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Federal Register

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

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

Common Crop Insurance Regulations; Forage Seeding Crop Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes crop provisions for the insurance of Forage Seeding. The intended effect of this action is to provide policy changes to better meet the needs of the insured. The changes will be effective for the 2003 and subsequent crop years.

EFFECTIVE DATE: This rule is effective September 14, 2001.

FOR FURTHER INFORMATION CONTACT: Arden Routh, Insurance Management Specialist, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 6501 Beacon Drive, Kansas City, MO, 64133, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by the OMB under control number 0563–0053 through July 31, 2001.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 13132

The policy contained in this rule does not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. Additionally, the regulation does not require any more action on the part of small entities than is required on the part of large entities. The amount of work required by insurance companies will not increase because the information must already be collected under the present policy. No additional work is required as a result of this action on the part of either the insured or the insurance companies. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

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

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have retroactive effect. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review of any determination made by FCIC may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

On Monday, September 25, 2000, FCIC published a notice of proposed rulemaking in the **Federal Register** at 65 FR 57562–57564 to revise 7 CFR § 457.151, Forage seeding crop insurance provisions, effective for the 2002 and succeeding crop years.

Following publication of the proposed rule on September 25, 2000, the public was afforded 30 days to submit written comments and opinions. No comments were received.

FCIC has made the following changes to the Forage Seeding Crop Provisions:

1. Section 1—Added a definition for ''Sales closing date.'' This definition was published in a previous final rule, dated December 10, 1997, but was not included in the Forage Seeding Crop Provisions when they were published for the 1999 crop year.

2. Section 13 corrected section references from section 12 to section 13 and changed the placement of the settlement of claim example within section 13 of the crop provisions.

List of Subjects in 7 CFR Part 457

Crop insurance, Forage seeding, Reporting and recordkeeping requirements.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance

Corporation amends the Common Crop Insurance Regulations as contained in (7 CFR 457.8) by amending 7 CFR 457.151, for the 2003 and succeeding crop years, to read as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

2. Amend § 457.151 as follows:

a. Revise the heading and introductory text;

b. Add definition for ''Sales closing date'' to section 1 of the crop provisions.

c. Revise section 4 of the crop provisions.

d. Revise section 5 of the crop provisions.

e. Revise section 9(g) of the crop provisions.

f. Revise section 13 of the crop provisions.

§ 457.151 Forage seeding crop insurance provisions.

The Forage Seeding Crop Insurance Provisions for 2003 and succeeding crop years are as follows:

* * * * *

1. Definitions

* * * * *

Sales closing date—In lieu of the definition contained in the Basic Provisions, a date contained in the Special Provisions by which an application must be filed and by which you may change your crop insurance coverage for a crop year. If the Special Provisions provide a sales closing date for both fall seeded and spring seeded practices for the insured crop and you plant any insurable fall seeded acreage, you may not change your crop insurance coverage after the fall sales closing date for the fall seeded practice.

* * * * *

4. Contract Changes.

In accordance with section 4 of the Basic Provisions, the contract change date is June 30 preceding the cancellation date for counties with a September 30 cancellation date; November 30 preceding the cancellation date for counties with a March 15 cancellation date; and April 30 preceding the cancellation date for all other counties.

5. Cancellation and Termination Dates.

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are:

State and county	Cancellation and termination dates
California, Nevada, New Hampshire	
New York, Pennsylvania and Vermont	July 31
South Dakota counties for which the Special Provisions designate both fall and spring final planting dates.	September 30
South Dakota counties for which the Special Provisions designate only a spring final planting date, and all other states.	March 15

* * * * *

9. Insurance Period.

* * * * *

(g) The following calendar dates:

(1) During the calendar year following the year of seeding for:

(i) Fall planted acreage in all California counties except

Lassen, Modoc, Mono, Shasta and Siskiyou—November 30;

(ii) Spring planted acreage in Lassen, Modoc, Mono, Shasta and Siskiyou Counties California, Colorado, Idaho, Nebraska, Nevada, Oregon, Utah and Washington—April 14;

(iii) Spring planted acreage in all other states—May 21;

(iv) Fall planted acreage in Lassen, Modoc, Mono, Shasta and Siskiyou Counties California and all other states—October 15;

(2) During the calendar year of seeding for spring planted acreage in all California counties except Lassen, Modoc, Mono, Shasta and Siskiyou—November 30.

* * * * *

13. Settlement of Claim.

(a) In the event of loss or damage covered by this policy, we will settle your claim on any unit by:

(1) Multiplying the insured acreage of each type and practice by the amount of insurance for the applicable type and practice;

(2) Totaling the results in section 13(a)(1);

(3) Multiplying the total acres with an established stand for the insured acreage of each type and practice in the unit by the amount of insurance for the applicable type and practice;

(4) Totaling the results in section 13(a)(3);

(5) Subtracting the result in section 13(a)(4) from the result in section 13(a)(2); and

(6) Multiplying the result in section 13(a)(5) by your share.

Example: Assume you have 100 percent share in 30 acres of type A forage in the unit, with an amount of insurance of $100.00 per acre. At the time of loss, the following findings are established: 10 acres had a remaining stand of 75 percent or greater. You also have 20 acres of type B forage in the unit, with an amount of insurance of $90.00 per acre. 10 acres had a remaining stand of 75 percent or greater. Your indemnity would be calculated as follows:

1. 30 acres × $100.00 = $3,000 amount of insurance for type A; 20 acres × $90.00 = $1,800 amount of insurance for type B;

2. $3,000 + $1,800 = $4,800 total amount of insurance;

3. 10 acres with 75% stand or greater × $100.00 = $1,000 production to count for type A: 10 acres with 75% stand or greater × $90.00 = $900 production to count for type B;

4. $1,000 + $900 = $1,900 total production to count;

5. $4,800 − $1,900 = $2,900 loss;

6. $2,900 × 100 percent share = $2,900 indemnity payment.

(b) The acres with an established stand will include:

(1) Acreage that has at least 75 percent of a normal stand;

(2) Acreage abandoned or put to another use without our prior written consent;

(3) Acreage damaged solely by an uninsured cause; or

(c) The amount of indemnity on any spring planted acreage determined in accordance with section 13(a) will be reduced 50 percent if the stand is less than 75 percent but more than 55 percent of a normal stand.

Signed in Washington, DC, on August 8, 2001.

Phyllis Honor,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 01–20451 Filed 8–14–01; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Chloramphenicol, etc.; Withdrawal of Approval of NADAs

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions that reflect approval of two new animal drug applications (NADAs) held by EVSCO Pharmaceuticals, an Affiliate of IGI, Inc. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of these NADAs.

DATES: This rule is effective August 27, 2001.

FOR FURTHER INFORMATION CONTACT: Pamela K. Esposito, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5593.

SUPPLEMENTARY INFORMATION: EVSCO Pharmaceuticals, an Affiliate of IGI, Inc., Box 209, Harding Hwy., Buena, NJ 08310, has requested that FDA withdraw approval of NADA 32–984 for Cerumite (chloramphenicol, prednisolone, tetracaine, and squalane)

topical suspension, and NADA 55–005 for Liquichlor with Cerumene (squalane, pyrethrins, and piperonyl butoxide) topical suspension because the products are no longer manufactured or marketed. As provided below, the animal drug regulations are amended to reflect the withdrawal of approval of these NADAs by removing 21 CFR 524.390c and 524.2140.

In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of these NADAs.

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

List of Subjects in 21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 524.390c [Removed]

2. Section 524.390c *Chloramphenicol-prednisolone-tetracaine-squalane topical suspension* is removed.

§ 524.2140 [Removed]

3. Section 524.2140 *Squalane, pyrethrins and piperonyl butoxide* is removed.

Dated: August 6, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–20573 Filed 8–14–01; 8:45 am]

BILLING CODE 4160–01–S

BOARD FOR INTERNATIONAL BROADCASTING

22 CFR Chapter XIII

Removal of CFR Chapter

Effective September 30, 1995, the Board for International Broadcasting was terminated by Public Law 103–236, 22 U.S.C. 6209e. Therefore, the Office of the Federal Register is removing BIB regulations pursuant to its authority to maintain an orderly system of codification under 44 U.S.C. 1510 and 1 CFR part 8.

Accordingly, 22 CFR is amended by removing parts 1300 through 1399 and vacating Chapter XIII.

[FR Doc. 01–55524 Filed 8–14–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 887

Housing Vouchers

CFR Correction

In Title 24 of the Code of Federal Regulations, parts 700 to 1699, revised as of May 1, 2001, part 887 is removed and reserved.

[FR Doc. 01–55523 Filed 8–14–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 1, 4, 5, 7, 12, 19, 20, 22, 24, 40, 55, 70, 71, 200, 275, and 290

[T.D. ATF–463]

RIN 1512–AC43

Rules of Practice in Permit Proceedings; Recodification of Regulations (2000R–529P)

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

ACTION: Final rule (Treasury decision).

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is recodifying the regulations pertaining to the rules of practice in permit proceedings. The purpose of this recodification is to reissue the regulations in part 200 of title 27 of the Code of Federal Regulations (27 CFR part 200) as 27 CFR part 71. This change improves the organization of title 27.

DATES: This rule is effective on August 15, 2001.

FOR FURTHER INFORMATION CONTACT: Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226, (202–927–9347) or e-mail at LMGesser@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

As a part of the continuing efforts to reorganize the part numbering system of title 27 CFR, chapter I, ATF is removing part 200, in its entirety, and is recodifying the regulations as 27 CFR part 71. This change improves the organization of title 27 CFR.

In addition to the recodification, ATF is making a technical amendment to part 12 of title 27 CFR, chapter 1. Specifically, we are amending the reference to 27 CFR 71.41(c) to read 27 CFR 70.701(c).

DERIVATION TABLE FOR PART 71

The requirements of section:	Are derived from section:
Subpart A	
71.1	200.1
71.2	200.2
71.3	200.3
Subpart B	
71.5	200.5
Subpart C	
71.25	200.25
71.26	200.26
71.27	200.27
71.28	200.28
71.29	200.29
71.30	200.30
71.31	200.31
Subpart D	
71.35	200.35
71.36	200.36
71.37	200.37
71.38	200.38
Subpart E	
71.45	200.45
71.46	200.46
71.48	200.48
71.49	200.49
71.49a	200.49a
71.49b	200.49b
Subpart F	
71.55	200.55
71.56	200.56
71.57	200.57
71.58	200.58
71.59	200.59
71.60	200.60
71.61	200.61
71.62	200.62
71.63	200.63
71.64	200.64
71.65	200.65
71.66	200.66
71.67	200.67
71.68	200.68
71.69	200.69
71.70	200.70
71.71	200.71
71.72	200.72
71.73	200.73
71.74	200.74
71.75	200.75
71.76	200.76

DERIVATION TABLE FOR PART 71—Continued

The requirements of section:	Are derived from section:
71.77	200.77
71.78	200.78
71.79	200.79
71.80	200.80
71.81	200.81
71.82	200.82
71.83	200.83
71.84	200.84
71.85	200.85
71.86	200.86
71.87	200.87
Subpart G	
71.95	200.95
71.96	200.96
71.97	200.97
71.98	200.98
71.99	200.99
71.100	200.100
Subpart H	
71.105	200.105
71.106	200.106
71.107	200.107
71.107a	200.107a
71.108	200.108
71.109	200.109
71.110	200.110
Subpart I	
71.115	200.115
71.116	200.116
71.117	200.117
71.118	200.118
71.119	200.119
Subpart J	
71.125	200.125
71.126	200.126
71.127	200.127
71.128	200.128
71.129	200.129

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act (5 U.S.C. 553), the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. We sent a copy of this final rule to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

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

Administrative Procedure Act

Because this final rule merely makes technical amendments to improve the clarity and the organization of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b). Similarly, because this final rule makes no substantial changes and is merely the recodification of existing regulations, good cause is found that it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

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

List of Subjects

27 CFR Part 1

Administrative practice and procedure, Alcohol and alcoholic beverages, Imports, Liquors, Packaging and containers, Warehouses, Wine.

27 CFR Part 4

Advertising, Customs duties and inspection, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Trade practices, Wine.

27 CFR Part 5

Advertising, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Trade practices.

27 CFR Part 7

Advertising, Beer, Customs duties and inspection, Imports, Labeling, Reporting and recordkeeping requirements, Trade practices.

27 CFR Part 12

Imports, Labeling, Wine.

27 CFR Part 19

Caribbean Basin initiative, Claims, Electronic funds transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Surety bonds, Vinegar, Virgin Islands, Warehouses.

27 CFR Part 20

Alcohol and alcoholic beverages, Claims, Cosmetics, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Surety bonds.

27 CFR Part 22

Administrative practice and procedure, Alcohol and alcoholic beverages, Excise taxes, Reporting and recordkeeping requirements, Surety bonds.

27 CFR Part 24

Administrative practice and procedure, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Vinegar, Warehouses, Wine.

27 CFR Part 40

Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco.

27 CFR Part 55

Administrative practice and procedure, Explosives, Imports, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Warehouses.

27 CFR Part 70

Administrative practice and procedure, Claims, Excise taxes, Freedom of information, Law enforcement, Penalties, Reporting and recordkeeping requirements, Surety bonds.

27 CFR Part 71

Administrative practice and procedure, Alcohol and alcoholic beverages, Tobacco.

27 CFR Part 200

Administrative practice and procedure, Alcohol and alcoholic beverages, Tobacco.

27 CFR Part 275

Cigars and cigarettes, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Virgin Islands, Warehouses.

27 CFR Part 290

Aircraft, Armed forces, Cigars and cigarettes, Claims, Customs duties and inspection, Excise taxes, Exports, Foreign trade zones, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Vessels, Warehouses.

Authority and Issuance

ATF is amending title 27 of the Code of Federal Regulations, chapter I, as follows:

PART 1—BASIC PERMIT REQUIREMENTS UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT, NONINDUSTRIAL USE OF DISTILLED SPIRITS AND WINE, BULK SALES AND BOTTLING OF DISTILLED SPIRITS

Paragraph 1. The authority citation for 27 CFR part 1 continues to read as follows:

Authority: 27 U.S.C. 203, 204, 206, 211 unless otherwise noted.

§§ 1.1, 1.31, 1.35, 1.50, 1.51, 1.52, and 1.57 [Amended]

Par. 2. Remove the reference to ''part 200'' and add, in its place, a reference to ''part 71'' in the following places:

a. Section 1.1(a);
b. Section 1.31;
c. Section 1.35;
d. Section 1.50;
e. Section 1.51;
f. Section 1.52; and
g. Section 1.57.

PART 4—LABELING AND ADVERTISING OF WINE

Par. 3. The authority citation for 27 CFR part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

Par. 4. Under the heading ''Cross References,'' remove the reference to ''27 CFR part 200—Rules of Practice in Permit Proceedings'' and add, in part number order, a reference to ''27 CFR part 71—Rules of Practice in Permit Proceedings.''

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

Par. 5. The authority citation for 27 CFR part 5 continues to read as follows:

Authority: 26 U.S.C. 5301, 7805; 27 U.S.C. 205.

§ 5.2 [Amended]

Par. 6. Amend § 5.2 by removing the reference to ''27 CFR part 200—Rules of Practice in Permit Proceedings'' and adding, in part number order, a reference to ''27 CFR part 71—Rules of Practice in Permit Proceedings.''

PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

Par. 7. The authority citation for 27 CFR part 7 continues to read as follows:

Authority: 27 U.S.C. 205.

§ 7.4 [Amended]

Par. 8. Amend § 7.4 by removing the reference to ''27 CFR part 200—Rules of Practice in Permit Proceedings'' and adding, in part number order, a reference to ''27 CFR part 71—Rules of Practice in Permit Proceedings.''

PART 12—FOREIGN NONGENERIC NAMES OF GEOGRAPHIC SIGNIFICANCE USED IN THE DESIGNATION OF WINES

Par. 9. The authority citation for 27 CFR part 12 continues to read as follows:

Authority: 27 U.S.C. 205.

§ 12.3 [Amended]

Par. 10. Amend paragraph (a) of § 12.3 by removing the reference to ''27 CFR 71.41(c)'' and adding, in its place, a reference to ''27 CFR 70.701(c).''

PART 19—DISTILLED SPIRITS PLANTS

Par. 11. The authority citation for 27 CFR part 19 continues to read as follows:

Authority: 19 U.S.C. 81C, 1131; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111–5113, 5142, 5143, 5146, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 19.3 [Amended]

Par. 12. Amend § 19.3 by removing the reference to ''27 CFR part 200—Rules of Practice in Permit Proceedings'' and adding, in part number order, a reference to ''27 CFR part 71—Rules of Practice in Permit Proceedings.''

§§ 19.161, 19.163, 19.164, 19.911, and 19.950 [Amended]

Par. 13. Remove the reference to ''part 200'' and add, in its place, a reference to ''part 71'' in the following places:

a. Section 19.161(c);
b. Section 19.163(f);
c. Section 19.164;
d. Section 19.911(c); and
e. Section 19.950(f).

PART 20—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Par. 14. The authority citation for 27 CFR part 20 continues to read as follows:

Authority: 26 U.S.C. 5001, 5206, 5214, 5271–5275, 5552, 5555, 5607, 6065, 7805.

§ 20.3 [Amended]

Par. 15. Amend § 20.3 by removing the reference to ''27 CFR part 200—Rules of Practice in Permit Proceedings'' and adding, in part number order, a reference to ''27 CFR part 71—Rules of Practice in Permit Proceedings.''

§§ 20.44, 20.51, and 20.52 [Amended]

Par. 16. Remove the reference to ''part 200'' and add, in its place, a reference to ''part 71'' in the following places:

a. The introductory text of § 20.44;
b. The introductory text of § 20.51; and
c. Section 20.52.

PART 22—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Par. 17. The authority citation for 27 CFR part 22 continues to read as follows:

Authority: 26 U.S.C. 5001, 5121, 5142, 5143, 5146, 5206, 5271–5276, 5311, 5552, 5555, 6056, 6061, 6065, 6109, 6151, 6806, 7011, 7805; 31 U.S.C. 9304, 9306.

§ 22.3 [Amended]

Par. 18. Amend § 22.3 by removing the reference to ''27 CFR part 200—Rules of Practice in Permit Proceedings'' and adding, in part number order, a reference to ''27 CFR part 71—Rules of Practice in Permit Proceedings.''

§§ 22.44, 22.51, and 22.52 [Amended]

Par. 19. Remove the reference to ''part 200'' and add, in its place, a reference to ''part 71'' in the following places:

a. The introductory text of § 22.44;
b. The introductory text of § 22.51; and
c. Section 22.52.

