjudication.

Office of Personnel Management

Kay Coles James,

Director.

OPM INTERNAL 16

SYSTEM NAME:

Adjudications Officer Control Files.

SYSTEM LOCATION:

Office of Personnel Management (OPM), Investigations Service (IS), Federal Investigations Processing Center, PO Box 618, Boyers, Pennsylvania 16018–0618.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals, other than OPM employees: (1) Who work on an OPM-Investigations Service (IS) contract; (2) who need to access IS facilities or use IS equipment; or (3) about whom OPM—IS has provided a suitability or security adjudication advisory opinion at the request of another Federal agency's adjudication or security office.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in the system may contain the following:

a. Documents completed by the individual.

b. Dates and types of investigations.

c. Investigative reports, including those from Federal investigative agencies, the Department of Defense, and internal and external inquiries.

d. Records of suitability or security determinations.

e. Dates and levels of security clearances and supporting documentation.

f. Records of disclosures of information. g.Information related to an individual's work performance on an OPM—IS contract.

h. Documents concerning an individual's conduct problems or security and policy violations related to an OPM—IS contract or use of OPM equipment or facilities.

i. Correspondence between OPM—IS and an agency or an individual.

j. Correspondence related to administrative review procedures.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authorities for maintenance of the system include the following, with any revisions or amendments: Executive Orders 10450, 12958 and 12968.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

1. For Judicial/Administrative Proceedings—To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

2. For National Archives and Records Administration—To disclose information to the National Archives and Records Administration for use in records management inspections.

3. Within OPM for Statistical/Analytical Studies—By OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related workforce studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

4. For Litigation—To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body or other administrative body before which OPM is authorized to appear, when: OPM, or any component thereof; or any employee of OPM in his or her official capacity; or any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or the United States, when OPM determines that litigation is likely to affect OPM or any of its components; is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is

deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

5. For the Merit Systems Protection Board—To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

6. For the Equal Employment Opportunity Commission—To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures or other functions vested in the Commission and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

7. For the Federal Labor Relations Authority—To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

8. For Certain Disclosures to Other Federal Agencies—To disclose relevant and necessary information to designated officers and employees of agencies, offices and other establishments in all branches of the Federal Government for:

(a) Conducting suitability or security investigations,

(b) Classifying jobs,

(c) Hiring or retaining employees,

(d) Evaluating qualifications, suitability and loyalty to the United States Government,

(e) Granting access to classified information or restricted areas,

(f) Letting a contract, issuing a license, grant, or other benefit, or

(g) Providing a service performed under a contract or other agreement.

9. For Law Enforcement Purposes—To disclose information to the appropriate Federal, State, local, tribal, foreign or other public authority responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation or order when OPM—IS becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

10. For Congressional Inquiry—To disclose information to a congressional office in response to an inquiry made on behalf of an individual. Information will only be released to a congressional office if OPM receives a notarized authorization from the individual.

11. For Non-Federal Personnel—To disclose information to contractors or volunteers performing or working on a contract, service or job for the Federal Government, regarding permission for an individual to work on an OPM—IS contract or use OPM—IS facilities or equipment, or be granted a security clearance.

PURPOSE(S)

OPM—IS Adjudications Officers and Contract Administrators, or designees, use these records for making suitability or security determinations, granting security clearances for access to classified information, determining the need and eligibility to use OPM—IS facilities or equipment, assigning position sensitivity and documenting an individual's performance and conduct on an OPM—IS contract.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

OPM–IS maintains these records in file folders and in electronic databases.

RETRIEVABILITY:

Records are retrieved by the name and date of birth or Social Security Number of the individual about whom they are maintained.

SAFEGUARDS:

OPM stores the file folders in locked, metal file cabinets in a secured room. OPM restricts access to the records on the databases to employees who have the appropriate clearance and need-to-know.

RETENTION AND DISPOSAL:

We maintain the records 3 years (as authorized/prescribed by the National Archives and Records Administration's General Records Schedules) after the individual's contract status with OPM–IS ends, the need to use OPM–IS equipment or facilities has terminated or the Federal agency notifies OPM–IS that the person whose case OPM–IS adjudicated has separated from that agency. OPM maintains records of disclosures of information from this system for 5 years after the disclosure is made or the life of the record, whichever is longer. Classified Information Nondisclosure Agreements (Standard Form 312) signed by individuals are maintained for 70 years.

Contents of the file folders are destroyed by shredding and recycling and computer records are destroyed by electronic erasure.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Investigations Service, Office of Personnel Management, Room 5416, 1900 E Street, NW., Washington, DC 20415–4000.

NOTIFICATION AND RECORD ACCESS PROCEDURE:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(c)(3) and (d) regarding accounting of disclosures and access to and amendment of records. The section of this notice titled ''System Exemptions'' indicates the kinds of material exempted and the reasons for exempting them from access. Individuals wishing to ask if this system of records contains information about them or to request access to their record should write to FOI/P, OPM, Federal Investigations Processing Center, PO Box 618, Boyers, PA 16018–0618. Individuals must furnish the following information for their record to be located:

1. Full name.
2. Date and place of birth.
3. Social Security Number.
4. Signature.
5. Available information regarding the type of information requested.
6. The reason why the individual believes this system contains information about him/her.
7. The address to which the information should be sent.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d) regarding access to and amendment of records. The section of this notice titled ''System Exemptions'' indicates the kinds of material exempted and the reasons for exempting them from amendment. Individuals wishing to request amendment of their non-exempt records should write to the Federal Investigations Processing Center and furnish the following information for their record to be located:

1. Full name.
2. Date and place of birth.
3. Social Security Number.
4. Signature.
5. Precise identification of the information to be amended.

Individuals requesting amendment must also follow OPM's Privacy Act

regulations regarding verification of identity and amendment to records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

1. The individual to whom the information applies.
2.OPM–IS investigative files.
3. Officials of OPM and OPM–IS contractors.
4. Federal agencies, the Department of Defense, and external and internal inquiries.
5. The public.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(1), (2), (3), (4), (5), (6) or (7) is exempt from the requirements of the Privacy Act that relate to providing an accounting of disclosures to the data subject and access to and amendment of records (5 U.S.C. 552(c)(3) and (d)).

5 U.S.C. 552A(K)

1. Properly classified information obtained from another Federal agency during the course of a personnel investigation, which pertains to national defense and foreign policy.
2. Investigatory material compiled for law enforcement purposes other than material within the scope of this subsection.
3. Investigatory material maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18 of the U.S. Code.
4. Investigatory material that is required by statute to be maintained and used solely as a statistical record.
5. Investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for Federal civilian employment and Federal contact or access to classified information. Materials may be exempted to the extent that release of the material to the individual whom the information is about would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.
6. Testing and examination materials, compiled during the course of a personnel investigation, that are used solely to determine individual qualifications for appointment or promotion in the Federal service, when disclosure of the material would compromise the objectivity or fairness of the testing or examination process.
7. Evaluation materials, compiled during the course of a personnel investigation, that are used solely to determine potential for promotion in the armed services can be exempted to the extent that the disclosure of the data would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

[FR Doc. 01–20220 Filed 8–10–01; 8:45 am]

BILLING CODE 6325–40–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IA–1960 803–154]

Capital Guardian Trust Company, et al.; Notice of Application

August 7, 2001.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Advisers Act of 1940 (''Advisers Act'').

Applicants: Capital Guardian Trust Company (''CGTC'') and Hirtle Callaghan Trust (''Trust'').

Relevant Advisers Act Sections: Exemption requested under section 206A of the Advisers Act from section 205 of the Advisers Act and Advisers Act rule 205–1.

SUMMARY OF APPLICATION: Applicants request an order permitting CGTC to charge a performance fee based on the performance of that portion of a Trust portfolio managed by CGTC (''CGTC Account''). Applicants further request that the order permit them to commute the performance-related portion of the fee using changes in the CGTC Account's gross asset value rather than net asset value.

FILING DATES: The application was filed on November 27, 2000, and amended on July 29, 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 Commission's Secretary and serving applicants with copies of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 4, 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 writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0609. Capital Guardian Trust Company, 333 South Hope Street, Los Angeles, California 90071. The Hirtle Callaghan Trust, 575 East Swedesford Road, Wayne, Pennsylvania 19087.

FOR FURTHER INFORMATION CONTACT: Robert L. Tuleya, Staff Attorney, or Jennifer L. Sawin, Assistant Director, at (202) 942–0719 (Division of Investment Management, Office of Investment Adviser Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch.

Applicant's Representations

1. CGTC is a California-chartered, non-depository trust company. CGTC is a ''bank'' within the meaning of section 202(a)(2) of the Advisers Act. CGTC serves as investment adviser to the Trust and other registered investment companies. Before CGTC submitted its initial application for registration as an investment adviser under the Advisers Act, and until the effective date of section 217 of the Gramm-Leach-Bliley Act, CGTC, as a bank, was excluded from the definition of ''investment adviser'' under section 202(a)(11) of the Advisers Act, and thus was not required to register as an investment adviser under the Advisers Act. The Gramm-Leach-Bliley Act amended the Advisers Act to include a bank that serves as an investment adviser to a registered investment company in the definition of ''investment adviser.'' To comply with the Advisers Act, as amended, CGTC submitted its application for registration as an investment adviser with the commission through the IARD. The Commission issued an order granting CGTC's registration as an investment adviser under the Advisers Act on April 27, 2001.

2. The Trust is an open-end management investment company registered with the Commission under the Investment Company Act of 1940 (''1940 Act''). The Trust was organized by Hirtle, Callaghan & Co. (''Hirtle Callaghan''), an investment adviser registered with the Commission under the Advisers Act. The Trust is a series

company that currently consists of several separate investment portfolios. Shares of the Trust are available only to clients of Hirtle Callaghan or clients of financial intermediaries, such as investment advisers, that are acting in a fiduciary capacity with investment discretion and that have established relationships with Hirtle Callaghan.

3. Hirtle Callaghan serves as a ''manager of managers'' for the Trust. Pursuant to its agreement with the Trust, Hirtle Callaghan is not authorized to exercise investment discretion with respect to the Trust's assets. Hirtle Callaghan is responsible for monitoring the overall investment performance of the Trust's portfolios and the performance of the portfolio managers who manage the Trust's portfolios. Hirtle Callaghan also may from time to time recommend that the Trust's Board of Trustees retain additional portfolio managers or terminate existing portfolio managers. Authority to select new portfolio managers and reallocate assets among the portfolio managers, however, resides with the Trust's Board.

4. CGTC and Artisan Partners Limited Partnership (''Artisan'') provide portfolio management services to the International Equity Portfolio (''Portfolio'') of the Trust. Pursuant to a portfolio management agreement, CGTC provides portfolio management services for a portion of the Portfolio's assets that the Trust's Board allocates to CGTC (''CGTC Account''). CGTC and Artisan each manage a separate portion of the Portfolio, each acting as though it were advising a separate investment company. Percentage limitations on investments are applied to each portion of the Portfolio without regard to investments in the other adviser's portion of the Portfolio. Each adviser receives portfolio information, from the Trust or its custodian, only about the portion of the Portfolio assigned to it and not about positions held by the Portfolio as a whole. Each adviser generally is responsible for preparing reports to the Trust and the board only with respect to its discrete portion of the Portfolio.

5. Neither CGTC nor any of its affiliates is affiliated with Hirtle Callaghan, the Trust, or Artisan.

6. CGTC's services to the Trust are limited to investment selection for the CGTC Account, placement of transactions for execution and certain compliance functions directly related to such services. Neither CGTC nor any of its affiliates acts as a distributor or sponsor for the Trust or Portfolio. No member of the Trust's Board is affiliated with CGTC or any of its affiliates. CGTC is currently entitled to receive an investment advisory fee based on a percentage of the assets in the CGTC Account, payable quarterly.

7. On April 14, 2000, the Trust's Board approved a portfolio management agreement between CGTC and the Trust (the ''CGTC Agreement'') under which CGTC is entitled to receive compensation for portfolio management services provided to the Trust based in part on the performance achieved by the CGTC Account. Only July 26, 2000, the shareholders of the Portfolio approved the agreement.[1]

8. Under the CGTC Agreement, CGTC is entitled to received an investment advisory fee based on a percentage of the assets in the CGTC Account. After the CGTC Agreement has been in effect for 12 months following the first business day of the month following the date on which the agreement became effective (''the Initial Period''), CGTC will be entitled to receive quarterly payments of a base fee (''Base Fee''), calculated at the annual rate of 0.40 percent of the average net assets of the CGTC Account, adjusted by a ''Performance Component.'' Each such quarterly payment will consist of ¼ of the Base Fee plus or minus the Performance Component multiplied by the average daily net assets of the CGTC Account for the immediately preceding 12-month period on a ''rolling basis.''[2] The Performance Component would equal 12.5 percent of the difference between (i) the total return of the CGTC Account during the 12 months immediately preceding the calculation date, calculated without regard to expenses incurred in the operation of the CGTC account (''Gross Total Return'') and (ii) the total return of the Morgan Stanley Capital International Europe, Australasian, Far East Index (''EAFE Index Return'') for the same period plus a performance hurdle of 0.40 percent (or 40 basis points).[3] None of the expenses of the Portfolio, including the advisory fee paid to CGTC, would be deducted from the Gross Total Return of the CGTC account.[4] The maximum annual fee payable to CGTC for any 12-month period would not exceed 0.60 percent (60 basis points) of the average net assets of the CGTC Account, and the minimum fee payable for any such period would be 0.20 percent (20 basis points).[5]

Applicants' Legal Analysis

1. Section 205(a)(1) of the Advisers Act generally prohibits an investment adviser from entering into any investment advisory agreement that provides for compensation to the adviser on the basis of a share of capital gains or capital appreciation of a client's account.

2. Section 205(b) of the Advisers Act provides a limited exception to this prohibition, permitting an adviser to charge a registered investment company a fee that increases and decreases ''proportionately with the investment performance of the investment company or fund over a specified period in relation to the investment record of an appropriate index of securities prices or such other measure of investment

[1] The proxy statement associated with this meeting specifically informed the shareholders that, in the event that CGTC became subject to registration under the Advisers Act, the fulcrum fee arrangement would be suspended unless and until CGTC received assurances from the Commission or its staff that calculating the fee on the basis described herein would not be viewed as inconsistent with the Advisers Act. The proxy statement also noted that there could be no guarantee that the Commission or its staff would give such assurances.

[2] ''Rolling Basis'' means that, at each quarterly fee calculation, the Gross Total Return of the CGTC Account, the EAFE Index Return and the average daily net assets of the CGTC Account for the most recent quarter will be substituted for the corresponding values of the earliest quarter included in the prior fee calculation.

[3] Applicants state that the CGTC Agreement, as approved both by the Trust's Board and the shareholders of the Portfolio prior to its effective date, contains an error. The compensation schedule (''Schedule A'' to the CGTC Agreement) incorrectly states that the Performance Component with respect to periods following the Initial Period (''Subsequent Measuring Periods'') will be made in an amount equal to ⅛ (12.5%) of the difference between the Gross Total Return of the CGTC Account and the EAFE Index Return. The correct factor is ¼ (25%) of that difference. The correct factor was negotiated by the Trust and CGTC and was designed to reflect the fact that, while advisory fees are calculated on an annual basis, advisory fee payments to CGTC are paid on a quarterly basis. To correct this error, Trust management represents that it will submit an amendment (''Correcting Amendment'') to the Trust's Board and to shareholders of the Portfolio in a manner consistent with the requirements of section 15(a) and rule 18f–2 under the 1940 Act. Trust management anticipates that final action with respect to the Correcting Amendment will be taken by the Board and shareholders before the date on which performance based fee adjustments (if any) to which CGTC may be entitled with respect to any Subsequent Measuring Period will be paid. Unless and until the Correcting Amendment is approved (and assuming that the CGTC Agreement is not sooner terminated in accordance with its terms or relevant law), the CGTC Agreement will remain in effect in the form in which is was approved by the Portfolio's shareholders on July 26, 2000 and the accrual of investment advisory fees payable by the Portfolio to CGTC will continue to be made in accordance with the terms of such Agreement.

[4] The performance of the CGTC account reflects brokerage and transaction costs.

[5] If application of the Performance Component would result in an annual fee at a rate lower than 20 basis points, the amount of any excess fee paid for the first year would be credited to the Portfolio in subsequent quarters before additional fee amounts would be payable to CGTC. If the CGTC Agreement is terminated, the Trust would not recoup any outstanding excess fees that had been paid in previous quarters.

performance as the Commission by rule, regulation or order may specify.''

3. Under rule 205–1 of the Advisers Act, the ''investment performance'' of an investment company must be computed based on the change in the investment company's net asset value per share.

4. Applicants request exemptive relief from section 205 and rule 205–1 to permit CGTC to charge the fee in question (i) applying the fee only to the CGTC Account and not to the Portfolio as a whole, and (ii) computing the Performance Component measured by the change in the CGTC Account's gross asset value, rather than its net asset value. Applicants also request exemptive relief for CGTC and its affiliates to enter into similar fee arrangements with other investment companies, provided certain criteria are met.

5. Applicants state that Congress, in adopting and amending section 205 of the Advisers Act, and the Commission, in adopting rule 205–1, put into place safeguards designed to ensure that investment advisers would not take advantage of advisory clients.

6. Applicants assert that the Commission required that performance fees be calculated based on the net asset value of the investment company's shares to prevent a situation where an adviser could earn a performance fee even though investment company shareholders did not derive any benefit from the adviser's performance after the deduction of fees and expenses.

7. Applicants state that, unlike traditional performance fee arrangements, CGTC does not receive the Performance Component of its fee unless its management of the CGTC Account has resulted in performance in excess of the EAFE Index Return plus a ''performance hurdle'' equal to the 0.40 percent base fee. Applicants assert that adding the 0.40 percent hurdle to the performance of the EAFE Index has an effect similar to deducting CGTC's fees.[6] Applicants argue that, therefore, the Portfolio's shareholders have protections similar to those contemplated by the net asset value requirement of rule 205–1.

8. Applicants state that Congress' concern in enacting the safeguards of section 205 came about because the vast majority of investment advisers exercised a high level of control over the structuring of the advisory relationship. Applicants state that the fee in question, however, was negotiated at arm's length between the parties. Applicants state that CGTC has little, if any, influence over the overall management of the Trust or the Portfolio beyond stock selection. Management functions of the Trust and the Portfolio reside in the Trust's Board. The Trust itself is directly and fully responsible for supervising the Trust's service providers and monitoring expenses of each of the Trust's portfolios. The Trust's Board is responsible for allocating the assets of the several portfolios among the portfolio managers. Neither CGTC nor any of its affiliates sponsored or organized the Trust or serves as a distributor or principal underwriter of the Trust. Neither CGTC nor any of its affiliates owns any shares issued by the Trust. No officer, director or employee of CGTC, nor of any CGTC's affiliates, serves as an executive officer or director of the Trust. Neither CGTC nor any of its affiliates is an affiliated person of Hirtle Callaghan or any other person who provides investment advice with respect to the Trust's advisory relationships (except to the extent that such affiliation exists solely by reason of CGTC serving as investment adviser to the Trust).

9. Applicants argue that the fulcrum fee arrangement is consistent with the purposes intended by rule 205–1 because the CGTC Agreement was negotiated at arm's-length with the Trust and that the Trust therefore does not need the protections afforded by calculating a performance fee based on net assets. Applicants argue that the proposed fee arrangement is therefore consistent with the underlying policies of section 205 and rule 205–1. Applicants argue that granting the exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Advisers Act and would therefore be consistent with the exemptive standards in section 206A of the Advisers Act.

Applicants' Conditions

1. If the Base Fee changes, the performance hurdle will be changed to match the Base Fee.

2. To the extent CGTC, or an affiliate of CGTC, relies on the requested order with respect to advisory arrangements with other investment companies that it advises, those arrangements will meet the following requirements: (i) The investment advisory fee will be negotiated between CGTC, or the applicable affiliate of CGTC, and the investment company or its primary investment adviser; (ii) the fee structure will contain a performance hurdle that is, at all times, no lower than the base fee; (iii) neither CGTC nor any of its affiliates will serve as distributor or sponsor of the investment company; (iv) no member of the board of the investment company will be affiliated with CGTC or its affiliates; (v) neither CGTC nor any of its affiliates will organize the investment company; and (vi) neither CGTC nor any of its affiliates will be an affiliated person of any primary adviser to the investment company or of any other person who provides advice with respect to the investment company's advisory relationships (except to the extent that CGTC and/or its affiliates may be affiliated with another portfolio manager by virtue of the fact that CGTC serves as a portfolio manager to the investment company or to another investment company.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–20233 Filed 8–10–01; 8:45 am]

BILLING CODE 8010–01–M

[6] If the Base Fee changes, the performance hurdle also would be changed to match the fee.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44657; File No. SR–BSE–2001–04]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 by the Boston Stock Exchange, Inc. Relating to Capital Requirements for Specialists and Competing Specialists Trading Portfolio Depositary Receipts

August 6, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 29, 2001, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the BSE.[3] The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On August 1, 2001, the BSE filed Amendment No. 1 to the proposal. *See* letter from John A. Boese, Assistant Vice President, Rule Development and Market Structure, BSE, to Katherine England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated July 31, 2001 (''Amendment No. 1''). In Amendment No. 1, the BSE states that it has carefully evaluated volume and price measures for the portfolio depositary receipts (''PDRs'') that BSE specialists trade actively and concluded that the proposed equity requirement will continue to ensure that BSE

Commission is publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 from interested persons and to approve the proposal, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to amend Chapter XXIV, ''Portfolio Depositary Receipts,'' Section 6, ''Limitation on Exchange Liability,'' Interpretation and Policy .01 (''Interpretation and Policy. 01'') of the BSE's rules to reduce the minimum equity requirement for the trading of PDRs by specialists and competing specialists from $1,000,000 to $200,000. Because Interpretation and Policy .01, as amended, would make Interpretation and Policy .03 to Chapter XXIV, Section 6 (''Interpretation and Policy .03'') of the BSE's rules unnecessary, the BSE proposes to delete Interpretation and Policy .03.[4]

The text of the proposed rule change is available at the BSE 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 BSE included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The BSE 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

The BSE seeks to amend its rule establishing a separate minimum equity requirement for specialists and competing specialists who trade PDRs. Currently, Interpretation and Policy .01 provides that the minimum equity requirement for the trading of PDRs by specialists and competing specialists is $1,000,000. The BSE's regular minimum equity requirement is $200,000.[5] The BSE seeks to eliminate the separate higher minimum equity requirement for PDRs.