PART 24—WINE

Par. 20. The authority citation for 27 CFR part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111–5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 24.4 [Amended]

Par. 21. Amend § 24.4 by removing the reference to ''27 CFR part 200—Rules of Practice in Permit Proceedings'' and adding, in part number order, a reference to ''27 CFR part 71—Rules of Practice in Permit Proceedings.''

PART 40—MANUFACTURE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Par. 22. The authority citation for 27 CFR part 40 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§§ 40.74 and 40.332 [Amended]

Par. 23. Remove the reference to ''part 200'' and add, in its place, a reference to ''part 71'' in the following places:

a. Section 40.74; and

b. Section 40.332.

PART 55—COMMERCE IN EXPLOSIVES

Par. 24. The authority citation for 27 CFR part 55 continues to read as follows:

Authority: 18 U.S.C. 847.

§§ 55.73, 55.75, 55.79, and 55.82 [Amended]

Par. 25. Remove the reference to ''part 200'' each place it appears, and add, in substitution, a reference to ''part 71'' in the following places:

a. Section 55.73;

b. Section 55.75;

c. Section 55.79; and

d. The section heading and text of § 55.82.

PART 70—PROCEDURE AND ADMINISTRATION

Par. 26. The authority citation for 27 CFR part 70 continues to read as follows:

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 5802, 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331–6343, 6401–6404, 6407, 6416, 6423, 6501–6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656–6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601–7606, 7608–7610, 7622, 7623, 7653, 7805.

§§ 70.411 and 70.431 [Amended]

Par. 27. Remove the reference to ''part 200'' and add, in its place, a reference to ''part 71'' in the following places:

a. Section 70.411(c)(5); and

b. Section 70.431(b)(1).

PART 275—IMPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Par. 28. The authority citation for 27 CFR part 275 continues to read as follows:

Authority: 18 U.S.C. 2342; 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5712, 5713, 5721, 5722, 5723, 5741, 5754, 5761, 5762, 5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 275.199 [Amended]

Par. 29. Amend § 275.199 by removing the reference to ''part 200'' and adding, in its place, a reference to ''part 71.''

PART 290—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Par. 30. The authority citation for 27 CFR part 290 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5754, 6061, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§§ 290.92 and 290.162 [Amended]

Par. 31. Remove the reference to ''part 200'' and add, in its place, a reference to ''part 71'' in the following places:

a. Section 290.92; and

b. Section 290.162.

PART 200—RULES OF PRACTICE IN PERMIT PROCEEDINGS

Par. 32. The authority citation for 27 CFR part 200 continues to read as follows:

Authority: 26 U.S.C. 7805, 27 U.S.C. 204.

PART 200 [Redesignated as part 71]

Par. 33. Redesignate 27 CFR part 200 as 27 CFR part 71.

Par. 33a. Transfer newly designated part 71 from subchapter M to subchapter F.

PART 71—RULES OF PRACTICE IN PERMIT PROCEEDINGS

Par. 34. The authority citation for the newly designated 27 CFR part 71 is revised to read as follows:

Authority: 26 U.S.C. 5271, 5181, 5713, 7805, 27 U.S.C. 204.

§ 71.1 [Amended]

Par. 35. Amend the ''Editorial Note'' under newly designated § 71.1 by removing the reference to ''§ 200.1'' and adding, in its place, a reference to ''§ 71.1.''

§ 71.37 [Amended]

Par. 36. Amend newly designated § 71.37 by removing the reference to ''§§ 200.55 and 200.56'' and adding, in its place, a reference to ''§§ 71.55 and 71.56.''

§ 71.38 [Amended]

Par. 37. Amend newly designated § 71.38 as follows:

a. Remove the reference to ''§ 200.35'' and add, in its place, a reference to ''§ 71.35.''

b. Remove the reference to ''§ 200.71'' and add, in its place, a reference to ''§ 71.71.''

§ 71.56 [Amended]

Par. 37a. Amend the newly designated ''Editorial Note'' in § 71.56 by removing the reference to ''§ 200.56'' and adding, in its place, a reference to ''§ 71.56.''

§ 71.62 [Amended]

Par. 38. Amend newly designated § 71.62 by removing the reference to ''§ 200.59'' and adding, in its place, a reference to ''§ 71.59.''

§ 71.63 [Amended]

Par. 39. Amend newly designated § 71.63 as follows:

a. Remove the reference to ''§ 200.60'' and add, in its place, a reference to ''§ 71.60.''

b. Remove the reference to ''§ 200.64'' and add, in its place, a reference to § 71.64.''

c. Remove the reference to ''§ 200.79'' and add, in its place, a reference to ''§ 71.79.''

§ 71.64 [Amended]

Par. 40. Amend paragraph (a) of newly designated § 71.64 by removing the reference to ''§ 200.60'' and adding, in its place, a reference to ''§ 71.60.''

§ 71.74 [Amended]

Par. 41. Amend newly designated § 71.74 by removing the reference to ''§ 200.2'' and adding, in its place, a reference to ''§ 71.2.''

§ 71.78 [Amended]

Par. 42. Amend newly designated § 71.78 by removing the reference to ''§ 200.107'' and adding, in its place, a reference to ''§ 71.107.''

§ 71.82 [Amended]

Par. 43. Amend newly designated § 71.82 by removing the reference to ''§ 200.66'' and adding, in its place, a reference to ''§ 71.66.''

§ 71.83 [Amended]

Par. 44. Amend newly designated § 71.83 by removing the reference to ''§ 200.81'' and adding, in its place, a reference to ''§ 71.81.''

§ 71.96 [Amended]

Par. 45. Amend newly designated § 71.96 by removing the reference to ''§ 200.115'' and adding, in its place, a reference to ''§ 71.115.''

§ 71.107a [Amended]

Par. 46. Amend paragraph (a) of newly designated § 71.107a by removing the reference to ''§ 200.79'' and adding, in its place, a reference to ''§ 71.79.''

§ 71.108 [Amended]

Par. 47. Amend newly designated § 71.108 as follows:

a. In paragraph (a) remove the reference to ''§ 200.115'' and add, in its place, a reference to ''§ 71.115.''

b. In paragraph (b) remove the reference to ''§ 200.79'' and add, in its place, a reference to ''§ 71.79.''

§ 71.110 [Amended]

Par. 48. Amend newly designated § 71.110 by removing the reference to ''§ 200.108'' and adding, in its place, a reference to ''§ 71.108.''

Dated: April 20, 2001.

Bradley A. Buckles,

Director.

Approved: July 10, 2001.

Timothy E. Skud,

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

[FR Doc. 01–20483 Filed 8–14–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 17, 18, 19, 20, 22, 24, 25, 29, 70, and 170

[T.D. ATF–462]

RIN 1512–AC34

Stills and Miscellaneous Regulations; Recodification of Regulations (2000R–491P)

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

ACTION: Final rule (Treasury decision).

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is recodifying the regulations pertaining to stills. The purpose of this recodification is to reissue the regulations in part 170 of title 27 of the Code of Federal Regulations (27 CFR part 170) as 27 CFR part 29. This change improves the organization of title 27 CFR.

DATES: This rule is effective on August 15, 2001.

FOR FURTHER INFORMATION CONTACT: Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, (202–927–9347) or e-mail at LMGesser@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

As a part of the continuing efforts to reorganize the part numbering system of title 27 CFR, ATF is removing part 170 of title 27 CFR, in its entirety, and is recodifying the regulations as 27 CFR part 29. This change improves the organization of title 27 CFR. In addition, ATF is amending the title of the new part 29 to correspond more closely with the content of the part.

DERIVATION TABLE FOR PART 29

The requirements of	Are derived from
Subpart A–B [Reserved]	
Subpart C—Stills	
Sec.	
29.41	170.41
29.43	170.43
29.45	170.45
29.47	170.47
29.49	170.49
29.51	170.51
29.53	170.53
29.55	170.55
29.57	170.57
29.59	170.59
Subpart D–Y [Reserved]	

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedures Act (5 U.S.C. 553), the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. We sent a copy of this final rule to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

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

Administrative Procedure Act

Because this final rule merely makes technical amendments to improve the clarity and organization of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b). Similarly, because this final rule makes no substantial changes and is merely the recodification of existing regulations, good cause is found that it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

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

List of Subjects

27 CFR Part 17

Administrative practice and procedure, Claims, Cosmetics, Customs duties and inspection, Drugs, Excise taxes, Exports, Imports, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Spices and flavorings, Surety bonds, Virgin Islands.

27 CFR Part 18

Alcohol and alcoholic beverages, Fruits, Reporting and recordkeeping requirements, Spices and flavorings.

27 CFR Part 19

Caribbean Basin initiative, Claims, Electronic funds transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Surety bonds, Vinegar, Virgin Islands, Warehouses.

27 CFR Part 20

Alcohol and alcoholic beverages, Claims, Cosmetics, Excise taxes, Labeling, Packaging and containers,

Penalties, Reporting and recordkeeping requirements, Surety bonds.

27 CFR Part 22

Administrative practice and procedure, Alcohol and alcoholic beverages, Excise taxes, Reporting and recordkeeping requirements, Surety bonds.

27 CFR Part 24

Administrative practice and procedure, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Vinegar, Warehouses, Wine.

27 CFR Part 25

Beer, Claims, Electronic funds transfers, Excise taxes, Exports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Research, Surety bonds.

27 CFR Part 29

Alcohol and alcoholic beverages, Authority delegations, Distilled spirits, Liquors, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Stills.

27 CFR Part 70

Administrative practice and procedure, Claims, Excise taxes, Freedom of information, Law enforcement, Penalties, Reporting and recordkeeping requirements, Surety bonds.

27 CFR Part 170

Alcohol and alcoholic beverages, Authority delegations, Distilled spirits, Liquors, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Stills.

Authority and Issuance

ATF is amending title 27 of the Code of Federal Regulation, chapter 1, as follows:

PART 17—DRAWBACK ON TAXPAID DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

Paragraph 1. The authority citation for 27 CFR part 17 continues to read as follows:

Authority: 26 U.S.C. 5010, 5131–5134, 5143, 5146, 5206, 5273, 6011, 6065, 6091, 6109, 6151, 6402, 6511, 7011, 7213, 7652, 7805: 31 U.S.C. 9301, 9303, 9304, 9306.

§ 17.168 [Amended]

Par. 2. Amend § 17.168(a) by removing the reference to ''part 170'' and adding, in its place, a reference to ''part 29.''

PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATE

Par. 3. The authority citation for 27 CFR part 18 continues to read as follows:

Authority: 26 U.S.C. 5001, 5172, 5178, 5179, 5203, 5511, 5552, 6065, 7805; 44 U.S.C. 3504(h).

§ 18.23 [Amended]

Par. 4. Amend § 18.23 as follows:

a. Remove the reference to ''part 170'' and add, in its place, a reference to ''part 29''; and

b. Remove the reference to ''§ 170.55'' and add, in its place, a reference to ''§ 29.55.''

PART 19—DISTILLED SPIRITS PLANTS

Par. 5. The authority citation for 27 CFR part 19 continues to read as follows:

Authority: 19 U.S.C. 81C, 1131; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111–5113, 5142, 5143, 5146, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 19.3 [Amended]

Par. 6. Amend § 19.3 by removing the reference to ''27 CFR part 170—Miscellaneous Regulations Relating to Liquor'' and adding, in part number order, a reference to ''27 CFR part 29—Stills and Miscellaneous Regulations.''

§ 19.169 [Amended]

Par. 7. Amend § 19.169 as follows:

a. Remove the reference to ''part 170'' and add, in its place, a reference to ''part 29''; and

b. Remove the reference to ''§ 170.55'' and add, in its place, a reference to ''§ 29.55.''

PART 20—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Par. 8. The authority citation for 27 CFR part 20 continues to read as follows:

Authority: 26 U.S.C. 5001, 5206, 5214, 5271–5275, 5311, 5552, 5555, 5607, 6065, 7805.

§ 20.3 [Amended]

Par. 9. Amend § 20.3 by removing the reference to ''27 CFR Part 170—Miscellaneous Regulations Relating to Liquor'' and adding, in part number order, a reference to ''27 CFR Part 29—Stills and Miscellaneous Regulations.''

§ 20.66 [Amended]

Par. 10. Amend § 20.66 as follows:

a. Remove the reference to ''part 170'' and add, in its place, a reference to ''part 29''; and

b. Remove the reference to ''§ 170.55'' and add, in its place, a reference to ''§ 29.55.''

PART 22—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Par. 11. The authority citation for 27 CFR part 22 continues to read as follows:

Authority: 26 U.S.C. 5001, 5121, 5142, 5143, 5146, 5206, 5271–5276, 5311, 5552, 5555, 6056, 6061, 6065, 6109, 6151, 6806, 7011, 7805; 31 U.S.C. 9304, 9306.

§ 22.3 [Amended]

Par. 12. Amend § 22.3 by removing the reference to ''27 CFR Part 170—Miscellaneous Regulations Relating to Liquor'' and adding, in part number order, a reference to ''27 CFR Part 29-Stills and Miscellaneous Regulations.''

§ 22.66 [Amended]

Par. 13. Amend § 22.66 as follows:

a. Remove the reference to ''part 170'' and add, in its place, a reference to ''part 29''; and

b. Remove the reference to ''§ 170.55'' and add, in its place, a reference to ''§ 29.55.''

PART 24—WINE

Par. 14. The authority citation for 27 CFR part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111–5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 24.4 [Amended]

Par. 15. Amend § 24.4 by removing the reference to ''27 CFR Part 170—Miscellaneous Regulations Relating to Liquor'' and adding, in part number order, a reference to ''27 CFR Part 29—Stills and Miscellaneous Regulations.''

§ 24.114 [Amended]

Par. 16. Amend § 24.114 as follows:

a. Remove the reference to ''part 170'' and add, in its place, a reference to ''part 29''; and

b. Remove the reference to ''§ 170.55'' and add, in its place, a reference to ''§ 29.55.''

PART 25—BEER

Par. 17. The authority citation for 27 CFR part 25 continues to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5002, 5051–5054, 5056, 5061, 5091, 5111, 5113, 5142, 5143, 5146, 5222, 5401–5403, 5411–5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7011, 7342, 7606, 7805; 31 U.S.C. 9301, 9303–9308.

§ 25.4 [Amended]

Par. 18. Amend § 25.4 by removing the reference to ''27 CFR Part 170—Miscellaneous Regulations Relating to Liquor'' and adding, in part number order, a reference to ''27 CFR Part 29—Stills and Miscellaneous Regulations.''

PART 70—PROCEDURE AND ADMINISTRATION

Par. 19. The authority citation for 27 CFR part 70 continues to read as follows:

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 5802, 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331–6343, 6401–6404, 6407, 6416, 6423, 6501–6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656–6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601–7606, 7608–7610, 7622, 7623, 7653, 7805.

§ 70.131 [Amended]

Par. 20. Amend paragraph (b) of § 70.131 by removing the reference to ''part 170'' and adding, in its place, a reference to ''part 29.''

§ 70.411 [Amended]

Par. 21. Amend paragraph (c)(2) of § 70.411 by removing the reference to ''Part 170'' and adding, in its place, a reference to ''Part 29.''

PART 170—[REDESIGNATED AS PART 29]

Par. 22. Redesignate 27 CFR part 170 as 27 CFR part 29.

PART 29—MISCELLANEOUS REGULATIONS RELATING TO ALCOHOL

Par. 23. The authority citation for the newly redesignated 27 CFR part 29 is revised to read as follows:

Authority: 26 U.S.C. 5002, 5101, 5102, 5179, 5291, 5601, 5615, 5687, 7805.

Par. 24. Revise the title of the newly redesignated part 29 to read as follows:

PART 29—STILLS AND MISCELLANEOUS REGULATIONS

* * * * *

§§ 29.42 and 29.45 [Amended]

Par. 25. Remove the reference to ''ATF Order 1130.20, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 170—Miscellaneous Regulations Relating to Liquor'' and add, in its place, a reference to ''ATF Order 1130.25, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 29—Stills and Miscellaneous Regulations,'' in the following places:

a. Section 29.42; and

b. The definition of ''Appropriate ATF officer'' in § 29.45.

§§ 29.47 and 29.49 [Amended]

Par. 26. Remove the reference to ''§ 170.59'' and add, in its place, a reference to ''§ 29.59'' in the following places:

a. Section 29.47(c); and

b. Section 29.49(c).

§ 29.59 [Amended]

Par. 27. Amend § 29.59 by removing the reference to ''§ 170.47, or 170.49'' and adding, in its place, a reference to ''§§ 29.47 or 29.49.''

Signed: April 13, 2001.

Bradley A. Buckles,

Director, Bureau of Alcohol, Tobacco and Firearms.

Approved: April 25, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement), Department of the Treasury.

[FR Doc. 01–20482 Filed 8–14–01; 8:45 am]

BILLING CODE 4810–31–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in September 2001. Interest assumptions are also published on the PBGC's Web site (http://www.pbgc.gov).

EFFECTIVE DATE: September 1, 2001.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to Part 4022).

Accordingly, this amendment (1) adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during September 2001,

(2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during September 2001, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during September 2001.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 6.30 percent for the first 20 years following the valuation date and 6.25 percent thereafter. These interest assumptions represent a decrease (from those in effect for August 2001) of 0.10 percent for the first 20 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 4.50 percent for the period during which a benefit is in pay status, and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent a decrease (from those in effect for August 2001) of 0.25 percent for the period during which a benefit is in pay status and are otherwise unchanged.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during September 2001, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In appendix B to part 4022, Rate Set 95, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
95	9–1–01	10–1–01	4.50	4.00	4.00	4.00	7	8

3. In appendix C to part 4022, Rate Set 95, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
95	9–1–01	10–1–01	4.50	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *	*		*		*	*
September 2001	.0630	1–20	.0625	>20	N/A	N/A

Issued in Washington, DC, on this 9th day of August 2001.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 01–20490 Filed 8–14–01; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

[SPATS No. AR–038–FOR]

Arkansas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving an amendment to the Arkansas regulatory program (Arkansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Arkansas proposed revisions and additions of regulations concerning definitions; areas where surface coal mining operations are prohibited or limited; exception for existing operations; procedures for compatibility findings for surface coal mining operations on federal lands in national forests; procedures for relocating or closing public roads or waiving prohibitions on surface coal mining operations within the buffer zone of public roads; procedures for waiving prohibitions on surface coal mining operations within the buffer zone of occupied dwellings; submission and processing of requests for valid existing rights determinations; director's obligations at time of permit application review; interpretative rule related to subsidence due to underground coal mining in areas designated by act of Congress; applicability to lands designated as unsuitable by Congress; exploration on land designated as unsuitable for surface coal mining operations; procedures: Initial processing, recordkeeping, and notification requirements; permit requirements for exploration that will remove more than 250 tons of coal or that will occur on lands designated as unsuitable for surface coal mining operations; relationship to areas designated unsuitable for mining; protection of publicly owned parks and historic places; relocation or use of public roads; road systems; public notices of filing of permit applications; legislative public hearing; and criteria for permit approval or denial. Arkansas intends to revise its program to be consistent with the corresponding Federal regulations and to enhance enforcement of the State program.