According to the BSE, the Exchange imposed the $1,000,000 equity requirement for PDRs during the initial period of trading exchange traded funds (''ETFs'') on the BSE.[6] Because ETFs were a relatively new and untested financial instrument, the BSE established the higher equity requirement due to the possible volatility of the new products and the unknown risks they might have posed to the BSE. According to the BSE, the BSE has since determined that ETFs do not pose undue financial exposure risk to the Exchange. The BSE states that ETFs are similar in most respects to ''standard'' equity securities.

In addition, the BSE states that it conducted an internal analysis to evaluate the overnight positions held by specialists who trade ETFs, both separately and in relation to other equity securities. As a result of this analysis, the BSE determined that the risks to the Exchange posed by specialists trading ETFs were commensurate with the risks posed by the trading of listed equity securities. Moreover, the BSE notes that short positions held by specialists overnight in ETFs were not measurably different from the positions held in other listed equities and, in either case, did not pose a financial risk to the BSE or its members beyond that for which the minimum equity requirement of $200,000 was deemed to be sufficient.

In addition, the BSE states that it has carefully evaluated the volume and price measures for the PDRs and BSE specialists actively trade and that the proposed capital requirement will continue to ensure that BSE specialists have sufficient resources to perform their market making obligations.[7] The BSE believes that neither the volume nor the price of PDRs necessitates an equity requirement for PDRs in excess of $200,000 and that the proposal will make the capital requirement for PDRs more commensurate with the exposure to risk.[8]

Accordingly, the BSE seeks to amend Interpretation and Policy .01 to reduce the minimum equity requirement for the trading of PDRs from $1,000,000 to $200,000 to bring the equity requirement for PDRs into parity with the BSE's minimum equity requirement and to eliminate the possibility of an unfair burden on firms that trade these products. In addition, the BSE seeks to eliminate Interpretation and Policy .03 from its rules because Interpretation and Policy .01, as amended, will make Interpretation and Policy .03 unnecessary.

(2) Basis

The BSE believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designated to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The BSE does not believe that the proposed rule change will impose any burden on competition.

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 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 and Amendment No. 1 are consistent with the Act. Persons making

specialists have sufficient resources to perform their market making obligations effectively. In addition, the BSE states that neither the volume nor the price of PDRs necessitates an additional equity requirement (*i.e.,* an equity requirement in excess of $200,000), and that the BSE requests elimination of the additional equity requirement so that the capital requirement for PDRs will be more commensurate with the exposure to risk. In a telephone conversation on August 6, 2001, the BSE confirmed that the additional equity requirement discussed in Amendment No. 1 refers to an equity requirement in excess of $200,000. Telephone conversation between Yvonne Fraticelli, Special Counsel, Office of Market Supervision, Division, Commission, and John Boese, Assistant Vice President, Rule Development and Market Structure, BSE, on August 6, 2001 (''August 6 Conversation'').

[4] *See* Securities Exchange Act Release No. 44269 (May 7, 2001), 66 FR 24417 (May 14, 2001) (order approving File No. SR–BSE–00–22) (adopting Interpretation and Policy .03). Under Interpretation and Policy .03, the minimum equity requirement for derivative based trading products is reduced from $1,000,000 to $200,000 when a BSE member firm arranges to clear its trades through a non-Boston Stock Exchange Clearing Corporation member clearing center.

[5] *See* Chapter XXII, ''Financial Reports and Requirements—Aggregate Indebtedness—Net Capital,'' Section 2, ''Capital and Equity Requirements,'' of the BSE's rules.

[6] The Commission approved the BSE's proposal to adopt listing standards and trading rules for PDRs in 1998. *See* Securities Exchange Act Release No. 39660 (February 12, 1998), 63 FR 9026 (February 23, 1998) (order approving File No. SR–BSE–97–08).

[7] *See* Amendment No. 1, *supra* note 3.

[8] *See* Amendment No. 1, *supra* note 3.

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 Amex. All submissions should refer to file number SR–BSE–2001–04 and should be submitted by September 4, 2001.

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

The BSE has asked the Commission to approve the proposal on an accelerated basis to ease the financial burden on member firms subject to the $1,000,000 capital requirement for PDRs.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[9] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. As discussed more fully above, the BSE established the current $1,000,000 capital requirement for PDRs during the initial period of trading ETFs on the BSE, when ETFs were a relatively new and untested financial instrument. The BSE established the $1,000,000 capital requirement due to the possible volatility of ETFs and the unknown risks that they might have posed to the BSE.

Since the initial period of trading PDRs on the BSE, the BSE states that it has determined that ETFs do not pose undue financial exposure risk to the BSE. In addition, the BSE states that an internal analysis performed by the Exchange indicated that specialists' trading of ETFs and listed equity products pose commensurate risks to the BSE. The Exchange states that it has carefully evaluated volume and price measures for PDRs that BSE specialists trade actively and that the proposed equity requirement will continue to ensure that BSE specialists have sufficient resources to perform their market making obligations effectively.[10] The BSE believes that neither the volume nor the price of PDRs necessitates an equity requirement in excess of $200,000 of PDRs and that the proposal will make the capital requirement for PDRs more commensurate with the exposure to risk.[11]

The Commission believes that the proposed $200,000 capital requirement for PDRs should help to ensure that BSE specialist continue to have adequate capital to conduct their market making activities. Accordingly, the Commission believes that it is not inconsistent with the Act for the BSE to reduce the specialist capital requirement for trading PDRs from $1,000,000 to $200,000. However, the Commission expects, and the BSE has agreed, that if there is a significant increase in the trading volume of PDRs, the BSE will reconsider the adequacy of its reduced capital requirement and, if appropriate, submit to the Commission a proposal to increase the capital requirement for specialists trading PDRs.[12]

The Commission believes that it is reasonable for the BSE to eliminate Interpretation and Policy .03 because Interpretation and Policy .01, as amended, will make Interpretation and Policy .03 unnecessary.

The Commission finds good cause for approving the proposed rule change and Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** The Commission believes that accelerated approval of the proposal will reduce the financial burden on BSE specialists trading PDRs and facilitate the efficient allocation of market making capital. Amendment No. 1 strengthens the BSE's proposal by representing that BSE specialists trading PDRs will continue to have sufficient resources to fulfill their market making obligations under the reduced capital requirement. Accordingly, the Commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act,[13] to approve the proposal and Amendment No. 1 to the proposal on an accelerated basis.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–BSE–2001–04), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–20186 Filed 8–10–01; 8:45 am]

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[9] 15 U.S.C. 78f(b)(5). In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] *See* Amendment No. 1, *supra* note 3.

[11] *See* August 6 Conversation, *supra* note 3.

[12] *See* August 6 Conversation, *supra* note 3.

[13] 15 U.S.C. 78f(b)(5) and 78s(b)(2),

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44654; File No. SR–CBOE–2001–42]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Exchange Fees

August 3, 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 July 23, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'' filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its fee schedule to waive all public customer fees related to options on the Standard & Poor's 100 European-style index (''XEO'').[3]

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The listing of XEO options on the CBOE became effective pursuant to File No. SR–CBOE–2001–39. *See* Securities Exchange Release No. 44556 (July 16, 2001), 66 FR 38046 (July 20, 2001) (notice of filing and immediate effectiveness of File No. SR–CBOE–2001–39).

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 Exchange has prepared summaries, set forth in sections A, B, and C blow, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to waive all public customer fees for XEO through October 31, 2001.[4] These fee waivers will be in effect beginning with the launch of trading in XEO on July 23, 2001.

Specifically, the Exchange proposes to waive the transaction fee, trade match fee, floor brokerage fee, and Retail Automatic Execution Systems (''RAES'') fee for public customer XEO orders. The Exchange has decided to waiver these fees through October 31, 2001, to promote the launch of the XEO product. The Exchange believes these fee waivers will serve to make XEO competitive with competing products at other exchanges while generating significant saving for its customers.[5]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(4) of the Act[7] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange 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

Because the foregoing proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and Rule 19b–4(f)(2)[9] thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written 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 No. SR–CBOE–2001–42 and should be submitted by September 4, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–20185 Filed 8–10–01; 8:45 am]

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[4] These public customer fees are fees assessed on CBOE members relating to public customer XEO orders executed by CBOE members. Telephone conversation between Chris Hill, Attorney II, CBOE, and Yvonne Fraticelli, Special Counsel, Division of Market Regulation, Commission, on July 30, 2001.

[5] The Commission notes that this fee waiver is similar to that granted for reduced-value Nasdaq 100 Index (''NMX'') options. Securities Exchange Act Release No. 43221 (August 29, 2000), 65 FR 54333 (notice of filing and immediate effectiveness of File No. SR–CBOE–00–39).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44659; File No. SR–ISE–2001–18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the International Securities Exchange LLC, Relating to Priority Principles on Complex Orders

August 6, 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 25, 2001, the International Securities Exchange LLC (''ISE'' 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 ISE. On July 11, 2001, the Exchange filed Amendment No. 1 to the proposed rule change.[3] On July 24, 2001, the Exchange filed Amendment No. 2 to the proposed rule change.[4] On August 2, 2001, the Exchange filed Amendment No. 3 to the proposed rule change.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 expanded upon the discussion contained in the purpose section of the filing, corrected various typographical errors, and added a one-year sunset to the proposed rule that the Exchange inadvertently omitted in its original filing. *See* letter from Jennifer M. Lamie, Assistant General Counsel, ISE to Nancy Sanow, Assistant Director, Division of Market Regulation (''Divison''), Commission, dated July 10, 2001.

[4] Amendment No. 2 made a technical change to the text of the one-year sunset provision of the proposed rule change. *See* letter from Jennifer M. Lamie, Assistant General Counsel, ISE to Nancy Sanow, Assistant Director, Division, Commission, dated July 23, 2001.