EFFECTIVE DATE: August 15, 2001.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548. Telephone: (918) 581–6430. Internet: mwolfrom@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Arkansas Program
II. Submission of the Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Arkansas Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *'' and ''rules and regulations consistent with regulations issued by the Secretary'' pursuant to the Act. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Arkansas program on November 21, 1980. You can find background information on the Arkansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the November 21, 1980, **Federal Register** (45 FR 77003). You can find later actions on the Arkansas program at 30 CFR 904.10, 904.12, 904.15, and 904.16.

II. Submission of the Amendment

By letter dated March 1, 2001 (Administrative Record No. AR–567.04), Arkansas sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Arkansas sent the amendment in response to our letter dated August 23, 2000 (Administrative Record No. AR–567), that we sent to Arkansas under 30 CFR 732.17(c). The amendment also includes changes made at Arkansas' own initiative. Arkansas proposed to amend the Arkansas Surface Coal Mining and Reclamation Code (ASCMRC). We announced receipt of the amendment in the April 6, 2001, **Federal Register** (66 FR 18216). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on May 7, 2001. We did not receive any comments. Because no one requested a public hearing or meeting, we did not hold one.

During our review of the amendment, we identified concerns about the definitions; submission and processing of requests for valid existing rights determinations; interpretative rule related to subsidence due to underground coal mining in areas designated by Act of Congress; public notices of filing of permit applications; and legislative public hearings. We notified Arkansas of these concerns by letter dated April 11, 2001, (Administrative Record No. AR–567.06).

By letter dated April 19, 2001 (Administrative Record No. AR–567.08), Arkansas sent us revisions to its program amendment. Based upon Arkansas' revisions to its amendment, we reopened the public comment period in the May 10, 2001, **Federal Register** (66 FR 23868). The public comment period closed on May 25, 2001. We did not receive any comments.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the OSM Director's findings concerning the amendment to the Arkansas program.

Any revisions that we do not discuss below are about minor wording changes, or revised cross-references and

paragraph notations to reflect organizational changes resulting from this amendment

A. Revisions to Arkansas' Regulations That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations

The State regulations listed in the table contain language that is the same as or similar to the corresponding sections of the Federal regulations. Differences between the State regulations and the Federal regulations are minor.

Topic	State regulation (ASCMRC)	Federal counterpart regulation (30 CFR)
Definition of ''valid existing rights''	Section 761.5	Section 761.5.
Areas where surface coal mining operations are prohibited or limited	Section 761.11	Section 761.11.
Exception for existing operations	Section 761.12	Section 761.12.
Procedures for compatibility findings for surface coal mining operations on Federal lands in national parks.	Section 761.13	Section 761.13.
Procedures for relocating or closing a public road or waiving the prohibition on surface coal mining operations within the buffer zone of a public road.	Section 761.14	Section 761.14.
Procedures for waiving the prohibitions on surface coal mining operations within the buffer zone of an occupied dwelling.	Section 761.15	Section 761.15.
Submission and processing of requests for valid existing rights determination.	Section 761.16	Section 761.16.
Director's obligations at time of permit application review	Section 761.17	Section 761.17.
Interpretative rule related to subsidence due to underground coal mining in areas designated by act of Congress.	Section 761.200	Section 761.200.
Applicability of lands designated as unsuitable by Congress	Section 762.14	Section 762.14.
Permit requirements for exploration that will remove more than 250 tons of coal or that will occur on lands designated as unsuitable for surface coal mining operations.	Section 776.12	Section 772.12.
Relationship to areas designated unsuitable for mining	Section 778.16(c)	Section 778.16(c).
Protection of publicly owned parks and historic places	Section 780.31(a)(2)	Section 780.31(a)(2).
Relocation or use of public roads	Section 780.33 introductory paragraph.	Section 780.33. introductory paragraph.
Road systems	Section 780.37	Section 780.37.
Public notices of filing of permit applications	Section 786.11(a)(4) and (a)(5)	Section 773.6(a)(1)(iv) and (a)(1)(v).
Criteria for permit approval or denial	Section 786.19(d)(1)	Section 773.15(c)(2).

Because the above State regulations have the same meaning as the corresponding Federal regulations, we find that they are no less effective than the Federal regulations.

B. Sections 761.5 Definitions and 761.15 Public Buildings

Due to an apparent error, Arkansas' regulations contain two different definitions for ''public buildings;'' one in section 761.5 Definitions, the other in section 761.15 Public buildings. This occurred when the State was revising the definition of ''public buildings'' and inadvertently inserted a new section (section 761.15 Public buildings) instead of modifying the existing definition of ''public buildings'' at section 761.5 Definitions. Arkansas proposed to eliminate this redundancy and to avoid confusion by removing section 761.15 ''Public buildings,'' and by replacing the definition of ''public buildings'' in section 761.5 with the definition of ''public buildings'' that was found in section 761.15. We are approving this revision because the revised definition of ''public buildings'' in section 761.5 is language that we previously approved at old section 761.15 and because the revision will eliminate any redundancy and confusion that may have been caused by the two definitions of ''public buildings'' that previously existed in the State's regulations.

C. Section 762.14 Exploration on Land Designated As Unsuitable for Surface Coal Mining Operations (Newly Redesignated As Section 762.15)

Arkansas proposed to redesignate section 762.14 as new section 762.15. We are approving this revision because it only changes the section number of the regulation and will not alter the approved language in the section.

D. Section 764.15 Procedures: Initial Processing, Recordkeeping, and Notification Requirements

Arkansas proposed to revise Section 764.15(a)(7) by changing the name of the hearing from an ''informal conference'' to that of a ''legislative public hearing.'' We are approving this revision because it only changes the name of the hearing and does not change the meaning or the intent of the regulation.

E. Section 786.14 Legislative Public Hearing

Arkansas proposed to revise Section 786.14(c) by replacing the reference citation to 761.12(d) with a reference citation to newly added section 761.14(c). Arkansas also proposed to revise this regulation to reflect that the legislative public hearings may be used to meet the requirement of a public hearing if one is requested under section 761.14(c) where the applicant proposes to relocate or close a public road or to conduct surface coal mining operations within 100 feet, measured horizontally, of the outside right-of-way line of a public road. The revised section reads as follows:

(c) Legislative Public Hearings held in accordance with this Section may be used by the Director as the public hearing required under Section 761.14(c) where the applicant proposes to relocate or close a public road or conduct surface coal mining operations within 100 feet, measured horizontally, of the outside right-of-way line of a public road.

We are approving the revision that replaces the reference citation to 761.12(d) with a reference citation to newly added section 761.14(c) because the provisions contained in old section

761.12(d) remain unchanged and have been reorganized and are now recodified in newly added section 761.14(c). We are also approving the revision to section 786.14 that reflects that the public hearings, if requested, may be used to meet the public hearing requirement under section 761.14(c) where the applicant proposes to relocate or close a public road or to conduct surface coal mining operations within 100 feet, measured horizontally, of the outside right-of-way line of a public road. We are approving this revision because it is consistent with the Federal regulations at 30 CFR 761.14(c) and (c)(1)–(c)(2) that require the regulatory authority or a public road authority that it designates to determine that the interests of the public and affected landowners will be protected. These Federal regulations also require that the regulatory authority must, among other things, provide opportunity to request a public hearing in the locality of the proposed operation before making this determination.

F. Section 786.19 Criteria for Permit Approval or Denial

Arkansas proposed to delete sections 786.19(d)(4) and (d)(5) and to redesignate sections 786.19(d)(6) through (d)(8) as sections 786.19(d)(4) through (d)(6). We are approving the deletion of sections 786.19(d)(4) and (d)(5) because the provisions contained in these sections are contained in revised section 786.19(d)(1) via a reference to section 761.11. We are also approving the redesignation of sections 786.19(d)(6) through (d)(8) as sections 786.19(d)(4) through (d)(6) because it will not render the Arkansas regulations less effective than the Federal regulations at 30 CFR 773.15(c).

G. Name Change of the Arkansas Regulatory Authority and the Recodification of the Arkansas Surface Coal Mining and Reclamation Act

In a letter dated April 2, 1999, Arkansas notified us that the ''Arkansas Department of Pollution Control and Ecology'' had its name changed to the ''Arkansas Department of Environmental Quality,'' effective March 31, 1999. Along with the name change, the general powers and responsibilities previously assigned to the ''Arkansas Department of Pollution Control and Ecology'' were transferred to the ''Arkansas Department of Environmental Quality.'' In a letter dated June 9, 1999, we notified the State that it must amend its approved program to reflect these changes. Because of the administrative nature of the change, we requested that Arkansas change the references to the ''Arkansas Department of Pollution Control and Ecology'' to references to the ''Arkansas Department of Environmental Quality'' in its regulations and/or statutes the next time the State proposed to amend its approved program. Arkansas responded in a letter dated June 23, 1999, that the State had already replaced all references to the ''Arkansas Department of Pollution Control and Ecology'' with references to the ''Arkansas Department of Environmental Quality'' in its regulations. Arkansas further responded that on April 6, 1999, the Arkansas Legislature passed Act 1164 approving the agency's name change to the ''Arkansas Department of Environmental Quality'' and revising all Arkansas statutes to reflect the name change.

Also, in its June 23, 1999, letter Arkansas advised us that the ''legislative version'' of the Arkansas Surface Coal Mining and Reclamation Act (Act 134 of 1979), as amended by Act 647 of 1979 has not existed, per se, since the effective date of Act 267 of 1987, which created and adopted the Arkansas Code. Effective December 31, 1987, Act 267 codified all existing Arkansas statutes into the Arkansas Code Annotated (ACA) without changing the substance or meaning of any provision of the statutes. All the provisions of the Arkansas Surface Coal Mining and Reclamation Act are codified at ACA Title 15, Chapter 58, Subchapters 1 through 5.

We are approving the name change of the Arkansas regulatory authority from the ''Arkansas Department of Pollution Control and Ecology'' to the ''Arkansas Department of Environmental Quality.'' We are also approving the recodification of the Arkansas statutes from the ''legislative version'' to the ''annotated version.'' We find that the changes are administrative in nature and do not render the Arkansas regulations less effective than the Federal regulations. Nor do the changes render the Arkansas statutes less stringent than the Federal statutes.

IV. Summary and Disposition of Comments

Federal Agency Comments

On March 14 and May 3, 2001, under section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Arkansas program (Administrative Record Nos. AR–567.05 and AR–567.09, respectively). We did not receive any comments.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain the written concurrence of the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Arkansas proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA for its concurrence.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record Nos. AR–567.05 and AR–567.09). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On March 14 and May 3, 2001, we requested comments on Arkansas' amendment (Administrative Record Nos. AR–567.05 and AR–567.09, respectively), but neither entity responded to our request.

Public Comments

We asked for public comments on the amendment, but did not receive any.

V. Director's Decision

Based on the above findings, we approve the amendment as sent to us by Arkansas on March 1, 2001, and as revised on April 19, 2001. We approve the regulations that Arkansas proposed with the provision that they be published in identical form to the regulations sent to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 904, which codifies decisions about the Arkansas program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making the regulations effective immediately will expedite that process and will encourage Arkansas to bring its program into conformity with the Federal standards. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 904

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 12, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 904 is amended as set forth below:

PART 904—ARKANSAS

1. The authority citation for Part 904 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 904.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 904.15 Approval of Arkansas regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
March 1, 2002	August 15, 2001	Sections 761.5 definitions of ''valid existing rights'' & ''public buildings;'' 761.11–.15; 761.16; 761.17; 761.200(a); 762.14–.15; 764.15(a)(7); 776.12; 778.16(c); 780.31(a)(2); 780.33; 780.37; 786.11(a)(4) & (a)(5); 786.14(c); and 786.19(d)(1) & (d)(4)–(d)(8); regulatory authority name change to Arkansas Department of Environmental Quality; and recodification of the statutes to Arkansas Code Annotated Title 15, Chapter 58, Subchapters 1–5.

[FR Doc. 01–20446 Filed 8–14–01; 8:45 am]
BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–151–FOR]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; decision on amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is not approving an amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Indiana proposed the addition of a statute concerning post mining land use changes as nonsignificant permit revisions. Indiana intended to revise its program to improve operational efficiency.

EFFECTIVE DATE: August 15, 2001.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204–1521. Telephone (317) 226–6700. Internet: IFOMAIL@indgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program
II. Submission of the Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Indiana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *'' and ''rules and regulations consistent with regulations issued by the Secretary'' pursuant to the Act. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Indiana program on July 29, 1982. You can find background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the July 26, 1982, **Federal Register** (47 FR 32107). You can find later actions on the Indiana program at 30 CFR 914.10, 914.15, 914.16, and 914.17.

II. Submission of the Amendment

By letter dated May 14, 1998 (Administrative Record No. IND–1606), Indiana submitted a proposed amendment to OSM in accordance with SMCRA. The proposed amendment concerned revisions of and additions to the Indiana Code (IC) made by House Enrolled Act (HEA) No. 1074. Indiana intended to revise its program to incorporate the additional flexibility afforded by SMCRA and to provide the guidelines for permit revisions, including incidental boundary revisions. We announced receipt of the proposed amendment in the May 29, 1998, **Federal Register** (63 FR 29365), and invited public comment on its adequacy. The public comment period for the amendment closed June 29, 1998. During our review of the proposed amendment, we identified concerns relating to the proposed amendment. We notified Indiana of these concerns by letter dated September 15, 1998 (Administrative Record No. IND–1621). By letter dated December 21, 1998 (Administrative Record No. IND–1627), Indiana responded to our concerns by submitting additional explanatory information. Because Indiana did not make any substantive revisions to the amendment, we did not reopen the public comment period. On March 16, 1999, we approved Indiana's proposed amendment, with three exceptions (64 FR 12890). Specifically, we did not approve the amendment at IC 14–34–5–7(a) concerning guidance for permit revisions; the amendment at IC 14–34–5–8.2(4) concerning postmining land use changes; and the amendment at IC 14–34–5–8.4(c)(2)(K) concerning minor field revisions for temporary cessation of mining. On May 26, 1999, at Indiana's request, we provided clarification of our decision on Indiana's amendment (64 FR 28362).

On May 14, 1999, the Indiana Coal Council (ICC) filed a complaint in the United States District Court, Southern District of Indiana, to challenge our decision not to approve the proposed Indiana program amendments at IC 14–34–5–7(a) and IC 14–34–5–8.2(4). *Indiana Coal Council* v. *Babbitt,* No. IP 99–0705–C–M/S, (S. D. Ind.). On September 25, 2000, the Court issued its decision on the ICC's complaint. The Court found that, in the case of IC 14–34–5–7(a) concerning guidance for permit revisions, OSM was not arbitrary and capricious in not approving the amendment. Therefore, the Court upheld our decision. However, in the case of IC 14–34–5–8.2(4) concerning postmining land use changes, the Court found that our decision was arbitrary and capricious, and remanded the matter to OSM for ''further consideration.'' In accordance with the Court's ruling, we opened the public comment period for section IC 14–34–5–8.2(4) of Indiana's proposed amendment submitted on May 14, 1998, in the January 11, 2001, **Federal Register** (66 FR 2374). In the same document, we provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on February 12, 2001. We received comments from two industry groups and one Federal agency. However, because no one requested a public hearing or meeting, we did not hold one.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director of OSM's findings concerning the proposed amendment to the Indiana program.

A. Indiana's Proposed Amendment at IC–14–34–5–8.2(4)

Indiana's proposed amendment at IC 14–34–5–8.2(4) provides that a proposed permit revision is nonsignificant, and therefore not subject to the notice and hearing requirements of IC 14–34, if it is a postmining land use change other than a change described in IC 14–34–5–8.1(8). IC 14–34–5–8.1(8) provides that a proposed permit revision is significant if a postmining land use will be changed to a residential land use, a commercial or industrial land use, a recreational land use, or developed water resources meeting MSHA requirements for a significant impoundment.

B. Summary of the Court's Decision

In the U.S. District Court case, the ICC argued that our original decision not to approve IC 14–34–5–8.2(4) was arbitrary and capricious for two reasons: (1) Because we offered conflicting reasons for our decision; and (2) because we gave no reason for distinguishing Indiana's definition of a significant permit revision from the nearly identical program we approved for Tennessee.

In evaluating whether we offered conflicting reasons for our decision, the Court stated that it did appear that we had changed our position as to whether the Director of the Indiana Department of Natural Resources (IDNR) retained discretion to determine if a proposed permit revision concerning a postmining land use change is significant. But, the Court stated that our ultimate conclusion—that the amendment was inconsistent with the Act because it would allow for certain significant changes to be made without notice and hearing requirements—never changed. Thus, the Court found that we had not been arbitrary and capricious just because we changed our position as it concerned the INDR Director's discretion.

However, the Court found that we did not distinguish Indiana's definition of a significant permit revision from the definition in the Tennessee program. The Court concluded that, by adding the provision at IC 14–34–5–8.2(4), Indiana made its program essentially the same as the Tennessee program by providing that if a change did not fall under the definition of significant, it was nonsignificant. Specifically, the Court stated that ''it appears that the Tennessee and Indiana statutes would dictate the same results with respect to classifying certain postmining land use changes as either significant or nonsignificant.'' In the case of the example we used in our March 16, 1999, decision—a change from cropland to forest—the Court states, ''[a]ssuming such change would be significant, it is not one of the changes listed in Tennessee's approved definition of 'significant.' Thus, by default, it would be 'nonsignificant' under the Tennessee program''—just as it would under the Indiana program. *Indiana Coal Council* v. *Babbit,* No IP 99–0705–C–M/S, slip op. at 14, (S. D. Ind., Sept. 25, 2000). Thus, it appeared to the Court that the existing Tennessee program and the proposed Indiana amendment would dictate the same results with respect to classifying certain postmining land use changes as significant or nonsignificant. The Court stated that we provided no explanation for not approving Indiana's statute when we had a regulation under the Tennessee program that was nearly identical. Because it appeared that we departed from our prior rulings and failed to explain why, the Court found that our ruling was arbitrary and capricious.