[5] In Amendment No. 3, the Exchange added text to the proposed rules relating to stock-option orders, and the effect of price increments on order priority. The Exchange also amended the purpose section of the filing by adding a further description of the operation of the proposed allocation procedures. *See* letter from Jennifer M. Lamie, Assistant General Counsel, ISE to Nancy Sanow, Assistant Director, Division, Commission, dated August 2, 2001.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to adopt Rule 722 (Complex Orders) to establish priority and order handling principles for complex orders, such as spreads, straddles, and other multi-legged transactions, similar to other options exchanges. Below is the text of the proposed rule change. Proposed new language is in *italics.* Proposed deletions are in [brackets].

* * * * *

Rule 722. Complex Orders

(a) Complex Orders Defined. A complex order is any order for the same account as defined below:

(1) Spread Order. A spread order is an order to buy a stated number of option contracts and to sell the same number of option contracts, of the same class of options.

(2) Straddle Order. A straddle order is an order to buy (sell) a number of call option contracts and the same number of put option contracts on the same underlying security which contracts have the same exercise price and expiration date (e.g., an order to buy two XYZ July 50 calls and to buy two XYZ July 50 puts).

(3) Strangle Order. A strangle order is an order to buy (sell) a number of call option contracts and the same number of put option contracts in the same underlying security, which contracts have the same expiration date (e.g., an order to buy two ABC June 40 calls and to buy two ABC June 35 puts).

(4) Combination Order. A combination order is an order involving a number of call option contracts and the same number of put option contracts in the same underlying security and representing the same number of shares at option.

(5) Stock-Option Order. A stock-option order is an order to buy or sell a stated number of units of an underlying stock or a security convertible into the underlying stock (''convertible security'') coupled with either (i) the purchase or sale of option contract(s) on the opposite side of the market representing either the same number of units of the underlying stock or convertible security or the number of units of the underlying stock necessary to create a delta neutral position; or (ii) the purchase or sale of an equal number of put and call option contracts, each having the same exercise price, expiration date, and each representing the same number of units of stock, as and on the opposite side of the market from, the stock or convertible security portion of the order.

(6) Ration Order. A spread, straddle or combination order may consist of a different number of contracts, so long as the number of contracts differs by a permissible ratio. For purposes of this paragraph, a permissible ratio of contracts is any of the following: one-to-one, one-to-two and two-to-three.

(7) Butterfly Spread Order. A butterfly spread order is an order involving three series of either put or call options all having the same underlying security and time of expiration and, based on the same current underlying value, where the interval between the exercise price of each series is equal, which orders are structured as either (i) a ''long butterfly spread'' in which two short options in the same series offset by one long option with a higher exercise price and one long option with a lower exercise price or (ii) a ''short butterfly spread'' in which two long options in the same series are offset by one short option with a higher exercise price and one short option with a lower exercise price.

(8) Box Spread Order. A box spread order is an order involving (a) a long call option and a short put option with the same exercise price, coupled with (b) a long put option and a short call option with the same exercise price; all of which have the same underlying security and time of expiration.

(9) Collar Order. A collar order is an order involving the sale of a call option coupled with the purchase of a put option in equivalent units of the same underlying security having a lower exercise price than, and same expiration dates as, the sold call option.

(b) Applicability of Exchange Rules. Except as otherwise provided in this Rule, complex orders shall be subject to all other Exchange Rules that pertain to orders generally.

(1) Minimum Increments. Bids and offers on complex orders may be expressed in any decimal price regardless of the minimum increments otherwise appropriate to the individual legs of the order. Complex orders expressed in net price increments that are not multiples of the minimum increment are not entitled to the same priority under subpargarph (b)(2) of this Rule as such orders expressed in increments that are multiples of the minimum increment.

(2) Complex Order Priority. Notwithstanding the provisions of Rule 713, a complex order, as defined in paragraph (a) of this Rule, may be executed at a total credit or debit price with one other member without giving priority to bids or offers established in the marketplace that are no better than the bids or offers comprising such total credit or debit; provided, however, that if any of the bids or offers established in the marketplace consist of a Public Customer limit order, the price of at least one leg of the complex order must trade at a price that is better than the corresponding bid or offer in the marketplace. Under the circumstances described above, the option leg of a stock-option order, as defined in subparagraph (a)(5)(i) of this Rule, has priority over bids and offers established in the marketplace by Non-Customer orders and market maker quotes that are no better than the price of the options leg, but not over such bids and offers established by Public Customer Orders. The option legs of a stock-option order as defined in subparagraph (a)(5)(ii), consisting of a combination order with stock, may be executed in accordance with the first sentence of this subparagraph (b)(2).

(3) Execution of Orders. Complex orders will be executed without consideration of any prices that might be available on other exchanges trading the same options contracts.

(4) Types of Complex Orders. Complex orders may be entered as fill-or-kill or immediate-or-cancel orders, as defined in Rule 715(b), or as all-of-none orders, which are resting limit orders to be executed in their entirety or not all.

(5) Limitations on Complex Orders.

(i) A member may execute as principal up to forty percent (40%) of an order it represents as agent without complying with the thirty (30) second exposure requirement contained in Rule 717(d).

(ii) A member may execute up to forty percent (40%) of an order it represents as agent against an order solicited from a Member and non-member broker-dealer to transact with such order without complying with the thirty (3) second exposure requirement contained in Rule 717(e).

(iii) The restrictions on order entry contained in paragraphs (f) and

(h) of Rule 717 shall not apply to complex orders.

Supplementary Material to Rule 722

.01 This Rule 722 will be in effect until [INSERT DATE ONE YEAR FROM COMMISSION APPROVAL OF SR–ISE–2001–18].

Rule 805. Market Maker Orders

(a) Options Classes to Which Appointed. Market makers may not place principal orders to buy or sell options in the options classes to which they are appointed under Rule 802, other than immediate-or-cancel orders,

complex and block-size orders executed through the Block Order Mechanism pursuant to Rule 716(c). Competitive Market Makers shall comply with the provisions of Rule 804(e)(2)(ii) upon the entry of such orders if they were not previously quoting in the series.

(b) Options Classes Other Than Those to Which Appointed.

(1)—A market maker may enter *all order types permitted to be entered by non-customer participants under the Rules* [limit orders, and immediate-or-cancel orders] to buy or sell options in classes of options listed on the Exchange to which the market maker is not appointed under Rule 802, provided that:

* * * * *

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 ISE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments in received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, Exchange members wishing to execute complex orders, such as spreads, straddles and other multi-legged transactions, must enter at least two separate orders into the trading system. As a result, the member is at risk in that one part of the order may be filled, while the remainder goes unexecuted. ISE is therefore developing system functionality to permit more efficient and effective execution of certain defined multi-legged orders through entry of a single complex order. The purpose of this proposed rule change is to prescribe the priority and order handling principles that will apply to such complex orders when priced on the basis of a total credit or debit (''net price''). The Exchange believes that these rule changes will facilitate the orderly execution of complex orders in our electronic trading environment.

To qualify for special priority and order handling treatment, complex orders must meet the requirements of proposed Rule 722. As defined in paragraph (a), orders included within the definition of complex orders are orders entered for the same account which are spread orders, straddle orders, strangle orders, combination orders, stock-option orders, ratio orders, butterfly spread orders, box spread orders and collar orders. When meeting the definitional criteria and entered as a net price, these defined orders will be considered complex orders and will be accorded priority over the displayed bids and offers of members, other broker-dealers and Public Customers on the ISE at the same price if the conditions specified in paragraph (b) of the proposed rule are met.

Paragraph (b) of the rule provides that the legs of a complex order may not be executed at prices inferior to the displayed best bids and offers available in the ISE market. It further provides that a complex order entered at a net price may be executed with one other member without yielding priority to the displayed bids or offers of members and other broker-dealers established in the ISE market provided that the bids and offers comprising the net price of the complex order are the same as or better than the displayed bids or offers. If the displayed bids or offers established in the ISE market consist of a Public Customer Order, the price of at least one leg of the complex order must trade at a price better than the corresponding best bid or offer established in the ISE marketplace. As such, the proposal provides that complex orders entered at a net price have priority over the displayed bids and offers of members and other broker-dealers, but not over Public Customers.[6] The Exchange believes that this approach affords greater protection to Public Customers since one leg of the complex order must at least trade at a better price than the displayed market (while all remaining legs must still at least touch the other bids or offers in the displayed market) before a Public Customer will lose priority. In addition, because the proposed rule requires that one member must represent all legs of the trade and that the trade may only be executed against one other member at a net debit or credit, Public Customers are still less likely to lose priority to complex orders. The Exchange believes that this approach is a reasonable effort to accommodate the ability to price complex orders more competitively while at the same time not disadvantaging Public Customers.

The proposed rule specifies that the net price of a complex order may be expressed in any decimal price, regardless of the minimum increments otherwise applicable to the individual legs of the complex order. It also states that complex orders may be entered as fill-or-kill, immediate-or-cancel, or all-or-none. Further, complex orders are not subject to the restrictions on order entry pertaining to the electronic generation of orders and multiple orders for the same beneficial account contained in rule 717(f) and (h).[7] The proposal further provides that the legs comprising a complex order receive neither time-price priority nor away market price protection.[8]

In proposing these complex order provisions, the Exchange also proposes to allow a firm to execute immediately up to forty percent (40%) of a complex order, either as principal or against an order it has solicited, as opposed to applying the 30 second exposure rule that currently applies to orders in the ''regular'' market under paragraphs (d) and (e) of Rule 717. A firm would still be required to expose the remaining sixty percent (60%) of the complex order for 30 seconds.

The exposure of limit orders required by paragraphs (d) and (e) does not affect the execution price of the orders. Rather, this exposure gives the crowd an opportunity to participate in the execution of the orders before the entering member may trade against the orders as principal. The Exchange is

[6] This approach of permitting a complex order entered at a net price to take priority over Public Customer orders only when at least one leg of the transaction trades at a better price and the remaining legs at a price at least equivalent to the established market, and over the displayed bids and offers of members and other broker-dealers when all legs of the complex order trade at a price at least equivalent to the displayed market, is similar to that adopted by the Chicago Board Options Exchange (''CBOE''). *See* CBOE Rule 6.45. By comparison, the American and Philadelphia Stock Exchanges (''Amex'' and ''Phlx,'' respectively) appear to require that at least one leg of a complex order trade at a better price to take priority over bids and offers established by both Public Customers and members; whereas, the Pacific Exchange (''PCX'') appears to merely require that a complex order trade (other than stock-option orders) at a price at least equivalent to the displayed market to take priority over bids and offers established by both Public Customers and members. *See* Amex Rule 950(d), Commentary .01, Phlx Rule 1033 and PCX Rule 6.75.