C. Analysis of the Court's Decision

The existing Tennessee program and the proposed Indiana amendment would not dictate the same results with respect to classifying certain postmining land use changes as significant or nonsignificant. Under the Tennessee program, the Director of OSM retains discretion to determine whether land use changes other than those listed in 30 CFR 942.774(c)(8) are significant or nonsignificant permit revisions. A postmining land use is not, by default, a nonsignificant permit revision just because it is not one of the changes listed in Tennessee's approved definition of ''significant.'' Instead, the Director of OSM makes that determination on a case-by case basis. We have always maintained that this discretion is a necessary part of the Tennessee program. In the December 5, 1988, preamble to 30 CFR 942.774, we state, ''OSMRE believes that some flexibility in language is necessary to allow for contingencies or applications that are not possible to foresee'' (53 FR 49104). Thus, in the case of the example we cited in our March 16, 1999, decision—a change from cropland to forest—the change may be processed as either a significant or nonsignificant permit revision depending upon the Director of OSM's determination.

Indiana's provision at IC 14–34–5–8.2(4), on the other hand, eliminates the IDNR Director's discretion to determine whether a postmining land use change would classify as significant. Under IC 14–34–5–8.2(4), all postmining land use changes other than those listed at IC 14–34–5–8.2(4) have to be nonsignificant. In the case of the example we cited in our March 16, 1999, decision—a change from cropland to forest—the change must be considered nonsignificant. Indiana's proposed amendment would not allow for any other determination. Clearly, the two programs are different. For these reasons, we conclude that our decision not to approve the Indiana amendment at IC 14–34–5–8.2(4) was not a departure from our prior ruling in the Tennessee program. Instead, our decision was consistent with our longstanding position that some flexibility in language is necessary to allow for contingencies or applications of the rule that were not covered by the provision at 30 CFR 942.774(c). IC 14–34–5–8.2(4) would eliminate such flexibility.

D. Director's Findings

Given the differences between the Indiana proposed amendment and the approved Tennessee program, and taking into account all the comments we received on this amendment, we find that our original decision not to approve IC 14–34–5–8.2(4) was correct in its result. We agree with the Court that our original decision not to approve required additional consideration and explanation of our rationale. Based on our additional consideration and explanation, we find IC 14–34–5–8.2(4) conflicts with section 511(a)(2) of SMCRA, which requires notice and hearing requirements for any significant alterations in a reclamation plan. IC 14–34–5–8.2(4) would allow many changes that could produce significant alterations in a reclamation plan without notice and hearing requirements. For example, it would allow a change from cropland to forest without notice and hearing requirements. Depending on the circumstances, this change could be a significant permit revision. The IDNR Director must be free to determine if such a change would constitute a significant permit revision so as to assure that appropriate procedures are provided for the public's participation in the revision of reclamation plans as required under section 102(i) of SMCRA. Indiana's proposed amendment at IC 14–34–5–8.2(4) does not provide for such a determination.

In its December 21, 1998, letter, Indiana stated that it interprets this section to mean that the Director of the State regulatory authority retains discretion under IC 14–34–5–8.2(5) to determine whether land use changes other than those listed in IC 14–34–5–8.1(8) could be significant revisions. Indiana further stated that all permit

revision decisions are appealable under the Indiana Administrative Orders and Procedures Act.

We agree that the IDNR Director retains discretion as to whether a permit revision is significant or nonsignificant. However, in the instance of postmining land use changes, it is clear on its face that the provision at IC 14–34–5–8.2(4) removes such discretion. Thus, as explained above, the statute is inconsistent with, and less stringent than, section 511(a)(2) of SMCRA, which requires notice and hearing requirements for any significant alterations in a reclamation plan. The fact that all permit revision decisions are appealable under the Indiana Administrative Orders and Procedures Act does not justify the inclusion of a provision in this section that is inconsistent with, and less stringent than, section 511(a)(2) of SMCRA. Therefore, we do not approve IC 14–34–5–8.2(4).

IV. Summary and Disposition of Comments

Federal Agency Comments

On January 5, 2001, under section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Indiana program (Administrative Record No. IND–1709). The Fish and Wildlife Service (FWS) responded on January 16, 2001 (Administrative Record No. IND–1706). The FWS states that in its previous comments dated June 19, 1998 (Administrative Record No. IND–1615), it had expressed concern that the amendment would result in reduced opportunities for the FWS to review land use changes that might adversely affect fish and wildlife resources. However, the amendment to IC 14–34–5–8.1(5), which provides that permit revisions that may result in an adverse impact on fish, wildlife, and related environmental values beyond that previously considered must be addressed as significant permit revisions, appears to have satisfied its concern, assuming that ''permit revisions'' include postmining land use changes. The FWS states that the amendment to IC 14–35–5–8.2(4) would allow changes from forest or fish and wildlife land to a category other than the four specified categories to be processed as nonsignificant permit revisions without notice and hearing requirements. The FWS contends that such a change could be in conflict with 8.1(5) because it may allow a postmining land use change that may result in an adverse impact on fish, wildlife and related environmental values beyond that previously considered to be addressed as a nonsignificant permit revision. The FWS states that this incompatibility should be resolved prior to approval. The FWS recommends that 8.2(4) be modified to include 8.1(5) as well as 8.1(8).

We agree that IC 14–34–5–8.2(4) may allow a postmining land use change that may result in an adverse impact on fish, wildlife and related environmental values beyond that previously considered to be addressed as a nonsignificant permit revision. For that reason, we find that the provision conflicts with section 511(a)(2) of SMCRA, which requires notice and hearing requirements for any significant alterations in a reclamation plan, and we are therefore not approving the provision. Please refer to III. Director's Findings. Because we are not approving IC 14–34–5–8.2(4), there is no need to modify it.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain the written concurrence of the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Indiana proposed to make in this amendment pertain to such air or water quality standards. Therefore, we did not ask the EPA for its concurrence.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. IND–1709). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP for amendments that may have an effect on historic properties. On January 5, 2001, we requested comments from the SHPO and ACHP on Indiana's amendment (Administrative Record No. IND–1706), but neither responded to our request.

Public Comments

OSM requested public comments on the proposed amendment. We received comments from two groups representing the coal industry. By letter dated February 5, 2001, the ICC submitted comments on the proposed amendment (Administrative Record No. IND–1707). Also, by letter dated February 12, 2001, the National Mining Association (NMA) submitted comments on the proposed amendment (Administrative Record No. IND–1708). Both organizations provided comments supporting the amendment. For ease of discussion, the comments have been organized by topic and are discussed below.

In addition, in its letter dated February 5, 2001, the ICC informed us that it had requested information from the Knoxville OSM Field Office under the Freedom of Information Act. The ICC stated that if it did not receive the information it requested, ''the ICC will be requesting an extension'' to the public comment period for this amendment. Although we did not receive a request for an extension, the ICC submitted additional comments on the proposed amendment by a letter dated February 28, 2001 (Administrative Record No. IND–1710). Given the level of interest the ICC has in this proposed amendment, we have incorporated the ICC additional comments into the discussion below.

1. Indiana Added the Proposed Language at IC 14–34–5–8.2(4) Because OSM Recommended It

Both the ICC and the NMA contend that IC 14–34–5–8.2(4) was added to HEA 1074 at OSM's suggestion. As support for this contention, both organizations refer to a letter dated February 20, 1998, that we sent Indiana, providing preliminary comments on the legislative bill that was later enacted as HEA 1074. The ICC points out that, as originally proposed, HEA 1074 contained the provision at IC 14–34–5–8.1 classifying certain postmining land uses as significant permit revisions and an additional provision in IC 14–34–5–8.2 stating that a revision is nonsignificant if it does not involve a significant change in land use. The ICC states that in our preliminary comments:

> OSM expressed concern that ''[t]he two standards for determining which revision requirements apply to a specific land use change * * * may result in different determinations, depending on which section of the statute is used.'' OSM suggested ''that guidance be provided for one or the other, but not both. * * * Generally then if a revision doesn't meet the standards specified in the program, it is by default that other type of revision.''

The ICC maintains that Indiana followed our suggestion and inserted a provision at IC 14–34–5–8.2(4) which classified as nonsignificant revisions all postmining land use changes not defined as significant revisions at IC 14–34–5–8.1(8). The NMA asserts that

''[a]gencies should not recommend a course of action and then penalize IDNR for following their advice.''

Response: The ICC has taken the comments in our February 20, 1998, letter out of context. In the letter, we offered specific comments on section 8.2(a)(5)(B), which provided that a revision was nonsignificant if it did not involve a significant change in land use. We expressed concern that the provision at 8.2(a)(5)(B) conflicted with the provision in section 8.1(8) which provided that land use changes to residential, commercial or industrial, recreational, or developed water resources are significant revisions. Specifically, we stated that there appear to be two standards for determining whether a post mining land use change is significant. We further stated that the two standards may result in different determinations, depending on which section of the statute is used.

We then offered a general comment concerning permit revisions as a whole. Specifically, we stated:

> We recognize that it is not possible to list every kind of [permit] revision that might occur. Therefore, it is difficult to provide specific guidance that identifies all [permit] revisions that are significant and also all those [permit revisions] that are nonsignificant. We suggest that guidance be provided for one or the other, but not for both. That is the approach used by most other states. Generally, then if a [permit] revision doesn't meet the standards specified in the program, it is by default the other type of [permit] revision.

Thus, we were not talking specifically about postmining land use changes when we commented, ''[g]enerally, then if a revision doesn't meet the standards specified in the program, it is by default that other type of revision.'' We were talking about permit revisions as a whole. Further, it is erroneous to assume, based on this comment, that revisions that do not meet the standards specified in a regulatory program are automatically the other type of revision because the comment was qualified by the word ''generally.'' The word ''generally'' clearly leaves the door open for discretion in determining if a revision that does not meet the standards specified in a regulatory program is significant or nonsignificant, just as the Tennessee program does. Finally, the only suggestion in the entire paragraph was that Indiana provide guidelines for only one type of permit revision. That way, Indiana would have guidelines for making permit revision determinations, but those guidelines would not eliminate Indiana's ability to determine, on a case-by-case basis, whether a permit revision was a significant or nonsignificant revision. Indiana did not adopt this suggestion. Therefore, the NMA's concern that we penalized IDNR for following our advice is unfounded.

2. OSM Tried To Not Approve the Amendment by Insisting That All Postmining Land Use Changes Must Be Considered Significant Permit Revisions.

Both the ICC and the NMA contend that we first attempted to justify our decision not to approve IC 14–34–5–8.2(4) in the March 16, 1999, final rule (64 FR 12890) by claiming that all postmining land use changes should be treated as significant permit revisions. The ICC implies that we made this claim when we stated that ''changes in postmining land use are the kind of issue that the public should have an opportunity to comment on.'' The NMA asserts that such a claim is contradicted by the legislative history of SMCRA. The NMA states that Congress considered but rejected specific language that would have required a permit revision prior to modification of proposed future land use. The NMA argues that this legislative history demonstrates that not all modifications of future land uses must invoke notice and hearing requirements ''as alleged by OSM.'' It may even imply that some modifications of the proposed future land use do not require a permit revision at all.

Response: We disagree that we attempted to justify our decision not to approve IC 14–34–5–8.2(4) by claiming that all postmining land use changes should be treated as significant permit revisions. We did not approve IC 14–34–5–8.2(4) because it was inconsistent with section 511(a)(2) of SMCRA, which requires public notice and hearing procedures for any significant alteration in a reclamation plan. Please refer to III. Director's Findings 6. of our March 16, 1999, final rule in which we stated:

> Section 511(a)(2) of SMCRA requires the State to establish guidelines for determining which revision requests are subject to notice and hearing requirements. However, it also requires, at a minimum, notice and hearing requirements for any significant alterations in a reclamation plan. IC 14–34–5–8.2(4) would allow many changes that could produce significant alterations in a reclamation plan, such as a change from cropland to forest, without notice and hearing requirements. Allowing such a change without notice and hearing requirements is inconsistent with, and less stringent than, section 511(a)(2) of SMCRA (64 FR 12892).

Further, we do not maintain that all postmining land use changes should be treated as significant permit revisions, and we disagree with the implication that we made such a claim with our statement concerning opportunities for public comments. The central purpose of our May 26, 1999, final rule clarification was to make it clear that we in no way intended to indicate that all land use changes other than those listed at IC 14–34–5–8.1(8) must be considered significant revisions. Thus, we would agree with the NMA's assertion that the legislative history of SMCRA demonstrates that not all modifications of future land uses must invoke notice and hearing requirements. However, we do not agree that the legislative history implies that some modifications of the proposed future land use do not require a permit revision at all. The ICC made this basic contention in its comments on Indiana's proposed program amendment at IC 14–34–5–7(a) when it argued that nothing in SMCRA specifically states that all mining or reclamation changes are revisions subject to regulatory authority approval (Administrative Record No. IND–1617). However, as we explained in our decision not to approve that proposed program amendment, we have established that all revisions must be incorporated into the permit since they are changes to that document (64 FR 12894). As stated above, the ICC challenged our decision not to approve IC 14–34–5–7(a) and the Court upheld our decision. *Indiana Coal Council* v. *Babbitt*, No IP 99–0705–C–M/S (S. D. Ind, Sept. 25, 2000).

3. OSM Tried To Not Approve the Amendment by Claiming That It Deprived the IDNR of Discretion.

The ICC states that we changed the reasoning behind our decision not to approve IC 14–34–5–8.2(4) in the May 26, 1999, final rule clarification (64 FR 28362) by claiming that the problem with the Indiana program amendment was that it deprived IDNR of discretion to require that post mining land use changes be treated as significant permit revisions. The ICC points out that the IDNR had explained that it interpreted IC 14–34–5–8.2 to mean that its Director would retain discretion under IC 14–34–5–8.2(5) to determine that land use changes other than those listed in IC 14–34–5–8.1(8) could be significant permit revisions. The NMA asserts that this interpretation by the IDNR Director refutes our argument that the proposed amendment would remove the IDNR Director's discretion to determine whether post mining land use changes other than the ones listed at IC 14–34–5–8.1(8) are significant. Both the ICC and the NMA further assert that we agreed with the IDNR's interpretation in the March 16, 1999, final decision. The

ICC states that nothing in either of our prior decisions explains how we can reconcile our statement that we agree with the IDNR's interpretation with our ''clarified'' position that section 14–34–5–8.2 deprives the IDNR of discretion.

Response: In our May 26, 1999, final rule clarification (64 FR 28362), we specifically stated that we were supplementing our previous findings—not replacing them. Furthermore, the Court specifically stated that we never changed our ultimate conclusion that IC 14–34–5–8.2(4) was inconsistent with section 511(a)(2) of SMCRA. Therefore, it is incorrect to assert that we changed our original decision. Please refer to III. Director's Findings 6. of our March 16, 1999, final rule in which we stated:

> Section 511(a)(2) of SMCRA requires the State to establish guidelines for determining which revision requests are subject to notice and hearing requirements. However, it also requires, at a minimum, notice and hearing requirements for any significant alterations in a reclamation plan. IC 14–34–5–8.2(4) would allow many changes that could produce significant alterations in a reclamation plan, such as a change from cropland to forest, without notice and hearing requirements. Allowing such a change without notice and hearing requirements is inconsistent with, and less stringent than, section 511(a)(2) of SMCRA (64 FR 12892).

We published the May 26, 1999, final rule clarification at the request of a May 12, 1999, letter we received from the IDNR. In that letter, the IDNR asked us to ''provide clarification of the **Federal Register** language which disapproved portions of the program amendment pursuant to those issues which were subject to our May 10, 1999 discussions.''

On May 10, 1999, we held a telephone conference with representatives from both the IDNR and the ICC to discuss the ICC's concerns with the portions of the Indiana's May 29, 1998, amendment that we did not approve. During that meeting, the ICC argued that our decision not to approve IC 14–34–5–8.2(4) eliminated the IDNR's discretion to determine whether postmining land use changes are nonsignificant permit revisions because we had declared that all postmining land use changes should be treated as significant permit revisions.

In our final rule clarification, we stated that it was not our intent to indicate that all other land use changes must be considered a significant revision or to alter OSM's position as reflected in other regulatory actions relating to significant permit revisions, such as those for the Federal program in Tennessee (see the response to comments under 3. above).

We further went on to explain that we felt it is essential for Indiana to continue to have the discretion to determine, on a case-by-case basis, that land use changes other than those listed in section IC 14–34–5–8.1(8) may constitute a significant revision. Thus, one of the purposes of our clarification was to explain that, contrary to the ICC's assertion, our decision not to approve IC 14–34–5–8.2(4) did not eliminate IDNR's discretion to determine whether postmining land use changes are nonsignificant permit revisions. Instead, it was ''clear on its face that the proposed change would remove such discretion.'' Our decision not to approve IC 14–34–5–8.2(4) preserved IDNR's discretion. Therefore, we agreed with the IDNR when it claimed that its Director retained discretion as to whether a change is significant or nonsignificant. Our decision not to approve IC 14–34–5–8.2(4) guaranteed that.

4. The Proposed Amendment Is Identical to the Federal Program in Tennessee

The NMA contends that our objections to Indiana's proposed amendment are particularly unusual because the current proposal at issue was copied almost verbatim from part of the Federal SMCRA program promulgated and approved by OSM on behalf of the State of Tennessee. Further, the NMA argues that the language of OSM's Federal program in Tennessee at 30 CFR 942.774 implies that items not listed as ''significant'' are not significant. The NMA states, ''the Federal program run by OSM in Tennessee expressly considers changes to the reclamation plan of the type being cited by the agency as objectionable (cropland to forest) to be ''insignificant'' that do not require notice and hearings.''

Response: The Tennessee SMCRA program provisions concerning permit revisions at 30 CFR 942.774 do not contain a counterpart to ''the current proposal at issue''—IC 14–34–5–8.2(4). Further, the language at 30 CFR 942.774 does not imply that items not listed as ''significant'' are not significant. Nor does it expressly consider changes to the reclamation plan of the type being cited by the agency as objectionable (cropland to forest) to be ''insignificant.'' As stated in III. Director's Findings, in the preamble to the final rule approving 30 CFR 942.774, we explain that the language at 30 CFR 942.774 was intentionally written in such a way ''to allow for contingencies or applications of the rule that are not possible to foresee'' (53 FR 49104). Thus, we have always maintained that revisions other that those found at 30 CFR 942.774 could be considered significant.

5. The Proposed Amendment Is Similar to the Federal Program in Tennessee

The ICC argues that IC 14–34–5–8.1 is similar to the corresponding provision of the Federal SMCRA program adopted by OSM for the state of Tennessee. The ICC contends that IC 14–34–5–8.1 is virtually identical to 30 CFR 942.744(c)(8). The only way that Indiana's program differs from Tennessee's program is that Indiana's amendment added a new section 14–34–5–8.2(4) which provides that postmining land use changes other than those enumerated in section 14–34–5–8.1 are classified as nonsignificant revisions. The Tennessee program has no provision defining nonsignificant revisions.