[7] The risks to market maker quotations that the restrictions contained in paragraphs (f) and (h) of Rule 717 are designed to protect against (i.e., protection against rapid entry of electronic orders and multiple order entry, respectively) are not apparent with respect to complex order entry as such orders do not receive automatic executions.

[8] In connection with establishing an intermarket linkage between the options exchanges, the ISE and other options exchanges are developing rules on which types of orders are and are not subject to trade through protection. When these linkage rules are adopted, ISE will if necessary amend its complex order rule to be consistent with the provisions developed under the intermarket linkage plan.

proposing to permit a member to execute up to 40% of a complex order (which is a limit order by definition because it must be entered with a total debit or credit price) as principal immediately because the Exchange's Facilitation Mechanism contained in Rule 716(d), which guarantees a facilitating firm an execution of at least forty percent (40%) of the original size of a facilitation order in the ''regular'' market, will not be available for complex orders. Under the proposal, a member that wants to facilitate a complex order will be permitted to enter a proprietary counter-order to trade against up to forty percent (40%) of the initial complex order size prior to the expiration of 30 seconds. Thus, the trading crowd will be given an opportunity to participate in the execution of at least 60% of each complex order. Any portion of an order that remains unexecuted after 30 seconds may be executed by the member by entering another proprietary order.

The Exchange believes that the proposed rule changes strike an appropriate balance because they will not permit trades at prices inferior to the displayed bids and offers available in the ISE market, while providing the added protection that a complex order will not trade ahead of Public Customer orders at the same price unless the net price is better than what is available in the market. In those circumstances where an order meets the criteria contained in proposed Rule 722, the Exchange believes it is fair to give complex orders entered at a net price the prescribed special priority and order handling treatment.

This proposal permits ISE members to execute orders in a manner that is similar to how such orders are executed on the floor-based exchanges today. The Exchange proposes to adopt these rules for one year only, while the Exchange develops technology that might improve upon the existing execution practices of the industry today. The Exchange will file a new proposal with the Commission prior to the expiration of the rule.

Finally, the Exchange is proposing to amend Rule 805 (Market Maker Orders) to permit the entry of complex orders by market makers. In lieu of individually listing the types of orders that a market maker is permitted to enter outside of its appointed classes, the Exchange also proposes to amend the language in paragraph (b) of Rule 805 to clarify that market makers can enter any type of order outside their assigned classes that other non-customers are permitted to enter as all such order types were listed in the rule.

2. Statutory Basis

The basis under the act for this proposed rule change is the requirement under Section 6(b)(5) [9] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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.

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, N.W., Washington, D.C. 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 ISE. All submissions should refer to File No. SR–ISE–2001–18 and should be submitted by September 4, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–20181 Filed 8–10–01; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78f(b)(5).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44651; File No. SR–NASD–2001–38]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1 and 2 Thereto Filed by the National Association of Securities Dealers, Inc. Relating to the Listing of Additional Shares

August 3, 2001.

I. Introduction

On May 29, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the listing of additional shares. The **Federal Register** published the proposed rule change for comment on July 2, 2001.[3] Nasdaq submitted

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 44467 (June 22, 2001), 66 FR 34973.

Amendment Nos. 1[4] and 2[5] to the proposed rule change on July 13, 2001 and July 19, 2001, respectively. The Commission received no comments on the proposed rule change. This order approves the proposed rule change and grants accelerated approval to Amendment Nos. 1 and 2.

II. Description

Nasdaq proposes to amend Nasdaq Marketplace Rules 4320, 4510, and 4520, regarding the listing of additional shares (''LAS Program''). Nasdaq proposes to amend Nasdaq Marketplace Rules 4510(b)(2) and 4520(b)(2) to provide a carve-out from fees for the listing of additional shares for issuances of up to 49,999 shares per quarter. To offset the loss in revenues resulting from this carve-out, Nasdaq proposes to change the maximum quarterly fee for the listing of additional shares from $17,500 to $22,500 and the maximum annual fee from $35,000 to $45,000. Nasdaq states that these changes will alleviate issuers' concerns regarding small issuances while maintaining the revenues generated by the current LAS fee schedule. Nasdaq also proposes to amend Nasdaq Marketplace Rules 4510(b)(4) and 4520(b)(4) to give the Board of Directors, or its designee, the ability to defer or waive all or any part of the fees relating to the LAS Program.

Lastly, Nasdaq proposes to clarify the LAS notification requirement for foreign issuers. Originally, Nasdaq Marketplace Rule 4320(e)(15) excluded American Depositary Receipts (ADRs) from the LAS notification requirements for foreign issuers because it is very difficult to track the creation as well as unwinding of ADRs and their creation may not implicate any Nasdaq regulatory requirements. When the notification requirements were amended in January 2000,[6] the exclusion of ADRs was inadvertently omitted from Rule 4320(e)(15). As such, Nasdaq proposes to amend this Rule to clarify that ADRs are not subject to the LAS notification requirement.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[7] In particular, the Commission finds that the proposed rule change is consistent with the requirements of Sections 15A(B)(5)[8] and 15A(b)(6)[9] of the Act. Section 15A(b)(5) requires the rules of the Association to provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that the Association operates or controls. Section 15A(b)(6) of the Act requires the Association's rules to be designed to promote just and equitable principles of trade, and to protect investors and the public interest. The Commission believes that the proposed rule change changes will alleviate issuers' concerns regarding fees for small issuances while maintaining the revenues generated by the current LAS fee schedule. In addition, the Commission believes that it is appropriate for the NASD to have the ability to defer or waive LAS fees in situations where such action would be justified to achieve an equitable result. Finally, the Commission believes that the proposed rule change will benefit investors and the public interest by clarifying that ADRs are not subject to the LAS notification requirement.

The Commission finds good cause for accelerating approval of Amendment Nos. 1 and 2 to the proposed rule change prior to the thirtieth day after publication in the **Federal Register**. These amendments merely correct typographical errors and request retroactive effectiveness of the proposed rule change be June 29, 2001, which will permit issuers to benefit from the proposed rule change without undue delay. Accordingly, the Commission finds that good cause exists to accelerate approval of Amendment Nos. 1 and 2 to the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1 and 2, including whether the amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule 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 the File No. SR–NASD–2001–38 and should be submitted by September 4, 2001.

V. Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–NASD–2001–38), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–20184 Filed 8–10–01; 8:45 am]

BILLING CODE 8010–01–M

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[4] *See* letter from John D. Nachman, Senior Attorney, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated June 29, 2001 (''Amendment No. 1''). Amendment No. 1 corrects typographical errors in the text of the proposed rule change. Specifically, Amendment No. 1 amends proposed Nasdaq Marketplace Rules 4510(b)(2) and 4520(b)(2) to provide a maximum quarterly fee of $22,500, instead of $22,000.

[5] *See* letter from John D. Nachman, Senior Attorney, Nasdaq, to Florence Harmon, Senior Special Counsel, Division, Commission, dated July 19, 2001 (''Amendment No. 2''). Amendment No. 2 requests the Commission to approve the proposed rule change on a retroactive basis effective June 29, 2001.

[6] *See* Securities Exchange Act Release No. 42351 (January 20, 2000), 64 FR 4457 (January 27, 2000).

[7] In approving the 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. 78o–3(b)(6).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44658; File No. SR–NYSE–2001–12]

Self Regulatory Organizations; New York Stock Exchange; Order Granting Approval to Proposed Rule Change Amending Sections 102.01C, 103.01B, and 802.01C of the Listed Company Manual and NYSE Rule 499

August 6, 2001.

On May 17, 2001, the New York Stock Exchange, Inc. (''NYSE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the securities Exchange Act of 1934 (''Act'')[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend sections 102.01C and 103.01B of the *Listed Company Manual* to align the cash flow revenue original listing standard with that of the global market capitalization standard. The proposed rule change would also amend section

802.01C of the *Listed Company Manual* and NYSE Rule 499 to require a press release announcement when a company is notified it is below the $1.00 price standard.

The proposed rule change was published for comment in the **Federal Register** on July 6, 2001.[3] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, the requirements of Section 6 of the Act[5] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act[6] 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, in general, to protect investors and the public interest. The proposal, which will align the cash flow revenue original listing standard with the global market capitalization standard, should continue to allow the Exchange to list companies that the Exchange believes will prove to be financially successful in the future, although recently they may not have been as profitable. The Commission also believes that the press release requirement for companies that are below criteria by reason of their share price is consistent with the Act, because it improves investor access to information. The Exchange already requires companies falling below the Exchange's other financial continued listing criteria related to market capitalization and shareholder's equity to put out a press release after notification by the Exchange.[7]

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act[8], that the proposed rule change (SR–NYSE–2001–12) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–20182 Filed 8–10–01; 8:45 am]

BILLING CODE 8010–01–M

[3] *See* Securities Exchange Act Release No. 44484 (June 28, 2001), 66 FR 35686.

[4] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] *See Listed Company Manual* sections 802.02 and 802.03.

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44652; File No. SR–OCC–00–04]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change Relating to the Definition of Marking Price and Closing Price

August 3, 2001.

On May 2, 2000, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–OCC–00–04) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on January 9, 2001.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

Under the rule change, OCC will conform the definition of ''marking price'' in OCC Rule 601 to the definition of ''closing price'' in OCC Rule 805. Rule 601 specifies the procedure for margining short positions in equity options. Under this procedure, open short positions are margined based on prices or quotes for the option itself. Assigned short positions, however, are margined based on the difference between the strike price of the option and the ''marking price'' of the underlying stock. Unlike the definition of ''closing price'' in Rule 805(j), the definition of ''marking price'' in Rule 601(b)(6) still refers to the closing price of an underlying stock on its ''primary market.''

OCC believes that the definition of ''marking price'' in Rule 601(b)(6) and the definition of ''closing price'' in Rule 805(j) should not be materially different. According to OCC, the two prices are normally determined in the same manner and therefore should be defined in the same way. Therefore, OCC proposes that the Rule 601 definition of ''marking price'' conform to Rule 805 because the same concerns that led OCC to replace the term ''primary market'' in Rule 805 apply equally in the context of Rule 601.

The rule change also revises both definitions to clarify that OCC will normally determine underlying stock prices based on the last reported sale price during regular business hours. Specifically, Rule 805(j) and 601(b)(6) will be amended to refer to the last reported sale price ''during regular trading hours (as determined by the Corporation [OCC]). * * *''[3]

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F)[4] of the Act. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission finds that OCC's rule change meets these conditions because it is designed to provide OCC's members greater administrative and operational convenience and clarity. By conforming the definitions of ''marking price'' and ''closing price,'' OCC will be able to apply its procedural rules for clearing and settling expiring options in a more consistent manner. The same concerns that led OCC to replace the term ''primary market'' in Rule 805 in 1999 are equally valid in the context of Rule 601. Similarly, OCC is clarifying its rule by specifying in both Rules 601 and 805 that the last sale price is based on trading during regular trading hours. Thus, the rule change should reduce potential confusion among OCC's clearing members and therefore should promote the prompt and accurate clearance and settlement of securities transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 43782 (Dec. 29, 2000), 66 FR 1712.

[3] Before February 1999, Rule 805(j) defined ''closing price'' to mean the closing price of an underlying stock ''on its primary market.'' In recognition of the increasing fragmentation of the equity markets, the rule was amended in February 1999 to refer instead to the last reported sale price ''on such national securities exchange or other domestic securities market as [OCC] shall determine.'' Securities Exchange Act Release No. 41089 (Feb. 23, 1999), 64 FR 10051 (Mar. 1, 1999).

[4] 15 U.S.C. 78q–1(b)(3)(F).

Section 17A of the Act and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–00–04) be, and hereby is, approved.

For the Commission by the Division of Market Regulation pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–20234 Filed 8–10–01; 8:45 am]

BILLING CODE 8010–01–M

[5] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Region IX—Hawaii District Advisory Council; Public Meeting

The Small Business Administration Region IX Hawaii District Advisory Council, located in the geographical area of Honolulu, Hawaii, will hold a public meeting at 10 a.m pacific time on Thursday, September 6, 2001, at the Prince Kuhio Federal Building, 300 Ala Moana Blvd., Room 5–161, Honolulu, HI 96850, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

Anyone wishing to make an oral presentation to the Board must contact Andrew K. Poepoe, District Director, in writing by letter or fax no later than August 13, 2001, in order to be put on the agenda. Andrew K. Poepoe, District Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2–235 Honolulu, Hawaii 96850–4981 (808) 541–2965, phone (808) 541–2976 fax.

Nancyellen Gentile,

Committee Management Officer.

[FR Doc. 01–20210 Filed 8–10–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3753]

Culturally Significant Objects Imported for Exhibition; Determinations: ''Treasury of the World'': Jeweled Arts of India in the Age of the Mughals

AGENCY: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, I hereby determine that the objects to be included in the exhibit ''Treasury of the World'': Jeweled Arts of India in the Age of the Mughals, imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects will be imported pursuant to a loan agreement with a foreign lender. I also determine that the temporary exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, NY, from on or about October 15, 2001, to on or about January 13, 2002; the Cleveland Museum of Art, Cleveland, OH, from on or about February 24, 2002, to on or about May 19, 2002; the Museum of Fine Arts, Houston, TX, from on or about June 30, 2002, to on or about October 27, 2002, and possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: August 6, 2001.

Brian J. Sexton,

Deputy Assistant Secretary for Professional Exchanges, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 01–20285 Filed 8–10–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Meeting of the National Parks Overflights Advisory Group

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The Federal Aviation Administration and the National Park Service announce a meeting of the National Parks Overflights Advisory Group for August 28–29, 2001. The Advisory Group was established on April 5, 2001, by the National Parks Air Tour Management Act of 2000, to provide continuing advice and counsel with respect to commercial air tour operations over and near national parks. This notice advises the public of an initial, administrative meeting of the advisory group.

DATES: The meeting will be held on August 28 and 29, 2001, at the Flamingo Hilton Hotel, 3555 Las Vegas Boulevard, Las Vegas, NV, 89109. Meeting times are 8:30 a.m. to 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: If you wish to attend the meeting, or have questions on the meeting, contact Howard Nesbitt, Flight Standards Service, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 493–4981; email: howard.nesbitt@faa.gov or Marvin Jensen, Soundscapes Office, National Park Service, 1201 Oak Ridge Drive, Suite 200, Ft. Collins, CO 80525, telephone (970) 225–3563, email:marin jensen@nps.gov.

SUPPLEMENTARY INFORMATION:

Background

The National Air Tour Management Act of 2000 was enacted on April 5, 2000, as Public Law 106–181. Section 805 of that Act requires the establishment of an advisory group to ''provide continuing advice and counsel with respect to commercial air tour operations over and near national parks.'' To fulfill this mandate, on March 12, 2001, in a **Federal Register** notice, the Federal Aviation Administration (FAA) and National Park Sservice (NPS) invited members of the public who were interested in serving on the advisory group to contact the agencies. Subsequently, the FAA and NPSs selected members from those nominated to serve on the advisory group. Those members were announced in the **Federal Register** on June 19, 2001: Andy Cebula, Aircraft Owners and Pilots Association; Joseph Corrao, Helicopter Association International; Charles Maynard, Friends of the Great Smoky Mountain National Park; Boyd Evison, former National Park Superintendent and Regional Director; and Germaine White, Confederated Salish and Kootani.

The purpose of this initial meeting of the advisory group is to establish administrative procedures: protocol, recordkeeping, and other process matters. Because the rulemaking to codify the Act is not yet complete and the air tour management plan process is not in place, the advisory group has no policy issues to consider.

Public Participation

This meeting of the advisory committee is open to the public, but is not a public meeting. That is, accommodation for additional attendees will be provided on an 'as needed' and space available basis. Therefore, it is very important that you contact one of the persons listed under **FOR FURTHER INFORMATION CONTACT** if you wish to attend the meeting. In addition, a record of the meeting will be kept, and this record will be available to the public through the persons listed under **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC on August 2, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

[FR Doc. 01–19862 Filed 8–10–01; 8:45 am]

BILLING CODE 4910–13–M≤

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34048]

Reading Blue Mountain and Northern Railroad Company—Lease and Operation Exemption—Norfolk Southern Railway Company and Pennsylvania Lines, LLC

Reading Blue Mountain and Northern Railroad Company (RBMN), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to sublease and operate approximately 1.3 miles of rail line currently owned by Pennsylvania Lines LLC and currently operated by Norfolk Southern Railway Company (NSR). The rail line extends between milepost 212.2 and a point 150 feet west of the western control point for Robinson's Crossing (milepost 213.5±) near Mehoopany, in Wyoming County, PA.[1]

Because RBMN's projected annual revenues will exceed $5 million, RBMN certified to the Board on July 17, 2001, that, on May 25, 2001, it had posted the required notice of intent to undertake the proposed transaction at the workplace of the employees on the affected lines and had served a copy of the notice of intent on the national offices of the labor union with employees on the rail line. *See* 49 CFR 1150.42(e).[2] RBMN stated in its verified notice that the transaction was scheduled to be consummated on or after July 25, 2001.[3]

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34048, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P. O. Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: August 6, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–20102 Filed 8–10–01; 8:45 am]

BILLING CODE 4915–00–P

[1] RBMN will replace NSR as the operator on the line.

[2] The National Office of the United Transportation Union (UTU) apparently had not received a copy of RBMN's notice of intent in May. RBMN has subsequently provided that notice of intent to the UTU and certified its compliance on July 25, 2001.

[3] Due to the timing of RBMN's certification to the Board, consummation under these circumstances would have had to be delayed until September 23, 2001 (60 days after RBMN's certification to the Board that it had complied with the Board's rule at 49 CFR 1150.42(e)). In a decision in this proceeding served on August 1, 2001, however, the Board granted the request by RBMN for waiver of the remainder of the 60-day period, as measured from the certification date to the Board, to allow consummation to occur as early as August 1, 2001.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–565 (Sub-No. 3X); STB Docket No. AB–55 (Sub-No. 595X)]

New York Central Lines, LLC—Abandonment Exemption—in Berkshire County, MA; CSX Transportation, Inc.—Discontinuance of Service Exemption—in Berkshire County, MA

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT), have filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for NYC to abandon and CSXT to discontinue service over approximately 1.91 miles of railroad between milepost QBY–0.59 and milepost QBY–2.50 in Pittsfield, in Berkshire County, MA.[1] The line traverses United States Postal Service Zip Code 01201.

NYC and CSXT have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on September 12, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 23, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 4, 2001, with: Surface Transportation Board, Office of the Secretary, Case

[1] Pursuant to Board authorization in 1998, CSX Corporation, CSXT's parent company, and Norfolk Southern Corporation jointly acquired control of Conrail Inc., and its wholly owned subsidiary, Consolidated Rail Corporation (Conrail). As a result of that acquisition, certain assets of Conrail have been assigned to NYC, a wholly owned subsidiary of Conrail, to be exclusively operated by CSXT pursuant to an operating agreement. The line to be abandoned is included among the property being operated by CSXT pursuant to the NYC operating agreement.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representative: Natalie S. Rosenberg, Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NYC and CSXT have filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by August 17, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NYC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NYC's filing of a notice of consummation by August 13, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at WWW.STB.DOT.GOV.

Decided: August 3, 2001.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–20101 Filed 8–10–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 6, 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 September 12, 2001 to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0029.

Form Number: TFS 5118.

Type of Review: Reinstatement.

Title: Depositor's Application for Payment of Postal Savings Certificate.

Description: This form is prepared when a depositor has lost, destroyed, or misplaced his Postal Savings Certificates. Form properly completed and signed replaces unavailable certificates to support application for payment, if original certificates show up, documents prevents duplicate pay.

Respondents: Individuals or households.

Estimated Number of Respondents: 200.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 50 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.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–20265 Filed 8–10–01; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 2, 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 September 12, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0923.

Regulation Project Number: INTL–45–86 Final (TD 8125).

Type of Review: Extension.

Title: Foreign Management and Foreign Economic Processes Requirements of a Foreign Sales Corporation.

Description: These regulations provide rules for complying with foreign management and foreign economic process requirements to enable Foreign Sales Corporations to produce foreign trading gross receipts and qualify for reduced tax rates. Rules are included for maintaining records to substantiate compliance. Affected public is limited to large corporations that export goods or services.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 11,001.

Estimated Burden Hours Per Recordkeeper: 2 hours.

Frequency of Response: Other (one-time only).

Estimated Total Recordkeeping Burden: 22,001 hours.

OMB Number: 1545–1186.

Form Number: IRS Form 8825.

Type of Review: Extension.

Title: Rental Real Estate Income and Expense of a Partnership or an S Corporation.

Description: Form 8825 is used to verify that partnerships and S corporations have correctly reported their income and expenses from rental real estate property. The form is filed with either Form 1065 or Form 1120S.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 705,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	6 hr., 28 min.
Learning about the law or the form.	34 min.
Preparing the form	1 hr., 38 min.
Copying, assembling, and sending the form to the IRS.	16 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 6,288,600 hours.

OMB Number: 1545–1357.

Regulation Project Number: PS–78–91 Final, PS–50–92 Final and REG–114664–97 Final.

Type of Review: Extension

Title: Procedure for Monitoring Compliance with Low-Income Housing Credit Requirements (PS–78–91);

Rules to Carry Out the Purposes of Section 42 and for Correcting Administrative Errors and Omissions (PS–50–92); and

Compliance Monitoring and Miscellaneous Issues Relating to the Low-Income Housing Credit (REG–114664–97)

Description: PS–78–91 The regulations require state allocation plans to provide a procedure for state and local housing credit agencies to monitor for compliance with the requirements of section 42 and report noncompliance to the IRS.