Response: We agree that IC 14–34–5–8.1 is virtually identical to 30 CFR 942.744(c)(8) and we acknowledged this in our March 16, 1999, final rule when we approved IC 14–34–5–8.1 (64 FR 12892). However, we do not agree that the only way that Indiana's program differs from Tennessee's program is that Indiana's amendment added a new section 14–34–5–8.2(4). For example, the Tennessee program does not have a counterpart to any of the provisions at IC 14–34–5–8.2 concerning nonsignificant permit revisions. Still, even if Indiana's program were similar to the Tennessee program, Indiana's program is not entitled to instant approval. We still must review Indiana's program to determine if it is as stringent as the Federal program. We have determined it is not. Please refer to III. Director's Findings.

6. OSM Has Never Exercised Discretion in Tennessee

The ICC questions whether we have in fact ever exercised our discretion under the Federal Tennessee program to require that a postmining land use change other than the ones specified in 30 CFR 942.774(c)(8) be treated as a significant permit revision. On January 31, 2001, under the Freedom of Information Act, the ICC submitted a request to the OSM Knoxville Field Office for information concerning ''any correspondence, internal memoranda or notes, or permit decision documents reflecting any decision by OSM to require any permit revision to a surface coal mining and reclamation operations permit issued under the federal program for the State of Tennessee * * * to be treated as a significant permit revision.'' On February 20, 2001, the Knoxville Field Office responded to the ICC's

request by providing information about one permit revision which involved a change from non-commercial forest to an industrial postmining land use. Thus, the ICC states that OSM, as the regulatory authority under the Tennessee Federal program, has never required any change in postmining land use to be treated as a significant permit revision other than a change in one of the categories specifically listed in 30 CFR 9472.774(c)(8). Furthermore, the ICC argues that, to the extent that we may have retained discretion under the Tennessee program regulations to treat other categories of postmining land use changes as significant permit revisions, it does not appear that we have ever had occasion to exercise that discretion. In light of this experience under the Tennessee program, the ICC believes that we should reevaluate our prior position that Indiana must retain such discretion in order for its program to be no less effective than the federal regulations. The ICC contends that if postmining land use changes other than those specified at 30 CFR 942.774(c)(8) are not treated as significant permit revisions in practice in Tennessee, the Indiana program would be no less effective than OSM's rules regardless if the IDNR has discretion to so treat them. The NMA argues that the language of our Federal program in Tennessee does not provide for discretion by the Director of OSM, and that we have not provided any examples of discretion being exercised in Tennessee.

Response: As stated above in the response to comment 4. and in III. Director's Findings, the language of our Federal program in Tennessee does provide for discretion by the Director of OSM, as it was written in such a way ''to allow for contingencies or applications of the rule that are not possible to foresee'' (53 FR 49104). In fact, under the Tennessee SMCRA program, every decision of the Director of OSM on a land use change revision other than those listed at 30 CFR 942.774(c)(8) is discretionary.

As for whether we have ever required a postmining land use change other than the ones specified in 30 CFR 942.774(c)(8) to be treated as a significant permit revision, the answer is no. However, this does not mean that we have never exercised our discretion under the Federal Tennessee program. In fact, we maintain that every decision the Director of OSM has made under the Federal Tennessee program relating to postmining land use changes not listed at 30 CFR 942.774(c)(8) is an exercise of discretion. The Director of OSM has merely determined that the postmining land use changes to date are nonsignificant. Under Indiana's proposed amendment, the IDNR Director would not be able to make such a determination. As stated above in III. Director's Findings, elimination of the IDNR Director's discretion in the Indiana program would render Indiana's program less effective than the Federal program and conflict with section 511(a)(2) of SMCRA. Therefore, we are not approving the provision at IC 14–34–5–8.2(4).

Finally, the ICC argues that eliminating INDR discretion will not affect the way in which Indiana executes its program. If that is true, then preserving INDR discretion as we have by not approving IC 14–34–5–8.2(4) will also not affect the way in which Indiana executes its program. Therefore, the ICC's concerns are unwarranted.

7. The Proposed Amendment Would Not Change the Way Indiana Has Been Handling Postmining Land Use Changes Since 1989

Both the ICC and the NMA contend that, in practice, changes in post mining land uses of the type being proposed have not been considered significant permit revisions under IDNR's regulations since 1989. The ICC indicates this is because of an IDNR's Hearings Division determination in Albrecht v. DNR, Cause #88–294R (June 13, 1989) that postmining land uses were not significant permit revisions under IDNR's regulations. The NMA states that we have not offered any evidence that refutes this fact. Further, the ICC and the NMA point out that we have not noted any problems with the IDNR's practice over the past 12 years.

Response: As stated above, if eliminating INDR discretion will not affect the way in which Indiana executes its program, then preserving INDR discretion as we have by not approving IC 14–34–5–8.2(4) will also not affect the way in which Indiana executes its program. Therefore, the ICC's and NMA's concerns are unwarranted.

8. There Is No Public Concern Over the Proposed Amendment

The ICC contend there is no need for OSM to strain for reasons to not approve IC 14–34–5–8.2(4) because whether postmining land use changes are treated as significant permit revisions or not, existing provisions of the approved Indiana program already insure that postmining land use changes cannot be approved without consultation with the landowner or appropriate land management agency. The ICC suggests that it is the landowner or land management agency, not the public at large, which is most likely to be interested in proposed postmining land use changes. The NMA points out that OSM has not identified any public comments from the last round of notice and comments objecting to IDNR's proposed amendment.

Response: We disagree with the contention that the public at large is not interested in proposed postmining land use changes. In fact, such a claim is in direct conflict with section 102(i) of SMCRA, which states that SMRCA was designed to assure that appropriate procedures are provided for the public participation in the revision of reclamation plans. As we stated in III. Director's Findings, we believe it is essential that regulatory authorities retain discretion to determine which revisions qualify as significant permit revisions so that the purposes of section 102(i) can be met. Therefore, we are not approving IC 14–34–5–8.2(4).

9. OSM Does Not Define ''Significant,'' So It Should Defer to Indiana's Definition

The NMA also argues that Indiana's proposed language is consistent with SMCRA section 511(a)(2) because neither SMCRA nor OSM regulations define ''significant.'' Therefore, there can be no direct showing that the proposed amendment is ''less stringent than'' the requirement in section 511(a)(2) of SMCRA. The NMA argues that since there is no definition of ''significant'' in SMCRA or OSM's regulations, it is the State regulatory authority that should determine what constitutes ''significant'' revisions to the reclamation plan. The NMA argues that this position is supported by the fact that SMCRA and OSM's implementing regulations clearly provide that: (1) States are supposed to enjoy ''exclusive'' jurisdiction over the regulation of surface coal mining and reclamation operations (30 USC 1253(a)), and (2) nonsignificant permit revisions are subject only to the review procedures established under the State or Federal programs (48 FR 44377). According to the NMA, then, it is appropriate for OSM to defer to the IDNR's reasonable definition of ''significant.''

Response: Indiana defined and provided eight specific examples of significant permit revisions at IC 14–34–5–8.1, and we approved the provisions on March 16, 1999 (64 FR 12890). Therefore, we have accepted the IDNR's reasonable definition of significant permit revisions. Furthermore, Indiana's definition of significant permit revisions is not all inclusive. We recognized this when we stated in our approval that

''this list cannot be considered all inclusive, as there are many other changes not listed at IC 14–34–5–8.1 that would be considered significant permit revisions.'' Indiana's provision at IC 14–5–34–8.2(4) would make the provision at IC 14–34–5–8.1(8) all inclusive, thereby eliminating the possibility that a postmining land use change not listed at IC 14–34–5–8.1(8) could be considered a significant permit revision. Thus, the provision at IC 14–34–5–8.2(4) conflicts with Indiana's own reasonable definition of significant permit revisions. Our decision not to approve IC 14–34–5–8.2(2) is consistent with our approval of Indiana's reasonable definition of significant permit revisions.

10. Indiana Must Have Regulations That Are as Effective as OSM's

The NMA points out that for almost twenty years, OSM has held that States do not have to adopt regulations that are identical to the Secretary's. Further, States do not need to demonstrate that alternative regulations are necessary to meet local requirements, environment, or agricultural conditions. Instead, States must demonstrate that their laws and regulations are as effective as the Secretary's in meeting the requirements of the Act. The NMA contends that there is no evidence in the record that IDNR's proposal would be less effective. The NMA states that OSM should be faithful to its longstanding policies of allowing States freedom to develop regulations that meet their needs, and approve the proposed amendment, especially when the evidence in the record supports the adoption of the proposed amendment and does not suggest that it would be less effective than OSM regulations. The NMA maintains that Indiana's proposed language is consistent with SMCRA section 511(a)(2).

Response: As explained under III. Director's Findings, the provision at IC 14–34–5–8.2(4) would eliminate the IDNR Director's discretion to determine if a revision other than those listed at IC 14–34–8.1(8) would constitute a significant permit revision and make it impossible for the IDNR Director to assure that appropriate procedures are provided for the public participation in the revision of reclamation plans as required under section 102(i) of SMCRA. Thus, Indiana's provision is less effective than the Secretary's regulations. Therefore, we are not approving it.

11. OSM Has Violated Section 503(c) of SMCRA and Section 553 of the Administrative Procedure Act (APA)

The NMA asserts that OSM failed to provide any new rationale or basis for not approving Indiana's proposed amendment at IC 14–34–5–8.2(4) in our January 11, 2001, **Federal Register** notice. The NMA contends that OSM has violated section 503(c) of SMCRA and section 553 of the Administrative Procedure Act by failing to allow the IDNR and the public a meaningful opportunity to comment on why OSM plans to deny the proposed amendments to the Indiana regulatory program. The NMA points to a Court ruling in *Macon County Samaritan Memorial Hospital* v. *Shalala,* 7 F. 3d 762, 765–766 (8th Cir. 1993); *quoting Motor Vehicle Mfrs. Ass'n* v. *State Farm Mut. Auto Ins. Co.,* 463 U.S. 29, 42 (1983) to argue that if a new agency rule reflects departure from the agency's prior policy, the agency must apply reasoned analysis for change beyond that which may be required when the agency does not act in the first instance. The NMA also points to a Court ruling in *Office of Communications of the Unitied Church of Christ* v. *FCC,* 560 F. 2d 529, 532 (2nd Cir. 1977) and contends that for an agency to change its previous holdings, there must be a thorough and comprehensive statement of reasons for the decision. The NMA states that it would be much more meaningful to provide comments as to whether Indiana's amendment satisfies the applicable program approval criteria of 30 CFR 732.15 if OSM explained in the notice exactly what part of the criteria the agency believes are not satisfied. The NMA states because OSM has chosen not to provide any additional information for the record and has not provided any new rationale for denying the amendment, the amendment should be approved. If OSM plans to attempt to not approve the amendment a second time, SMCRA and the APA require that it must at least provide the public and IDNR a meaningful opportunity to comment on that new rationale before the agency makes a final decision.

Response: SMCRA and the Federal regulations are clear as to the review and decision process for proposed changes to State programs. We have followed those procedures. The U.S. District Court, Southern District of Indiana, required us to reconsider our initial decision. Therefore, we provided an opportunity to the public to comment on the proposed amendment as required by law.

V. Director's Decision

Based on the above findings, we are not approving the amendment as remanded to us for further consideration by the U.S. District Court, Southern District of Indiana on September 25, 2000.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 914, which codify decisions concerning the Indiana program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the state's program demonstrates that the state has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effectively immediately will expedite that process and will encourage Indiana to bring its program into conformity with the Federal standards. SMCRA requires consistency of State and Federal standards.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any changes to approved State programs that are not approved by OSM. In our oversight of the Indiana program, we will recognize only the statutes, regulations and other materials approved by the Secretary or by us, together with any consistent implementing policies, directives and other materials. We will require the enforcement by Indiana of only such provisions.

VI. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the

purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 24, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 914 is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 914.17 is amended by revising the section heading and paragraph (b) to read as follows:

§ 914.17 State regulatory program and proposed program amendment provisions not approved.

* * * * *

(b) The amendment at Indiana Code 14–34–5–8.2(4) submitted on May 14, 1998 concerning postmining land use changes is not approved effective August 15, 2001.

* * * * *

[FR Doc. 01–20447 Filed 8–14–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–133–FOR]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of a proposed amendment to the Pennsylvania regulatory program (Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment references Pennsylvania's anthracite coal mining regulations when describing conditions for meeting Stage 2 bond release where prime farmlands were present prior to mining. The amendment is intended to satisfy the conditions of the required regulatory program amendment at 30 CFR 938.16(p) and make the Pennsylvania program consistent with the corresponding federal regulations.

EFFECTIVE DATE: August 15, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Biggi, Director Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Harrisburg Transportation Center, Third Floor, suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101; Telephone (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program
II. Submission of the Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Pennsylvania Program

Section 503(a) of the Surface Mining Control and Reclamation Act (the Act) permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *'' and ''rules and regulations consistent with regulations issued by the Secretary'' pursuant to the Act. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Pennsylvania program on July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and the conditions of the approval in the July 30, 1982, **Federal Register** (47 FR 33050). Subsequent actions concerning the conditions of approval and regulatory program amendments are codified at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Submission of the Amendment

By letter dated January 3, 2001 (Administrative Record Number PA–875.00), the Pennsylvania Department of Environmental Protection (PADEP) submitted an amendment to its approved permanent regulatory program pursuant to the Federal regulations at 30 CFR 732.17(b). Pennsylvania included a cross reference dealing with prime farmlands to satisfy a required regulatory program amendment at 30 CFR 938.16(p) to make the Pennsylvania program consistent with the corresponding Federal regulations. The proposed rulemaking was published in the March 5, 2001 **Federal Register** (66 FR 13277). The public comment period closed on April 4, 2001. No member of the general public provided comments. No one requested an opportunity to speak at a public hearing, so no hearing was held.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendments to the Pennsylvania permanent regulatory program.

Section 86.174(b)(3) Standards for Release of Bonds

PADEP is amending this subsection to include a reference to Chapter 88, Anthracite Coal. This subsection deals with the standards for Stage 2 bond release if prime farmlands are present and refers to reclamation plans for the various categories of coal mining. The previous version of this regulation contained references to Chapter 87, which relates to bituminous coal surface mining, Chapter 89, which relates to underground mining of bituminous coal and coal preparation facilities and Chapter 90, which relates to coal refuse disposal. This version did not contain a reference to Chapter 88, which relates to anthracite coal mining. This oversight was corrected when the regulations on post mining discharges, licensing and bonding became final, vol. 27, Pennsylvania Bulletin, no. 46, Page 6041, November 15, 1997. Subsection 86.174(b)(3), Page 6054, now states, in part, ''* * * under the reclamation plan approved in Chapters 87–90.'' The Director finds the proposed revision satisfies the required amendment codified in the Federal regulations at 30 CFR 938.16(p), and is therefore removing that required amendment.

IV. Summary and Disposition of Comments

Federal Agency Comments

On March 5, 2001, we asked for comments from various Federal agencies that may have an interest in the Pennsylvania amendment (Administrative Record Number 875.01.) We solicited comments in accordance with section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations.

In letters dated February 6 and 7, 2001, the Federal Mine Safety and Health Administration responded that, while it does not regulate bonding and reclamation of mined lands, the amendment appears adequate to ensure restoration of prime farmlands to full productivity after completion of mining. (Administrative Records Numbers PA–875.02 and PA 875.03.)

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(i) and (ii), OSM is required to solicit comments from EPA on all amendments, and to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). By letter dated January 31, 2001, we requested comments and concurrence from EPA, on the State's proposed amendment of January 3, 2001 (Administrative Record Number PA–875.00). EPA in its April 11, 2001, response letter (Administrative Record Number PA–875.05) stated that the proposed amendment complies with the Clean Water Act.

Public Comments

No comments were received in response to our request for public comments.

V. Director's Decision

Based on the findings above we are approving the amendment to the Pennsylvania program.

The Federal regulations at 30 CFR part 938, codifying decisions concerning the Pennsylvania program, are being amended to implement this decision. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the state's program demonstrates that the state has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the

purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of state regulatory programs and program amendments since each such program is drafted and promulgated by a specific state, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed state regulatory programs and program amendments submitted by the states must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program provision does not constitute a major federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The state submittal which is the subject of this rule is based upon counterpart federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the state. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart federal regulation.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, underground mining.

Dated: June 18, 2001.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 938—PENNSYLVANIA

1. The authority citation for part 938 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 938.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 938.15 Approval of Pennsylvania regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
January 3, 2001	August 15, 2001	25 Pa. Code 86.174.

3. Section 938.16 is amended by removing and reserving paragraph (p).

[FR Doc. 01–20445 Filed 8–14–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 164

[USCG–2000–8300]

RIN 2115–AG03

Exemption of Public Vessels Equipped With Electronic Charting and Navigation Systems From Paper Chart Requirements

AGENCY: United States Coast Guard, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On May 2, 2001, we published a direct final rule. The rule notified the public of our excluding public vessels owned, leased, or operated by the U.S. Government from certain requirements for navigational charts and publications by allowing the use of electronic systems for charting and navigation, and in the process providing a platform for the Coast Guard to evaluate alternatives leading to integrated technology for such systems on commercial vessels. Although we received two comments on the rule, neither was adverse; therefore, this rule will go into effect as scheduled.

DATES: The effective date of this direct final rule is July 31, 2001.

FOR FURTHER INFORMATION CONTACT: For questions regarding this rule, contact Ed LaRue, Office of Vessel Traffic Management, Coast Guard, telephone 202–267–0416. For questions on viewing, or submitting material to, the docket, contact Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION: The direct final rule (66 FR 21862) amended 33 CFR Part 164 to exclude public vessels owned, leased, or operated by the U. S. Government from requirements of carrying printed navigational charts and publications. The Coast Guard also published an Advance Notice of Proposed Rulemaking [66 FR 21899] seeking comments on the practicality of allowing all commercial vessels to use electronic systems for charting and navigation.

The Coast Guard received two comments on the rule. Both suggested that the rule specifically mention both operation under the Raster Chart Display System (RCDS) and the use of official Raster Navigation Charts (RNCs).

Let us note by way of clarification that the standards of the International Maritime Organization (IMO) for ECDIS permit the use of RNCs produced under the authority of a governmental hydrographic office. We agree that RNCs and RCDS currently meet those standards as ''mode[s] of operation'' (MSC 86(70)), and the rule allows the use of any electronic system for charting and navigation approved by the governmental agency exercising operational control over the vessel. Therefore, the rule needs no change to accommodate these comments. We hope this explanation avoids confusing those mariners who are already safely using RNCs and RCDS.

Dated: August 6, 2001.

J.P. High,

Acting Assistant Commandant for Marine Safety & Environmental Protection.

[FR Doc. 01–20522 Filed 8–14–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–103]

RIN 2115–AA97

Safety Zone; Candlelight on the Water, Port Washington, WI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

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

DATES: This temporary rule is effective from 9:20 p.m. until 9:45 p.m. (CST) on August 18, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–103] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Regulatory Information

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

Background and Purpose

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

The safety zone will be in effect on August 18, from 9:20 p.m. until 9:45 p.m.(CST). The safety zone will encompass all waters bounded by the arc of a circle with a 280-foot radius with its center in approximate position 43°23′07″N, 087°51′54″W, offshore of the Wisconsin Electric coal pile, Port Washington. Coordinates are North American Datum of 1983 (NAD83). The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

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

Regulatory Evaluation

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

Small Entities

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

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

This rule will affect the following entities: the owners or operators of vessels intending to transit or anchor in the vicinity of Port Washington harbor from 9:20 p.m. until 9:45 p.m. (CST) on August 18, 2001.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only 25 minutes on one day and late in the day when vessel traffic is minimal. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Milwaukee or his designated on scene representative. Before the effective period, we will issue maritime advisories widely available to users of Port Washington harbor.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Milwaukee (See **ADDRESSES**.) Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34) (g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation.

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T09–985 is added to read as follows:

§ 165.T09–985 Safety Zone: Port Washington Harbor, Port Washington, Wisconsin.

(a) *Location.* The safety zone encompasses all waters bounded by the arc of a circle with a 280-foot radius with its center in approximate position 43°23′07″N, 087°51′54″W, located approximately 280 feet offshore of the Wisconsin Electric coal pile. All geographic coordinates are North American Datum of 1983 (NAD83).

(b) *Effective times and dates.* This section is effective from 9:20 p.m. until 9:45 p.m. on August 18, 2001.

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

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

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

Dated: August 7, 2001.

M.R. Devries,

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

[FR Doc. 01–20523 Filed 8–14–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–100]

RIN 2115–AA97

Safety Zone; Fireworks Display, Newport, RI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone within a 500-yard radius of the fireworks barge, located in Narragansett Bay, Newport, Rhode Island, on August 31, 2001, with a rain date of September 1, 2001. The safety zone is needed to safeguard the public from possible hazards associated with a fireworks display. Entry into this zone will be prohibited unless authorized by the Captain of the Port, Providence, Rhode Island.

EFFECTIVE DATE: This rule is effective from 6 p.m. on August 31, 2001, through 10 p.m. on September 1, 2001.

ADDRESSES: Documents relating to this temporary final rule are available for inspection and copying at U.S. Coast Guard Marine Safety Office Providence, 20 Risho Avenue, E. Providence, RI. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT David Barata at Marine Safety Office Providence, (401) 435–2335.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after **Federal Register** publication. Details regarding this event were not provided to the Coast Guard in sufficient time to draft or publish a NPRM or a final rule 30 days in advance of its effective date. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with this fireworks display.

Background and Purpose

This regulation establishes a safety zone in all waters within a 500-yard radius of the fireworks barge located approximately 300 yards west of Coasters Harbor, Narragansett Bay, Newport, Rhode Island, approximate position 41°30′12″N, 071°19′49″W on August 31, 2001, and September 1, 2001, from 6 p.m. until 10 p.m. Naval Station Newport has scheduled fireworks for August 31, 2001, and the regulation will be enforced from 6 p.m. to 10 p.m. Alternately, if the event is rescheduled due to weather, the safety zone will be enforced from 6 p.m. until 10 p.m. on September 1, 2001. This safety zone is needed to protect the maritime community from possible hazards associated with a fireworks display that will be shot from the barge off Coasters Harbor, Newport, Rhode Island. No vessel may enter the safety zone without permission of the Captain of the Port (COTP), Providence, Rhode Island.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone involves a very small area of Narragansett Bay, Newport, Rhode Island. The effect of this regulation will not be significant as the safety zone is effective for only four hours; it takes place late in the evening; it involves a very small area of Narragansett Bay, Newport, Rhode Island, thus allowing vessel traffic to safely transit around this safety zone; and extensive maritime advisories will be made in advance of the event.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit Newport, Rhode Island, in the fireworks area. The safety zone will not have a significant impact on a substantial number of small entities for the following reasons: the safety zone is effective for only four hours; it takes place late in the evening; the safety zone involves a very small area of Narragansett Bay, Newport, Rhode Island, thus allowing vessel traffic to safely transit around this safety zone; and extensive maritime advisories will be made in advance of the event.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization would be affected by this rule and you have any questions concerning its provisions or options for compliance, please call LT David Barata at (401) 435–2335. Small businesses may send

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Environment

The Coast Guard has considered the environmental impact of implementing this temporary rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

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

PART 165—[AMENDED]

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

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

2. From 6 p.m. on August 31, 2001, through 10 p.m. on September 1, 2001, add temporary § 165.T01–100 to read as follows:

§ 165.T01–100 Safety Zone: Fireworks Display, Newport, RI.

(a) *Location.* All waters within a five hundred-(500-) yard radius of the fireworks barge located off Coasters Harbor, Newport, Rhode Island, in approximate position 41°30′12″N, 071°19′49″W.

(b) *Enforcement times and dates.* This section will be enforced from 6 p.m. until 10 p.m. on both August 31, 2001, and September 1, 2001.

(c) *Regulations.*

(1) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

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

Dated: August 6, 2001.

Mark G. VanHaverbeke,

Captain, U.S. Coast Guard, Captain of the Port, Marine Safety Office Providence.

[FR Doc. 01–20521 Filed 8–14–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA147/177–4126a; FRL–7032–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_X RACT Determinations for Four 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 four major sources of 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 October 1, 2001 without further notice, unless EPA receives adverse written comment

by September 14, 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.

FOR FURTHER INFORMATION CONTACT: Michael Ioff at (215) 814–2166, the EPA Region III address above or by e-mail at *Ioff.mike@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 volatile organic compounds (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; (3) All other major non-CTG rules were due by November 15, 1992. The Pennsylvania SIP has approved RACT regulations and requirements for all sources and source categories covered by the CTG's.

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) demonstrates 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.

On April 9, 1999 and July 5, 2001, the PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several sources of NO_X and VOCs. The RACT determinations for four of those sources, named below, are the subject of this rulemaking. These four sources are all located in the Pittsburgh area. The RACT determinations submitted for the other sources are or have been the subject of separate rulemakings.

II. Summary of the SIP Revisions

The table below identifies the sources and the individual RACT operating permits (OPs) which are the subject of this rulemaking. A summary of the RACT determinations for each source follows the table.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	Plan approval (PA #) operating permit (OP #)	Source type	''Major source pollutant''
Lukens Steel Corporation Houston Plant.	Washington	OP–63–000–080	Stainless steel producer	NO_X

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES—Continued

Source	County	Plan approval (PA #) operating permit (OP #)	Source type	"Major source pollutant"
Allegheny Ludlum Steel Corporation West Leechburg Plant.	Westmoreland	OP–65–000–183	Stainless and silicon steel producer ..	NO_X
Allegheny Ludlum Corporation Jessop Steel Company Washington Plant.	Washington	OP–63–000–027	Stainless and tool steel plate producer.	NO_X
Koppel Steel Corporation Koppel Plant.	Beaver	OP–04–000–059	Carbon and alloy steel producer	NO_X

A. Lukens Steel Corporation, Houston Plant

The Lukens Steel Corporation's Houston Plant is a producer of rolled stainless steel sheet located in Houston Borough, Washington County, Pennsylvania. The facility is not a major VOC emitting source. The facility is a major source of NO_X, and is a subject to RACT. The facility consists of two Electric Arc Furnaces (EAFs), an Argon Oxygen Decarburization (AOD) vessel, a continuous caster, a hot strip finishing mill, and a roughing and finishing mills. The facility also includes a number of preheat/heating/annealing metallurgical furnaces and heaters. Pennsylvania established NO_X RACT requirements for the facility in OP 63–000–080.

(1) Description of the NO_X Emitting Installations and Processes

(a) EAFs at the Melt Shop: Both EAFs are used at the plant to melt and refine the charge of metallic scrap, fluxes, and various alloying elements. The sufficient resistive heating is generated inside the refractory-lined furnace vessel by electrical current flowing between the three graphite electrodes and through the metallic charge. In spite of very high temperatures which arise inside the furnace during the melting phase, only modest NO_X formation occurs. This is due to the fact that in the EAF process the generation of NO_X is largely transferred from a steelmaking facility to an electric generating unit at a utility plant where those emissions are controlled.

(b) AOD Vessel at the Melt Shop: The AOD vessel is a refractory-lined furnace used in the ladle-metallurgical argon-oxygen decarburization process to refine stainless steel outside the EAF. During the oxygen-argon blowing, fluxes and alloy materials are added to the vessel. Immediately after the decarburization blow, molten steel is argon-stirred to achieve the desired chemical and temperature homogenization of the material.

(c) Preheat/Heating/Reheat/Annealing Furnaces: Preheat/heating/reheat furnaces are used to bring various semi-finished steel products to a uniform temperature in order to make them suitable for hot working. Annealing furnaces are used to refine the steel grain structure, to relief stresses induced by hot or cold working, and to alter the mechanical properties of steel in order to improve its malleability. Heat treatment of stainless steels is conducted at a slow rate and relatively low temperatures to minimize thermal stresses and to avoid distortion and cracking.

(2) Description of the RACT Determinations

Of the fourteen NO_X emitting installations/processes, nine are heating/reheat/annealing natural gas-fired furnaces and ladle or tundish preheaters with a rated gross heat input of less than 20 MMBTU/hr each. Pennsylvania has determined that these sources are subject to SIP-approved presumptive RACT requirements set forth in 25 Pa. Code Section 129.93.(c)(1). Two of the other five remaining sources are natural gas-fired recoil heating furnaces with a rated gross heat input equal to 20 MMBTU/hr. Pennsylvania has determined that these sources are subject to SIP-approved presumptive RACT requirements set forth in 25 Pa. Code Section 129.93.(b)(2). The remaining three sources are comprised of the two EAFs and the AOD vessel. A case-by-case RACT analysis was performed for those three installations/processes. The following NO_X emission control options were evaluated: Low Excess Air (LEA), Flue Gas Recirculation (FGR), Modification of Process Equipment, Selective Catalytic Reduction (SCR), Selective Non-Catalytic Reduction (SNCR), and Wet Scrubber Oxidation/Reduction Process. Pennsylvania's determinations of NO_X RACT requirements for those three installations are based on a detailed case-by-case analysis of whether or not the evaluated control technologies were economically and technically feasible options in each particular application.

(a) EAFs: Pennsylvania has concluded that the equipment and technology currently in place are constitute RACT for the source. Operating permit 63–000–080 requires that these sources be operated in accordance with the manufacturer's specifications and good operating/management practices. The OP also limits NO_X emissions from the two EAFs to 13 lb/hr and 51 tons per year (tpy) in any 12 month consecutive period.

(b) AOD Vessel: Pennsylvania has concluded that the equipment and technology currently in place are constitute RACT for the source. In OP63–000–080, Pennsylvania imposes a requirement to operate the source in accordance with the manufacturer's specifications and good operating/management practices. The OP also limits NO_X emissions from the AOD vessel to 10 lb/hr and 44 tpy in any 12 month consecutive period.

(c) Recoil Furnaces at the Hot Strip Mill: In addition to requiring these furnaces to meet SIP-approved presumptive RACT emission limitations, OP–63–000–080 also limits NO_X emissions from these sources to 5.6 lb/hr and 25 tpy in any 12 month consecutive period. In addition, OP 63–000–080 limits total facility wide NO_X emissions to no more than 136 tpy in any 12 month consecutive period.

B. Allegheny Ludlum Corporation, West Leechburg Plant

The Allegheny Ludlum Steel Corporation's West Leechburg Plant is a producer of stainless and silicon steel strip located in Westmoreland County, Pennsylvania. The facility is not a major VOC emitting source. The facility is a major NO_X emitting source, and is a subject to NO_X RACT regulations. The facility is comprised of twenty-seven NO_X emitting individual installations and processes. Pennsylvania established NO_X RACT requirements for the facility in OP 65–000–183.

(1) Description of the NO_X Emitting Installations and Processes

The West Leechburg Plant is primarily a finishing and rolling facility. The hot rolled and cold reduced strip steel is either annealed, annealed and pickled, blasted and pickled, or normalized depending on its metallurgy and end use. Most of the NO_X emitting installations and processes at the facility are associated with the combustion of natural gas. The NO_X emitting sources include heating, reheat and annealing furnaces of various gross heat input rates, coal and natural gas fired boilers and nitric/hydrofluoric acid pickling operations. The description of the major NO_X emitting installations and processes provided for the Lukens Steel Corporation's facility, above, also describe those at Allegheny Ludlum Steel Corporation's West Leechburg Plant.

(2) Description of the RACT Determinations

Pennsylvania has determined that fifteen various metallurgical furnaces and boilers are subject to the SIP-approved presumptive RACT emission limitations in 25 Pa. Code Section 129.93(b)(2) and (c)(1). For the remaining twelve NO_X emitting sources, a detailed case-by-case NO_X RACT analysis was performed in order to evaluate what control technology is both economically and technically feasible in each particular application. The following NO_X emission control options were evaluated: Low Excess Air (LEA), Low-NO_X Burners (LNB), LNB combined with Flue Gas Recirculation (FGR), Selective Catalytic Reduction (SCR), Selective Non-Catalytic Reduction (SNCR), Absorption, Oxidation/Absorption, and Hydrogen Peroxide Injection. Pennsylvania OP–65–000–183 requires that these numerous small sources operate and be maintained in accordance with the manufacturer's specifications and good operating procedures. Furthermore, each of these individual emitting sources is subject to an hourly NO_X emission rate (pounds/hr) and annual NO_X emission rate (tpy) to be met in any consecutive 12 month period. Finally OP 65–000–183 imposes a total facility wide cap of 874 tons per year also to be met in any consecutive 12 month period.

C. Allegheny Ludlum Corporation, Jessop Steel Company, Washington Plant

The Allegheny Ludlum Corporation, Jessop Steel Company's Washington Plant is a specialty steel producer located in Washington County, Pennsylvania. Pennsylvania issued the facility OP63–000–027, and therein limits total facility wide emissions of VOC to 4.5 tpy in any 12 month consecutive period. Therefore, the facility is not a major source of VOC. The facility is a major source of NO_X, and is a subject to NO_X RACT regulations. The facility is comprised of thirty individual NO_X emitting installations and processes. Pennsylvania established NO_X RACT requirements for the facility in OP63–000–027.

(1) Description of the NO_X Emitting Installations and Processes

The Washington facility processes semi-finished stainless and tool grade steel products for specific customer use. The stainless or tool grade steel strip is either annealed, annealed and pickled, or blasted and pickled depending on its metallurgy and end use. Most of the NO_X emitting installations and processes at the facility are gas fired small heating/reheat/annealing furnaces with rated heat input of less than 20 MMBTU/hr. There are also a few sources, such as a batch pickling operation, which are not associated with combustion process but still generate some NO_X emissions. The description of the major NO_X emitting installations and processes provided for the Lukens Steel Corporation's facility, above, also describe those at the Allegheny Ludlum Corporation, Jessop Steel Company's Washington Plant. It should be noted that the facility's three Electric Arc Furnaces (EAFs), the Argon Oxygen Decarburization (AOD) vessel and two AOD preheaters were shutdown on July 1, 1994. Allegheny Ludlum has filed for Emission Reduction Credits (ERCs) in accordance with 25 PA Code Section 127.207(5)(I) for the emissions reductions, beyond those required as RACT, from these shutdown units.

(2) Description of the RACT Determinations

Pennsylvania has determined that twenty-four installations and processes are subject to the SIP-approved presumptive RACT emission limitations set forth in 25 Pa. Code Section 129.93(b)(2) and (c)(1). For the remaining six NO_X emitting sources, a case-by-case NO_X RACT analysis was performed in order to evaluate whether any additional control technology is both technically and economically feasible. The following NO_X emission control options were evaluated: Low Excess Air (LEA), Low-NO_X Burners (LNB), LNB Flue Gas Recirculation (FGR), Selective Catalytic Reduction (SCR), Selective Non-Catalytic Reduction (SNCR), Absorption, Oxidation/Absorption, and Hydrogen Peroxide Injection. Pennsylvania determined that operation of the existing equipment in accordance with the manufacturer's specifications and good engineering and pollution control practices constitutes RACT for the sources. Furthermore, each of these individual emitting sources is subject to an hourly NO_X emission rate (pounds/hr) and annual NO_X emission rate (tpy) to be met in any consecutive 12 month period. Finally OP63–000–027 imposes a total facility wide cap of 191.6 tpy to be met in any 12 month consecutive period.

D. Koppel Steel Corporation, Koppel Plant

The Koppel Steel Corporation's Koppel Plant is a producer of carbon and alloy grades steel located in Koppel Borough, Beaver County, Pennsylvania. The facility is comprised of twelve major NO_X emitting individual installations and processes . Pennsylvania established NO_X RACT requirements for the facility in OP–04–000–059. The facility is not a major source of VOCs. The facility is a major NO_X emitting source, and is a subject to NO_X RACT regulations.

(1) Description of the NO_X Emitting Installations and Processes

The processes at this facility involve steel melting operations and the subsequent production of hot rolled bars in both carbon and alloy grades. The facility's Melt Shop consists of an Electric Arc Furnaces (EAF), a ladle refining station, a continuous caster and various pieces of ancillary equipment. Other NO_X emitting installations and processes at the facility include various metallurgical furnaces, ladle and tundish dryers and heaters, torches, and boilers. The description of the major NO_X emitting installations and processes provided for the Lukens Steel Corporation's facility, above, also describe those at the Koppel Steel Corporation, Koppel Plant.

(2) Description of the RACT Determinations

Of the twelve NO_X emitting units/processes, nine are heating/reheat/annealing natural gas-fired furnaces and ladle/tundish dryers and heaters with a rated gross heat input of less than 20 MMBTU/hr each. Pennsylvania has determined that these sources are subject to the SIP-approved presumptive RACT requirements set forth in 25 Pa. Code Section 129.93(c)(1). The remaining three sources are comprised

of the EAF, ladle refining station, and the Rotary Hearth Reheat furnace. A case-by-case RACT analysis was performed for those three installations and processes with the following NO_X emission control options evaluated: Low Excess Air (LEA), Flue Gas Recirculation (FGR), and Selective Non-Catalytic Reduction (SNCR). Pennsylvania's determinations of NO_X RACT requirements for those three installations were based on a detailed case-by-case analysis of whether or not the evaluated control technologies were technically and economically feasible options in each particular application.