PS–50–92 These regulations concern the Secretary's authority to provide guidance under section 42, and provide for the correction of administrative errors and omissions related to the allocation of low-income housing credit dollar amounts and recordkeeping.

REG–114664–97 The regulation amends the procedures for State and local housing credit agencies' compliance monitoring and the rules for State and local housing credit agencies' correction of administrative errors or omissions.

Respondents: Business or other for-profit, Individuals or household, Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 22,055.

Estimated Burden Hours Per Respondent/Recordkeeper: 4 hours, 45 minutes.

Frequency of Response: Annually

Estimated Total Reporting/Recordkeeping Burden: 104,899 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–20266 Filed 8–10–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8867

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8867, Paid Preparer's Earned Income Credit Checklist.

DATES: Written comments should be received on or before October 12, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Paid Preparer's Earned Income Credit Checklist.

OMB Number: 1545–1629.

Form Number: 8867.

Abstract: Form 8867 helps preparers meet the due diligence requirements of Internal Revenue Code section 6695(g), which was added by section 1085(a)(2) of the Taxpayer Relief Act of 1997. Paid preparers of Federal income tax returns or claims for refund involving the earned income credit (EIC) must meet the due diligence requirements in determining if the taxpayer is eligible for the EIC and the amount of the credit. Failure to do so could result in a $100 penalty for each failure. Completion of Form 8867 is one of the due diligence requirements.

Current Actions: There are no changes being made to the form at this time.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 8,368,447.

Estimated Time Per Respondent: 1 hr., 10 mins.

Estimated Total Annual Burden Hours: 9,707,399.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 7, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–20275 Filed 8–10–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Medical Research Service Merit Review Committee, Notice of Meetings

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act, 5 U.S.C. App., of the following meetings to be held from 8 a.m. to 5 p.m. as indicated below:

Subcommittee for	Date	Location *
Nephrology	September 17, 2001	Radisson Barcelo.
Cardiovascular Studies	September 24, 2001	Holiday Inn Central.

Subcommittee for	Date	Location *
Endocrinology	September 24–25, 2001	Marriott Residence Inn.
Aging & Clinical Geriatrics	October 1, 2001	Holiday Inn Central.
Gastroenterology	October 1, 2001	Holiday Inn Central.
Hematology	October 3, 2001	Holiday Inn Central.
Mental Hlth & Behav Sciences	October 4–5, 2001	Holiday Inn Central.
Neurobiology-C	October 8–9, 2001	Radisson Barcelo.
Immunology & Dermatology	October 9, 2001	Holiday Inn Central.
Neurobiology-D	October 11–12, 2001	Marriott Residence Inn.
Respiration	October 12, 2001	Holiday Inn Central.
Surgery	October 15, 2001	Holiday Inn Central.
Oncology	October 15–16, 2001	Holiday Inn Central.
Alcoholism & Drug Dependence	October 22, 2001	Holiday Inn Central.
Epidemiology	October 22, 2001	Holiday Inn Central.
Infectious Diseases	October 23–24, 2001	Holiday Inn Central.
General Medical Science	October 25–26, 2001	Holiday Inn Central.
Medical Research Service Merit Review Committee	December 6, 2001	Marriott Residence Inn.

* The addresses of the hotels are:
Holiday Inn Central Hotel, 1501 Rhode Island Avenue, NW, Washington, DC 20005.
Marriott Residence Inn Washington—Thomas Circle, 1199 Vermont Avenue, NW., Washington, DC 20005.
Radisson Barcelo Hotel, 2121 P Street, NW., Washington, DC 20037.

These subcommittee meetings are for the purpose of evaluating the scientific merit of research conducted in each specialty by Department of Veterans Affairs (VA) investigators working in VA Medical Centers and Clinics.

The subcommittee meetings will be open to the public for approximately one hour at the start of each meeting to discuss the general status of the program. The remaining portion of each subcommittee meeting will be closed to the public for the review, discussion, and evaluation of initial and renewal projects.

The closed portion of the meetings involves discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols and similar documents. During this portion of the subcommittee meetings, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which could significantly frustrate implementation of proposed agency action regarding such research projects.

As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of these subcommittee meetings is in accordance with 5 U.S.C., 552b(c)(6) and (9)(B). Those who plan to attend or would like to obtain a copy of minutes of the subcommittee meetings and rosters of the members of the subcommittees should contact LeRoy Frey, Ph.D., Chief, Program Review Division, Medical Research Service, Department of Veterans Affairs, Washington, DC, (202) 408–3630.

Dated: August 2, 2001.

By Direction of the Secretary.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 01–20279 Filed 8–10–01; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 66, No. 156

Monday, August 13, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement (DEIS) as Part of a Section 404 of the Clean Water Act, Permit Application Evaluation for the Proposed South Lawrence Trafficway/ K–10 Highway Extension Project, in and near the City of Lawrence, in Douglas County, Kansas

Correction

In notice document 01–19759 beginning on page 41211 in the issue of Tuesday, August 7, 2001, make the following correction:

On page 41211, in the second column, under **FOR FURTHER INFORMATION CONTACT:**, in the third line, the telephone number '' (816) 983-3635'' should read, ''(816) 983-3656 ''.

[FR Doc. C1–19759 Filed 8–10–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent to Prepare a Joint Supplemental Environmental Impact Statement (SEIS)/Supplemental Environmental Impact Report(SEIR) for the Llagas Creek Flood Control Project

Correction

In notice document 01–19758 beginning on page 41212 in the issue of Tuesday, August 7, 2001, make the following correction:

On page 41212, in the third column, under the heading **FOR FURTHER INFORMATION CONTACT**, in the third line, the telephone number ''(415) 977–8543'' should read ''(415) 977–8542''.

[FR Doc. C1–19758 Filed 8–10–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE DEPARTMENT OF TRANSPORTATION DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AK45

End of the Service Members Occupational Conversion and Training Program

Correction

In rule document 01–18609 beginning on page 38938 in the issue of Thursday, July 26, 2001, make the following corrections:

§21.7131 [Corrected]

1. On page 38939, in the first column, in amendment number 6, ''§ 21.7135'' is corrected to read ''§ 21.7131''.

§21.7135 [Corrected]

2. On the same page, in the same column, amendment 7 should read as set forth above.

[FR Doc. C1–18609 Filed 8–10–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–202–AD; Amendment 39–12362;AD 2001–15–27]

RIN 2120–AA64

Airworthiness Directives; Israel Aircraft Industries, Ltd., Model 1125 Westwind Astra Series Airplanes

Correction

In rule document 01–19256, beginning on page 40883, in the issue of Monday, August 6, 2001, make the following correction:

On page 40884, in the first column, under the heading **DATES:** in the fifth line, ''September 5, 2001'' should read ''August 21, 2001.''.

[FR Doc. C1–19256 Filed 8–10–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–276–AD; Amendment 39–12329; AD 2001–14–18]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

Correction

In rule document 01–18015 beginning on page 38892 in the issue of Thursday, July 26, 2001, make the following correction:

On page 38895, in Table 2, in Procedure 2, in the second column, the entry ''10,000 total flight cycles or 1,500 500 flight cycles after the effective date of this AD.'' is corrected to read ''10,000 total flight cycles or 1,500 flight cycles after January 6, 1997 or 100 flight cycles after the effective date of this AD.''

[FR Doc. C1–18015 Filed 8–10–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 178 and 179

[T.D. ATF–461; Ref: Notice No. 877]

RIN 1512–AB84

Identification Markings Placed on Firearms (98R–341P)

Correction

In rule document 01–19418, beginning on page 40596, in the issue of Friday, August 3, 2001, make the following correction:

On page 40596, in the first column, under the heading **SUMMARY:**, in the ninth line, ''^{1} $^{1}/_{16}$'' should read ''$^{1}/_{16}$''.

[FR Doc. C1–19418 Filed 8–10–01; 8:45 am]

BILLING CODE 1505–01–D

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT AUGUST 13, 2001

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Air quality implementation plans; approval and promulgation; various States:
- California; published 6-12-01
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Air quality planning purposes; designation of areas:
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INTERIOR DEPARTMENT

Indian Affairs Bureau

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- Land held in trust for benefit of Indian Tribes and individual Indians; title acquisition
  - Effective date delay; published 4-16-01

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Fee schedules revision; 98% fee recovery (2001 FY); published 6-14-01
- Correction; published 7-6-01

TRANSPORTATION DEPARTMENT

Coast Guard

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- Rates update; published 7-12-01

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- Muskegon Lake, MI; safety zone; published 7-2-01

TREASURY DEPARTMENT

District of Columbia retirement plans; Federal benefit payments; published 7-13-01

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***MISSING*!**

National Security Council

Emergency restoration priority procedures for telecommunications services and government and public correspondence telecommunications precedence system
- CFR parts removed; comments due by 8-20-01; published 7-24-01

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

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Animal and Plant Health Inspection Service

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National Oceanic and Atmospheric Administration

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  - Bowhead whales; Western Arctic stock; comments due by 8-20-01; published 5-22-01

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- Alaska; fisheries of Exclusive Economic Zone—
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Air quality planning purposes; designation of areas:
- Arizona; comments due by 8-24-01; published 7-25-01
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- Project XL program; site-specific projects—
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EXECUTIVE OFFICE OF THE PRESIDENT

Science and Technology Policy Office

Emergency restoration priority procedures for telecommunications services and government and public correspondence telecommunications precedence system
- CFR parts removed; comments due by 8-20-01; published 7-24-01

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
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FEDERAL ELECTION COMMISSION

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- Brokerage loans and lines of credit; comments due

by 8-24-01; published 7-25-01

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INDIAN ARTS AND CRAFTS BOARD

Indian Arts and Crafts Act; implementation:

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INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Bitterroot Ecosystem, ID and MT; grizzly bears; nonessential experimental population establishment; reevaluation; comments due by 8-21-01; published 6-22-01

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LABOR DEPARTMENT

Workers' Compensation Programs Office

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Lump-sum payments and medical benefits payments to covered DOE employees, their survivors, and certain vendors, contractors, and subcontractors; comments due by 8-23-01; published 5-25-01

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Copyright arbitration royalty panel rules and procedures:

Digital performance of sound recordings; reasonable rates and terms determination; comments due by 8-22-01; published 7-23-01

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:

Definitions and technical corrections; comments due by 8-20-01; published 6-21-01

Truth in savings—

Disclosures, electronic delivery; uniform standards; comments due by 8-20-01; published 6-21-01

INTERIOR DEPARTMENT

National Indian Gaming Commission

Indian Gaming Regulatory Act:

Electronic or electromechanical facsimile; definitions; comments due by 8-21-01; published 8-9-01