(a) The EAF and ladle refining station: Pennsylvania determined that the equipment and technology currently in place are constitute RACT for these sources. In OP04–000–059, Pennsylvania requires these units to operate and be maintained in accordance with the manufacturer's specifications and good air pollution control practices.

(b) The Rotary Hearth Reheat furnace: Pennsylvania has determined that the use of LEA at approximately 10% (in addition to the requirement to provide an annual adjustment or tune up of the combustion process) constitutes RACT for this source and, accordingly, imposes those requirements in its RACT OP–04–000–059.

III. EPA's Evaluation of Pennsylvania's SIP Revisions

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

IV. Final Action

EPA is approving the SIP revisions to the Pennsylvania SIP submitted by PADEP to establish and require NO_X RACT for four 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 October 1, 2001 without further notice unless EPA receives adverse comment by September 14, 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.

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 four 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 15, 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 NO_X from four individual steel facilities in the Pittsburgh-Beaver Valley nonattainment area in 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 dioxide, 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)(163) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(163) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and NO_X RACT, submitted by the Pennsylvania Department of Environmental Protection on April 9, 1999 and July 5, 2001.

(i) Incorporation by reference.

(A) Letter submitted on April 9, 1999 by the Pennsylvania Department of Environmental Protection transmitting source-specific RACT determinations in the form of operating permits.

(B) Operating permits (OP) for the following sources:

(*1*) Lukens Steel Corporation, Houston Plant; OP 63–000–080, effective date 02/22/99, except for the Permit Term and conditions 13.–16., inclusive.

(*2*) Allegheny Ludlum Steel Corporation, West Leechburg Plant; OP 65–000–183, effective date 03/23/99, except for the Permit Term.

(*3*) Allegheny Ludlum Corporation, Jessop Steel Company Washington Plant; OP 63–000–027, effective date 03/26/99, except for the Permit Term and conditions 11.–14., inclusive.

(C) Letter submitted on July 5, 2001 by the Pennsylvania Department of Environmental Protection transmitting source-specific RACT determinations in the form of operating permits.

(D) Koppel Steel Corporation, Koppel Plant's OP 04–000–059, effective date: 3/23/01, 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 for the sources listed in (i) (B) and (D), above.

[FR Doc. 01–20496 Filed 8–14–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 72

Air Programs Permits Regulation

CFR Correction

In Title 40 of the Code of Federal Regulations, parts 72 to 80, revised as of July 1, 2000, § 72.2 is corrected by removing the definition of *Protocol 1 gas* and by adding the definition of *Standard reference material* or *SRM* to read as follows:

§ 72.2 Definitions

* * * * *

Standard reference material or *SRM* means a calibration gas mixture issued and certified by NIST as having specific known chemical or physical property values.

* * * * *

[FR Doc. 01–55526 Filed 8–14–01; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301158; FRL–6794–8]

RIN 2070–AB78

2-Propenoic Acid, Sodium Salt, Polymer with 2-Propenamide; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 2-propenoic acid, sodium salt, polymer with 2-propenamide (which is also known as acrylamide-sodium acrylate coplymer); when used as an inert ingredient (a carrier) in pesticide formulations that are applied to growing crops or raw agricultural commodities after harvest. Stockhausen, Inc., 2401 Doyle Street, Greensboro, NC 27406 submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA) requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2-propenoic acid, sodium salt, polymer with 2-propenamide.

DATES: This regulation is effective August 15, 2001. Objections and requests for hearings, identified by docket control number OPP–301158, must be received by EPA on or before October 15, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301158 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Treva C. Alston, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8373 and e-mail address: Alston.Treva@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food

manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301158. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of May 9, 2001 (66 FR 23695) (FRL–6780–8), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104–170) announcing the filing of a pesticide petition (PP 1E6281) by Stockhausen, Inc., 2401 Doyle Street, Greensboro, NC 27406. This notice included a summary of the petition prepared by the petitioner. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.1001(c) be amended by establishing an exemption from the requirement of a tolerance for residues of 2-propenoic acid, sodium salt, polymer with 2-propenamide; CAS Reg. No. 25987–30–8.

Section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(c)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....'' and specifies factors EPA is to consider in establishing an exemption.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers that should present minimal or no risk. The

definition of a polymer is given in 40 CFR 723.250(b). The following exclusion criteria for identifying these low risk polymers are described in 40 CFR 723.250(d).

1. The polymer, 2-propenoic acid, sodium salt, polymer with 2-propenamide is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. 2-Propenoic acid, sodium salt, polymer with 2-propenamide does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. 2-Propenoic acid, sodium salt, polymer with 2-propenamide does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. 2-Propenoic acid, sodium salt, polymer with 2-propenamide is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. 2-Propenoic acid, sodium salt, polymer with 2-propenamide is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. 2-Propenoic acid, sodium salt, polymer with 2-propenamide is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer, 2-propenoic acid, sodium salt, polymer with 2-propenamide, also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW of 18,000 daltons is greater than 10,000 daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000.

Thus, 2-propenoic acid, sodium salt, polymer with 2-propenamide meets all the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the above criteria, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to 2-propenoic acid, sodium salt, polymer with 2-propenamide.

V. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that 2-propenoic acid, sodium salt, polymer with 2-propenamide could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of 2-propenoic acid, sodium salt, polymer with 2-propenamide is 18,000 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since 2-propenoic acid, sodium salt, polymer with 2-propenamide conform to the criteria that identify a low risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

VI. Cumulative Effects

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular chemical's residues and ''other substances that have a common mechanism of toxicity.'' The Agency has not made any conclusions as to whether or not 2-propenoic acid, sodium salt, polymer with 2-propenamide share a common mechanism of toxicity with any other chemicals. However, 2-propenoic acid, sodium salt, polymer with 2-propenamide conform to the criteria that identify a low risk polymer. Due to the expected lack of toxicity based on the above conformance, the Agency has determined that a cumulative risk assessment is not necessary.

VII. Determination of Safety for U.S. Population

Based on the conformance to the criteria used to identify a low risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population from aggregate exposure to residues of 2-propenoic acid, sodium salt, polymer with 2-propenamide.

VIII. Determination of Safety for Infants and Children

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin safety will be safe for infants and children. Due to the expected low toxicity of 2-propenoic acid, sodium salt, polymer with 2-propenamide, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

IX. Other Considerations

A. Endocrine Disruptors

There is no available evidence that 2-propenoic acid, sodium salt, polymer with 2-propenamide is an endocrine disruptor.

B. Existing Exemptions from a Tolerance

There are no other exemptions from the requirement of a tolerance.

C. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

D. International Tolerances

The Agency is not aware of any country requiring a tolerance for 2-propenoic acid, sodium salt, polymer with 2-propenamide nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

X. Conclusion

Accordingly, EPA finds that exempting residues of 2-propenoic acid, sodium salt, polymer with 2-propenamide from the requirement of a tolerance will be safe.

XI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions

provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301158 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 15, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. M3708, Waterside Mall, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

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

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

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

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301158, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

XII. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.''

XIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: August 1, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.1001 the table in paragraph (c) is amended by adding alphabetically the following inert ingredient to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * *	*	* * *
2-Propenoic acid, sodium salt, polymer with 2-propenamide, minium number average molecular weight (in amu), 18,000; CAS Reg. No. 25987–30–8	.....	Carrier
* * * *	*	* * *

* * * * *

[FR Doc. 01–20390 Filed 8–14–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301153; FRL–6793–3]

RIN 2070–AB

Bifenazate; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of bifenazate in or on hop and pear. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on hops and pears. This regulation establishes a maximum permissible level for residues of bifenazate in these food commodities. The tolerances will expire and are revoked on June 30, 2003.

DATES: This regulation is effective August 15, 2001. Objections and requests for hearings, identified by docket control number OPP–301153, must be received by EPA on or before October 15, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301153 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6463; and e-mail address: Madden.Barbara@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

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

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

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

and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301153. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues of the insecticide bifenazate, (hydrazine carboxylic acid, 2-(4-methoxy-[1,1'-biphenyl]-3-yl-, 1-methylethyl ester) and diazenecarboxylic acid, 2-(4-methoxy-[1,1'-biphenyl]-3-yl-, 1-methylethyl ester, in or on hop at 15 parts per million (ppm) and pear at 0.50 ppm. These tolerances will expire and are revoked on June 30, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Bifenazate on Hops and Pears and FFDCA Tolerances

A. Hops

The two-spotted spider mite is a serious problem in Northwest hop yards due to the prolific nature of this pest and its ability to develop multiple generations in one season. This mite has a history of developing rapid resistance to insecticides used on hops, which have been documented through field studies and failures observed in commercial plantings. There are currently no effective late-season miticides registered for use on hops.

Abamectin has good activity against mites in the early season when foliage is young and uptake is optimum. It has provided over 90% of mite control for the past 11 years, but due to a lack of alternative modes of action, its efficacy and residual effect have declined significantly.

The Applicant proposes to replace abamectin with bifenazate for early season mite control. Only one application of bifenazate will be allowed, compared to the current two applications allowed for abamectin. Although bifenazate is moderately harmful to some predator species, approximately 50% survival is anticipated. With the addition of one application of hexythiazox, these two treatments should be adequate to control early season mites (prior to bloom).

B. Pears

Spider mites are a ubiquitous and perennial pest of pears in Washington and Oregon. They have a history of rapidly developing resistance to acaricides, and have evolved resistance to every pesticide directed at their control. For the past 10-12 years, growers have relied heavily on abamectin to control spider mites in pears. Prior to the use of abamectin, the primary control for mites was organotins (especially cyhexatin) for control. Resistance to abamectin in the Northwest mite populations has been documented. This resistance to the only consistently effective mite control creates the potential for severe losses to pear production in the Northwest. In recent years, pear growers have continued to use abamectin, and been faced with limited success. They have been forced to augment abamectin with other acaricides, such as fenbutatin-oxide and hexythiazox. However, resistance was documented during the 2000 growing season to the few viable alternatives to abamectin. Entering the 2001 growing season, there are no viable acaricides for which resistance does not occur in pears in Washington. Resistance to many of these products has also been observed in Oregon.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of bifenazate in or on hops and pears. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on June 30, 2003, under FFDCA section 408(l)(5), residues of the

pesticide not in excess of the amounts specified in the tolerance remaining in or on hops and pears after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether bifenazate meets EPA's registration requirements for use on hops or pears or whether a permanent tolerance for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of bifenazate by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Idaho and Washington to use this pesticide on these crops under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for bifenazate, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of bifenazate and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for combined residues of bifenazate in or on hop at 15 ppm and pear at 0.50 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

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

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

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

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for bifenazate used for human risk assessment is shown in the following Table 1:

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary females 13-50 years of age and general population including infants and children	None	None	None
Chronic dietary all populations	NOAEL = 1.01 mg/kg/day UF = 100 Chronic RfD = 0.01 mg/kg/day	FQPA SF = 10 cPAD = chronic RfD FQPA SF = 0.001 mg/kg/day	One-year oral toxicity study in dogs LOAEL = 8.95 mg/kg/day based on changes in hematological and clinical chemistry parameters, and histopathology in the bone marrow, liver, and kidneys of both sexes.

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Short-term incidental oral Exposure (residential)	NOAEL = 10 mg/kg/day	LOC for MOE = 1,000 (residential)	Developmental toxicity study in rats LOAEL= 100 mg/kg/day based on clinical signs and decreased body weight gain and food consumption.
Short-term dermal (1 to 7 days) and intermediate-term Dermal (1 week to several months) (residential)	Dermal study NOAEL= 80 mg/kg/day	LOC for MOE = 1,000 (residential)	21-Day dermal toxicity study in rats LOAEL = 400 mg/kg/day based on decreased body weight and food consumption in females and an increased incidence of extramedullary hematopoiesis in the spleen in both sexes.
Long-term dermal (several months to lifetime) (Residential)	None	None	None
Short-term inhalation (1 to 7 days) (Residential)	inhalation (or oral) study NOAEL= 10 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 1,000 (residential)	Developmental toxicity study in rats LOAEL = 100 mg/kg/day based on decreased bodyweight and food consumption.
Intermediate-term inhalation (1 week to several months) (residential)	Inhalation (or oral) study NOAEL= 1.0 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 1,000 (residential)	90-day feeding study in dogs LOAEL = 10.4 mg/kg/day based on changes in hematological parameters and histopathological effects in the liver.
Long-term inhalation (several months to lifetime) (residential)None	None	None	
Cancer (oral, dermal, inhalation)	Bifenazate has been classified as ''not likely'' to be a human carcinogen.	None	Carcinogenicity studies in mice and rats in which there were an absence of treatment-related tumors.

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

1. *Dietary exposure from food and feed uses.* Bifenazate is currently only registered for use on ornamental plants and trees. An emergency exemption was granted earlier in 2001 for use of bifenazate on greenhouse grown tomatoes and a time-limited tolerance for residues on tomatoes was established. There are no other tolerances established for the combined residues of bifenazate. Risk assessments were conducted by EPA to assess dietary exposures from bifenazate in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. An acute dietary endpoint for females 13-50 years old or the general U.S. population was not selected due to the absence of an effect of concern occurring as a result of a 1 day or single exposure.

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

iii. *Cancer.* Bifenazate has been classified as ''not likely'' to be a human carcinogen based on carcinogenicity studies in mice and rats in which there were an absence of treatment-related tumors.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for bifenazate in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of bifenazate.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a

tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

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

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

Based on the GENEEC and SCI-GROW models, the estimated environmental concentrations (EECs) of bifenazate for chronic exposures are estimated to be 0.02 part per billion (ppb) for surface water and 0.02 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Bifenazate is currently registered for use on the following residential non-dietary sites: ornamental plants and trees. The risk assessment was conducted using the following exposure assumptions: There is a potential for residential exposures, including homeowner applicator exposure and post-application exposures, for the currently registered uses of bifenazate. However, since broad spectrum insecticides are generally used in the residential setting, application of bifenazate (a selective insecticide) by a homeowner is expected to be limited. Nevertheless, a homeowner applicator is anticipated to have short-term dermal and inhalation exposures. Exposure estimates were based on the applicator wearing short pants and short sleeves.

The registered use of bifenazate on ornamentals is also expected to result in residential post-application exposure. The exposure estimate for homeowners and children was based on the default assumptions for treatment to garden plants from the Agency's Standard Operating Procedures (SOPs) for Residential Exposure Assessment (December 18, 1997). Only short-term dermal exposures are anticipated.

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

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

C. Safety Factor for Infants and Children

1. *Safety factor for infants and children*—i. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Developmental toxicity studies*. In a developmental toxicity study in rats the maternal toxicity NOAEL was 10 milligrams/kilograms/day (mg/kg/day) based on clinical signs and decreased body weight gains and food consumption at the LOAEL of 100 mg/kg/day. The developmental NOAEL was greater than 500 mg/kg/day (HDT) and the developmental LOAEL was not established. Therefore, there were no developmental effects observed in the presence of maternal toxicity in this study.

In a developmental toxicity study in rabbits there were no toxic effects up to the highest dose tested of 200 mg/kg/day in either the maternal animals or the fetuses. Although no toxicity was observed in this study, sufficient evidence of adequate dose selection was based on a range-finding study which was performed at doses of 0, 125, 250, 500, 750, or 1,000 mg/kg/day. Abortions were seen at 250 mg/kg/day and above and deaths and decreased body weight were seen at 750 mg/kg/day and 1,000 mg/kg/day. Based on these results, doses of 10, 50, and 200 mg/kg/day were selected for the main study.

iii. *Reproductive toxicity study*. In a 2-generation reproductive toxicity study in rats, the parental toxicity NOAEL was 20 ppm (equivalent to 1.6/1.8 mg/kg/day (males/females)) based on decreased body weight and cumulative weight gain in males and females at the LOAEL of 80 ppm (equivalent to 6.5/7.4 mg/kg/day (males/females)). The NOAEL for offspring toxicity and reproductive toxicity was 200 ppm (equivalent to 16.4/18.3 mg/kg/day (males/females)) which was the highest dose tested. A LOAEL for offspring toxicity and reproductive toxicity was not established.

iv. *Prenatal and postnatal sensitivity*. Based on the results of the developmental and reproduction studies, there is no indication of increased sensitivity in rats or rabbits to *in utero* and/or postnatal exposure to bifenazate.

v. *Conclusion*. There were no developmental or reproductive effects observed in the presence of maternal toxicity. However, bifenazate has not been evaluated by the Agency's FQPA Safety Factor Committee. Therefore, for the purposes of this emergency exemption, the FQPA safety factor of 10X, to protect infants and children has

been retained for all dietary and residential risk assessments.

D. Aggregate Risks and Determination of Safety

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

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

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

1. *Acute risk*. An acute dietary endpoint for females 13-50 years old or the general US population was not selected due to the absence of an effect of concern in studies conducted for bifenazate occurring as a result of a 1 day or single exposure. Therefore, no acute dietary risk assessments were conducted for bifenazate.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to bifenazate from food will utilize 34% of the cPAD for the U.S. population, 65% of the cPAD for infants and 48% of the cPAD for children (7-12 years), the most highly exposed children's subgroup. Based on the use pattern, chronic residential exposure to residues of bifenazate is not expected. In addition, despite the potential for chronic dietary exposure to bifenazate in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of bifenazate in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2:

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

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.001	34	0.02	0.02	23
All infants (less than 1 year)	0.001	65	0.02	0.02	4
Children (7-12 years)	0.001	48	0.02	0.02	5

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Bifenazate is currently registered for use(s) that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for bifenazate.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 1,300 to 1,400 for short-term dermal, inhalation and incidental oral exposures. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of bifenazate in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO BIFENAZATE

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
U.S. population	1,300	1,000	0.02	0.02	80
All infants (less than 1 year)	1,400	1,000	0.02	0.02	27
Children (7-12 years)	1,400	1,000	0.02	0.02	29

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). Though residential exposure could occur with the use of bifenazate, currently, only short-term dermal and short-term inhalation residential exposures are expected. Therefore, an aggregate risk assessment for intermediate-term exposures was not conducted.

5. *Aggregate cancer risk for U.S. population.* Bifenazate has been classified as ''not likely'' to be a human carcinogen based on carcinogenicity studies in mice and rats in which there were an absence of treatment-related tumors. Therefore, an aggregate risk assessment to estimate cancer risk was not conducted.

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

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (multiresidue method) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There is neither a Codex proposal, nor Canadian or Mexican limits, for residues of bifenazate and its metabolite in or on hop and pears. Therefore, harmonization is not an issue for this use.