NATIONAL LABOR RELATIONS BOARD

Freedom of Information Act; implementation; comments due by 8-24-01; published 7-25-01

PERSONNEL MANAGEMENT OFFICE

Retirement:

Law enforcement officers and firefighters; special retirement provisions; comments due by 8-24-01; published 7-25-01

POSTAL RATE COMMISSION

Practice and procedure:

Expired rules; comment request; comments due by 8-21-01; published 7-25-01

TRANSPORTATION DEPARTMENT

Coast Guard

Ports and waterways safety:

San Francisco Bay, CA; regulated navigation area; comments due by 8-23-01; published 7-24-01

Savannah River, GA; regulated navigation area; comments due by 8-20-01; published 6-19-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Agusta S.p.A.; comments due by 8-24-01; published 6-25-01

Bell; comments due by 8-24-01; published 6-25-01

Boeing; comments due by 8-24-01; published 7-10-01

Dassault; comments due by 8-24-01; published 7-25-01

Robinson Helicopter Co.; comments due by 8-24-01; published 6-25-01

Class D airspace; comments due by 8-24-01; published 7-10-01

Class E airspace; comments due by 8-23-01; published 7-24-01

Class E2 airspace; comments due by 8-24-01; published 7-10-01

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau

Alcoholic beverages:

Health warning statement; placement, legibility, and noticeability; comments due by 8-20-01; published 5-22-01

VETERANS AFFAIRS DEPARTMENT

Adjudication; pensions, compensation, dependency, etc.; and disabilities rating schedule:

Women veterans who lose breast due to service-connected disability; special monthly compensation; comments due by 8-20-01; published 7-20-01

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S. 468/P.L. 107–23

To designate the Federal building located at 6230 Van Nuys Boulevard in Van Nuys, California, as the "James C. Corman Federal Building". (Aug. 3, 2001; 115 Stat. 198)

H.R. 1954/P.L. 107–24

ILSA Extension Act of 2001 (Aug. 3, 2001; 115 Stat. 199)

Last List July 31, 2001

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–044–00001–6)	6.50	[4] Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101)	(869–044–00002–4)	36.00	[1] Jan. 1, 2001
4	(869–044–00003–2)	9.00	Jan. 1, 2001
5 Parts:			
1–699	(869–044–00004–1)	53.00	Jan. 1, 2001
700–1199	(869–044–00005–9)	44.00	Jan. 1, 2001
1200–End, 6 (6 Reserved)	(869–044–00006–7)	55.00	Jan. 1, 2001
7 Parts:			
1–26	(869–044–00007–5)	40.00	[4] Jan. 1, 2001
27–52	(869–044–00008–3)	45.00	Jan. 1, 2001
53–209	(869–044–00009–1)	34.00	Jan. 1, 2001
210–299	(869–044–00010–5)	56.00	Jan. 1, 2001
300–399	(869–044–00011–3)	38.00	Jan. 1, 2001
400–699	(869–044–00012–1)	53.00	Jan. 1, 2001
700–899	(869–044–00013–0)	50.00	Jan. 1, 2001
900–999	(869–044–00014–8)	54.00	Jan. 1, 2001
1000–1199	(869–044–00015–6)	24.00	Jan. 1, 2001
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1600–1899	(869–044–00017–2)	57.00	Jan. 1, 2001
1900–1939	(869–044–00018–1)	21.00	[4] Jan. 1, 2001
1940–1949	(869–044–00019–9)	37.00	[4] Jan. 1, 2001
1950–1999	(869–044–00020–2)	45.00	Jan. 1, 2001
2000–End	(869–044–00021–1)	43.00	Jan. 1, 2001
8	(869–044–00022–9)	54.00	Jan. 1, 2001
9 Parts:			
1–199	(869–044–00023–7)	55.00	Jan. 1, 2001
200–End	(869–044–00024–5)	53.00	Jan. 1, 2001
10 Parts:			
1–50	(869–044–00025–3)	55.00	Jan. 1, 2001
51–199	(869–044–00026–1)	52.00	Jan. 1, 2001
200–499	(869–044–00027–0)	53.00	Jan. 1, 2001
500–End	(869–044–00028–8)	55.00	Jan. 1, 2001
11	(869–044–00029–6)	31.00	Jan. 1, 2001
12 Parts:			
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200–219	(869–044–00031–8)	32.00	Jan. 1, 2001
220–299	(869–044–00032–6)	54.00	Jan. 1, 2001
300–499	(869–044–00033–4)	41.00	Jan. 1, 2001
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13	(869–044–00036–9)	45.00	Jan. 1, 2001
14 Parts:			
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200–1199	(869–044–00040–7)	44.00	Jan. 1, 2001
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15 Parts:			
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16 Parts:			
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1000–End	(869–044–00046–6)	53.00	Jan. 1, 2001
17 Parts:			
1–199	(869–044–00048–2)	45.00	Apr. 1, 2001
200–239	(869–044–00049–1)	51.00	Apr. 1, 2001
240–End	(869–044–00050–4)	55.00	Apr. 1, 2001
18 Parts:			
1–399	(869–044–00051–2)	56.00	Apr. 1, 2001
400–End	(869–044–00052–1)	23.00	Apr. 1, 2001
19 Parts:			
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141–199	(869–044–00054–7)	53.00	Apr. 1, 2001
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20 Parts:			
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400–499	(869–044–00057–1)	57.00	Apr. 1, 2001
500–End	(869–044–00058–0)	57.00	Apr. 1, 2001
21 Parts:			
1–99	(869–044–00059–8)	37.00	Apr. 1, 2001
100–169	(869–044–00060–1)	44.00	Apr. 1, 2001
170–199	(869–044–00061–0)	45.00	Apr. 1, 2001
200–299	(869–044–00062–8)	16.00	Apr. 1, 2001
300–499	(869–044–00063–6)	27.00	Apr. 1, 2001
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600–799	(869–044–00065–2)	15.00	Apr. 1, 2001
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1300–End	(869–044–00067–9)	20.00	Apr. 1, 2001
22 Parts:			
1–299	(869–044–00068–7)	56.00	Apr. 1, 2001
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24 Parts:			
0–199	(869–044–00071–7)	53.00	Apr. 1, 2001
200–499	(869–044–00072–5)	45.00	Apr. 1, 2001
500–699	(869–044–00073–3)	27.00	Apr. 1, 2001
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§§ 1.61–1.169	(869–044–00078–4)	57.00	Apr. 1, 2001
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§§ 1.401–1.440	(869–042–00081–1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869-044-00082-2)	45.00	Apr. 1, 2001
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*§§ 1.851–1.907	(869–044–00085–7)	54.00	Apr. 1, 2001
§§ 1.908–1.1000	(869–044–00086–5)	53.00	Apr. 1, 2001
§§ 1.1001–1.1400	(869–044–00087–3)	55.00	Apr. 1, 2001
§§ 1.1401–End	(869–044–00088–1)	58.00	Apr. 1, 2001
2–29	(869–044–00089–0)	54.00	Apr. 1, 2001
30–39	(869–044–00090–3)	37.00	Apr. 1, 2001
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50–299	(869–044–00092–0)	23.00	Apr. 1, 2001
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500–599	(869–044–00094–6)	12.00	[5] Apr. 1, 2001
600–End	(869–044–00095–4)	15.00	Apr. 1, 2001
27 Parts:			
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200–End	(869–044–00097–1)	26.00	Apr. 1, 2001
28 Parts:			
0-42	(869–042–00098–6)	43.00	July 1, 2000
43-end	(869-042-00099-4)	36.00	July 1, 2000
29 Parts:			
0–99	(869–042–00100–1)	33.00	July 1, 2000
100–499	(869–042–00101–0)	14.00	July 1, 2000
500–899	(869–042–00102–8)	47.00	July 1, 2000
900–1899	(869–042–00103–6)	24.00	July 1, 2000
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1910 (§§ 1910.1000 to end)	(869–042–00105–2)	28.00	[6]July 1, 2000
1911–1925	(869–042–00106–1)	20.00	July 1, 2000
1926	(869–042–00107–9)	30.00	[6]July 1, 2000
1927–End	(869–042–00108–7)	49.00	July 1, 2000
30 Parts:			
1–199	(869–042–00109–5)	38.00	July 1, 2000
200–699	(869–042–00110–9)	33.00	July 1, 2000
700–End	(869–042–00111–7)	39.00	July 1, 2000
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0–199	(869–042–00112–5)	23.00	July 1, 2000
200–End	(869–042–00113–3)	53.00	July 1, 2000
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1–190	(869–042–00114–1)	51.00	July 1, 2000
191–399	(869–042–00115–0)	62.00	July 1, 2000
400–629	(869–042–00116–8)	35.00	July 1, 2000
630–699	(869–042–00117–6)	25.00	July 1, 2000
700–799	(869–042–00118–4)	31.00	July 1, 2000
800–End	(869–042–00119–2)	32.00	July 1, 2000
33 Parts:			
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125–199	(869–042–00121–4)	45.00	July 1, 2000
200–End	(869–042–00122–5)	36.00	July 1, 2000
34 Parts:			
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300–399	(869–042–00124–9)	28.00	July 1, 2000
400–End	(869–042–00125–7)	54.00	July 1, 2000
35	(869–042–00126–5)	10.00	July 1, 2000
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18–End	(869–042–00132–0)	47.00	July 1, 2000
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40 Parts:			
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52 (52.1019–End)	(869–042–00137–1)	44.00	July 1, 2000
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60	(869–042–00139–7)	66.00	July 1, 2000
61–62	(869–042–00140–1)	23.00	July 1, 2000
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63 (63.1200–End)	(869–042–00142–7)	49.00	July 1, 2000
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300–399	(869–042–00153–2)	29.00	July 1, 2000
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500–1199	(869–042–00170–2)	45.00	Oct. 1, 2000
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70–89	(869–042–00174–5)	13.00	Oct. 1, 2000
90–139	(869–042–00175–3)	41.00	Oct. 1, 2000
140–155	(869–042–00176–1)	23.00	Oct. 1, 2000
156–165	(869–042–00177–0)	31.00	Oct. 1, 2000
166–199	(869–042–00178–8)	42.00	Oct. 1, 2000
200–499	(869–042–00179–6)	36.00	Oct. 1, 2000
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47 Parts:			
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48 Chapters:			
1 (Parts 1–51)	(869–042–00186–9)	57.00	Oct. 1, 2000
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50 Parts:			
1–199	(869–042–00200–8)	55.00	Oct. 1, 2000
200–599	(869–042–00201–6)	35.00	Oct. 1, 2000

Title	Stock Number	Price	Revision Date
600–End	(869–042–00202–4)	55.00	Oct. 1, 2000
CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		290.00	1999
Individual copies		1.00	1999
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1999, through July 1, 2000. The CFR volume issued as of July 1, 1999 should be retained..