C. Conditions

Hops--a maximum of 1 ground application at a rate of 0.37–0.75 lbs active ingredient per acre may be made per season. A 14–day pre-harvest interval (PHI) is required.

VI. Conclusion

Therefore, the tolerance is established for combined residues of bifenazate, (hydrazine carboxylic acid, 2-(4-methoxy-[1,1'-biphenyl]-3-yl-, 1-methylethyl ester) and diazenecarboxylic acid, 2-(4-methoxy-[1,1'-biphenyl]-3-yl-, 1-methylethyl ester, in or on hop at 15 ppm and pear at 0.50 ppm.

VII. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301153 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 15, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

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

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

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

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

3.*Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301153, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your

request at many Federal Depository Libraries.

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

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

VIII. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: July 19, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.572 is amended by alphabetically adding the following commodities to the table in paragraph (b) to read as follows:

§ 180.572 Bifenazate; tolerance for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/ Revocation Date
Hop	15	6/30/03
Pear	0.50	6/30/03
* *	* *	*

* * * * *

[FR Doc. 01–20392 Filed 8–14–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301157; FRL–6794–7]

RIN 2070–AB78

2-Propenoic Acid, Polymer with 2-Propenamide, Sodium Salt; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 2-propenoic acid, polymer with 2-propenamide, sodium salt (which is also known as acrylamide-sodium acrylate copolymer); when used as an inert ingredient (a carrier) in pesticide formulations that are applied to growing crops or raw agricultural commodities after harvest. Stockhausen, Inc., 2401 Doyle Street, Greensboro, NC 27406 submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA) requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2-propenoic acid, polymer with 2-propenamide, sodium salt.

DATES: This regulation is effective August 15, 2001.. Objections and requests for hearings, identified by docket control number OPP–301157, must be received by EPA on or before October 15, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301157 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Treva C. Alston, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8373 and e-mail address: Treva Alston@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,''''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301157. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of May 9, 2001 (66 FR 23695) (FRL–6780–8), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104–170) announcing the filing of a pesticide petition (PP 1E6282) by Stockhausen, Inc., 2401 Doyle Street, Greensboro, NC 27406. This notice included a summary of the petition prepared by the petitioner. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.1001(c) be amended by establishing an exemption from the requirement of a tolerance for residues of 2-propenoic acid, polymer with 2-propenamide, sodium salt; CAS Reg. No. 25085–02–3.

Section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(c)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....'' and specifies factors EPA is to consider in establishing an exemption.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the

ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers that should present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b). The following exclusion criteria for identifying these low risk polymers are described in 40 CFR 723.250(d).

1. The polymer, 2-propenoic acid, polymer with 2-propenamide, sodium salt is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. 2-Propenoic acid, polymer with 2-propenamide, sodium salt does contain as an integral part of its compostion the atomic elements carbon, hydrogen, and oxygen.

3. 2-Propenoic acid, polymer with 2-propenamide, sodium salt does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. 2-Propenoic acid, polymer with 2-propenamide, sodium salt is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. 2-Propenoic acid, polymer with 2-propenamide, sodium salt is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. 2-Propenoic acid, polymer with 2-propenamide, sodium salt is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer, 2-propenoic acid, polymer with 2-propenamide, sodium salt, also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW of 18,000 daltons is greater than 10,000 daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000.

Thus, 2-propenoic acid, polymer with 2-propenamide, sodium salt meet all the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the above criteria, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to 2-propenoic acid, polymer with 2-propenamide, sodium salt.

V. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that 2-propenoic acid, polymer with 2-propenamide, sodium salt could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of 2-propenoic acid, polymer with 2-propenamide, sodium salt is 18,000 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since 2-propenoic acid, polymer with 2-propenamide, sodium salt conform to the criteria that identify a low risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

VI. Cumulative Effects

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular chemical's residues and ''other substances that have a common mechanism of toxicity.'' The Agency has not made any conclusions as to whether or not 2-propenoic acid, polymer with 2-propenamide, sodium salt share a common mechanism of toxicity with any other chemicals. However, 2-propenoic acid, polymer with 2-propenamide, sodium salt conform to the criteria that identify a low risk polymer. Due to the expected lack of toxicity based on the above conformance, the Agency has determined that a cumulative risk assessment is not necessary.

VII. Determination of Safety for U.S. Population

Based on the conformance to the criteria used to identify a low risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population from aggregate exposure to residues of 2-propenoic acid, polymer with 2-propenamide, sodium salt.

VIII. Determination of Safety for Infants and Children

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin safety will be safe for infants and children. Due to the expected low toxicity of 2-propenoic acid, polymer with 2-propenamide, sodium salt, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

IX. Other Considerations

A. Endocrine Disruptors

There is no available evidence that 2-propenoic acid, polymer with 2-propenamide, sodium salt is an endocrine disruptor.

B. Existing Exemptions from a Tolerance

There are no other exemptions from the requirement of a tolerance.

C. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the

Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

D. International Tolerances

The Agency is not aware of any country requiring a tolerance for 2-propenoic acid, polymer with 2-propenamide, sodium salt nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

X. Conclusion

Accordingly, EPA finds that exempting residues of 2-propenoic acid, polymer with 2-propenamide, sodium salt from the requirement of a tolerance will be safe.

XI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301157 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 15, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. M3708, Waterside Mall, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

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

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

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

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301157, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

XII. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of*

Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have'' substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.''

XIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: August 1, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.1001 the table in paragraph (c) is amended by adding alphabetically the following inert ingredient to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * *;	*	* *
2-Propenoic acid, polymer with 2-propenamide, sodium salt, minimum number average molecular weight (in amu), 18,000; CAS Reg. No. 25085–02–3	.....	Carrier
* * * *	*	* *

[FR Doc. 01–20389 Filed 8–14–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301152; FRL–6793–5]

RIN 2070–AB78

Revocation of Unlimited Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is amending 40 CFR part 180 subpart D to revoke various exemptions from the requirement of a tolerance. These exemptions from the requirement of a tolerance can be revoked because they are duplications. In this direct final rule, the Agency is revoking tolerance exemptions for 10 inert ingredients. The Agency is acting on its own initiative. These regulatory actions are part of the tolerance reassessment requirements of section 408(q) of the Federal Food, Drug, and Cosmetic Act (FFDCA) 21 U.S.C. 346a(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. This regulatory action will count for one reassessment toward the August 2002 deadline.

DATES: If no relevant adverse comment is submitted on or before September 14, 2001, this action will become effective on November 13, 2001. If adverse comment is received, EPA will publish a timely withdrawal.

ADDRESSES: Adverse comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the

SUPPLEMENTARY INFORMATION. To ensure proper receipt by EPA, it is imperative that you identify docket control number

OPP–301152 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Treva C. Alston, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8373; fax number: (703) 305–0599; e-mail address: alston.treva@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

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

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301152. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–301152 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–301152. Electronic comments may also be filed online at many Federal Depository Libraries.

II. Issuance of this Action as a Direct Final Rule

EPA is issuing this action as a direct final rule without prior proposal because the Agency believes that this action is not controversial and will not result in any adverse comments. If no relevant adverse comment is submitted within 30 days of publication, this action will become effective 90 days after publication without any further action by the Agency. If, however, a relevant adverse comment is received during the comment period, this direct final rule will be withdrawn and the public comments received will be addressed in a subsequent final rule, or EPA may request additional public comments.

For the reasons set forth above, EPA believes that it is appropriate to issue this rule as a direct final rule. In addition, this rule also conforms with the ''good cause'' exemption under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)), which allows agencies to issue an action without additional notice and comment if further notice and comment would be unnecessary.

III. Background

A. What Action is the Agency Taking?

On its own initiative, the Agency is amending 40 CFR 180.1001 and 180.1026 by its intent to revoke exemptions from the requirement of a tolerance for 10 inert ingredients that are duplicates. No uses of these inert ingredients will be lost as a result of these tolerance exemption revocations.

1. In 40 CFR 180.1026 there is an exemption from the requirement of a tolerance for N,N-diallydichloroacetamide (dichlormid) when used as an inert ingredient in formulations of the herbicides S-ethyl diisobutylthiocarbamate, S-ethyl dipropylthiocarbamate, and S-propyl dipropylthiocarbamete when applied to cornfields before the corn plants emerge from the soil. The Agency's records indicate that dichormid is no longer used with any of these aformentioned active ingredients in pesticide products. This action revokes these exemptions. However, should any uses remain, they would be covered under the existing

time-limited tolerances in 40 CFR 180.469 which the Agency established on March 27, 2000 (65 FR 16143) (6498–7). These time-limited tolerances are for residues of dichlormid (N,N-diallyldichloroacetamide (CAS Reg. No. 37764–25–3)) when used as an inert ingredient (safener) in pesticide formulations applied to corn commodities before the corn plants emerge from the soil in or on the following food commodities: corn, field, forage, 0.05 ppm; corn, field, grain, 0.05 ppm; corn, field, stover, 0.05 ppm; corn, pop, grain, 0.05 ppm; corn, pop, stover, 0.05 ppm. These tolerances expire March 27, 2002.

2. In 40 CFR 180.1001(c) there are two entries for poly(vinyl pyrrolidone). One has a molecular weight of 4,000 amu and the other has a molecular weight of 40,000 amu. In the **Federal Register** of August 31, 1994 (59 FR 44956) (FRL–4906–1), the Agency issued a proposed rule which discussed pesticide petition (PP) 4E4308. This petition requested to amend 40 CFR 180.1001(c) by revising the then currently listed exemption from the requirement of a tolerance for residues of poly(vinylpyrrolidone) to lower the molecular weight from 40,000 amu to 4,000 amu. In the final rule which was published in the **Federal Register** on November 2, 1994 (59 FR 54825) (FRL–4914–1), the Agency inadvertently established a new tolerance exemption for poly (vinyl pyrrolidone) with a molecular weight of 4,000 amu instead of amending the existing tolerance exemption for poly(vinylpyrrolidone) polymers. The lower molecular weight polymer tolerance exemption would include those with the higher molecular weights. For this reason, this action revokes the exemption for poly(vinyl pyrrlidone) of molecular weights greater than 40,000 since it is duplicative and therefore not necessary.

3. In 40 CFR 180.1001(e) there are two entries for FD&C Blue No. 1. One is specified for use as a dye and the other is specified for use as a dye, coloring agent. Since the listing solely as a dye is covered by the other FD&C Blue No. 1 entry and is therefore a duplication, this action revokes the FD&C Blue No. 1 entry for use as a dye.

4. An exemption from the requirement of a tolerance for calcium hypochlorite for use as a sanitizing and bleaching agent is currently listed in both 40 CFR 180.1001(c) and (d). Residues of the inert ingredients contained in 40 CFR 180.1001(c) are exempted from the requirement of a tolerance when used in pesticide formulations that are applied to growing crops or to raw agricultural commodities after harvest in accordance with good agricultural practices. 40 CFR 180.1001(d) exempts residues of the inert ingredients when used in pesticide formulations that are applied to growing crops only. This action revokes the calcium hypochlorite tolerance exemption in 40 CFR 180.1001(d), since 40 CFR 180.1001(d) is actually a subset of 40 CFR 180.1001(c).

5. There are two entries in 40 CFR 180.1001(d) for diethylene glycol. The first entry is limited to use as a ''deactivator for formulations used before the crop emerges from soil'' and the second entry is limited to use as a ''deactivator, adjuvant for formulations used before crop emerges from the soil.'' These entries are duplicative. Therefore, this action revokes the diethylene glycol entry limited to use as a deactivator for formulations used before crop emerges from the soil.

6. There are duplicate exemptions from the requirement of a tolerance for 1,1,1-trichloroethane in 40 CFR 180.1001(e). One is limited to presence in formulations not to exceed 25% of the pesticide formulation while the other one does not have any limits. This action revokes the 1,1,1-trichloroethane exemption limited to exceed 25% of the pesticide formulation, since the unlimited tolerance exemption includes this limitation.

7. Exemptions from the requirement of a tolerance for isopropyl alcohol are in 40 CFR 180.1001(c) and (d). This action revokes the exemption from a requirement of a tolerance in 40 CFR 180.1001(d) for isopropyl alcohol since as previously stated 40 CFR 180.1001(d) is a subset of 40 CFR 180.1001(c).

8. There are duplicate exemptions from the requirement of a tolerance for *n*-propanol in 40 CFR 180.1001(c) and (d). The exemption from the requirement of a tolerance of *n*-propanol in 40 CFR 180.1001(c) is for use for a solvent and co-solvent. The exemption from the requirement of a tolerance for *n*-propanol in 40 CFR 180.1001(d) is for use as a solvent for blended emulsifiers. This action revokes the exemption in 40 CFR 180.1001(d) for *n*-propanol since this use is included in 40 CFR 180.1001(c).

9. There are duplicate exemptions from the requirement of a tolerance for epoxidized soybean oil in 40 CFR 180.1001(e). One has the use as a stabilizer, while the other has the use as a ''stabilizer, plasticizer, component animal tag.'' This action revokes the exemption for epoxidized soybean oil with the use as a stabilizer since the use as a stabilizer is included in the epoxidized soybean oil exemption with uses as a ''stabilizer, plasticizer, and component of animal tag.''

10. Exemptions from the requirement of a tolerance for sodium mono-di-and tri-isopropyl napthalene sulfonate are in both 40 CFR 180.1001(c) and (d). This action revokes the exemption from a requirement of a tolerance in 40 CFR 180.1001(d) for sodium mono-di-and tri-napthalene sulfonate since as previously stated 40 CFR 180.1001(d) is a subset of 40 CFR 180.1001(c).

B. What is the Agency's Authority for Taking this Action?

This direct final rule is issued pursuant to section 408(e) of FFDCA, 21 U.S.C. 346a(e), as amended by the FQPA (Public Law 104–170). Section 408 of FFDCA authorizes the establishment of tolerances, exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or tolerance exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA. If food containing pesticide residues is found to be adulterated, the food may not be distributed in interstate commerce (21 U.S.C. 331(a) and 342(a)).

C. What is the Contribution to Tolerance Reassessment?

By law, EPA is required to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996, by August 2002. This direct final rule revokes 10 duplicative tolerance exemptions. Therefore, if there are no adverse comments, 90 days after publication of the direct final rule, one tolerance reassessment (for *N,N* diallydichloroacetamide) will be counted toward the August 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996. The other revoked tolerance exemptions will be counted toward tolerance reassessment when the remaining associated tolerance exemption is reassessed.

III. Regulatory Assessment Requirements

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB).

This direct final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et*

seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

Under section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that these proposed actions to amend/revise § 180.1001(c), (d), and (e) will not have a significant negative economic impact on a substantial number of small entities. This direct final rule will have no negative impact because it merely removes duplicative entries from the EPA regulations listing substances exempted from tolerances.

In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This direct final rule does not affect States directly. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IV. 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 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: July 31, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

§ 180.1001 [Amended]

2. Section 180.1001 is amended as follows:

i. The table in paragraph (c) is amended by removing the entire entry for Poly (vinyl pyrrolidone); molecular weight (in amu) 40,000 or over.

ii. The table in paragraph (d) is amended by removing the entire entry for Calcium hypochlorite; the entire second entry for Diethylene glycol; and the entire entries for Isopropyl alcohol; *n*-Propanol; and Sodium mono-, di-, and triisopropyl.

iii. The table in paragraph (e) is amended by removing the entire first entry for Epoxidized soybean oil; the entire first entry for FD&C Blue No. 1; and the entire second entry for 1,1,1-trichloroethane.

§ 180.1026 [Removed]

3. Section 180.1026 is removed.

[FR Doc. 01–20391 Filed 8–14–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 99–216; FCC 00–400]

2000 Biennial Regulatory Review of Adopting Technical Criteria and Approving Terminal Equipment

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Commission published a document in the **Federal Register** of January 24, 2001, (66 FR 7579) which promulgates new rules to privatize the process by which technical criteria are established for customer premises equipment (CPE or terminal equipment) and for the approval of such equipment to demonstrate compliance with the relevant technical criteria. The document should have stated that certain rules contained information collection requirements that require approval by the Office of Management and Budget (''OMB''). This document corrects the effective date of the January 24, 2001 final rule.

FOR FURTHER INFORMATION CONTACT: Susan Magnotti, 202/418–0871, fax 202/418–2345, TTY 202/418–0484, smagnott@fcc.gov, Network Services Division, Common Carrier Bureau, or Dennis Johnson, 202/418–0809, fax 202/418–2345, TTY 202/418–0484,

dcjohnso@fcc.gov, Network Services Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission published a document adopting, *inter alia,* rule sections 68.106 through 68.610, which privatize and streamline part 68 terminal equipment procedures, in the **Federal Register** of January 24, 2001, (66 FR 7579). In FR Doc. 01–1034, published January 24, 2001 (66 FR 7579), make the following correction:

Correction

1. On page 7579, in the third column, correct the **DATES** caption to read as follows:

DATES: Sections 68.106 through 68.610 contain information collection requirements that have not been approved by the Office of Management and Budget (''OMB''). The FCC will publish a document in the **Federal Register** announcing the effective date of these sections.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–20438 Filed 8–14–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 99–216, FCC 00–400]

2000 Biennial Regulatory Review of Adopting Technical Criteria and Approving Terminal Equipment

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of certain rules privatizing and streamlining part 68 of the Federal Communications Commission (Commission)'s rules. The Commission amended its rules governing the connection of terminal equipment to the public switched telephone network to streamline the standards development and approval processes. These rules contained information collection requirements that became effective on May 9, 2001.

DATE: The amendments to 47 CFR 68.106 through 68.610 became effective May 9, 2001.

FOR FURTHER INFORMATION CONTACT: Susan Magnotti, (202) 418–2320 (voice), smagnotti@fcc.gov, or Dennis Johnson, (202) 418–2320 (voice), dcjohnso@fcc.gov, of the Network Services Division, Common Carrier Bureau. The TTY number is (202) 418–0484.

SUPPLEMENTARY INFORMATION: On December 21, 2000, the Commission adopted the *Part 68 Streamlining Order* which amended the Commission's rules governing the connection of terminal equipment to the public switched telephone network in an effort to privatize and streamline the standards development and approval processes; a summary of the order was published in the **Federal Register**. 66 FR 7579 (January 24, 2001). Some of the regulations adopted in that order included information collection that required approval from the Office of Management and Budget. The order explained that ''[t]he collections of information contained within are contingent upon approval by the OMB. The Commission will publish a document at a later date establishing the effective date.'' OMB approved the amendments to 47 CFR 68.106–68.610 that establish those reporting requirements. See OMB No. 3060–0056. Accordingly, these regulations became effective upon publication of a document in the **Federal Register**. This document constitutes publication of the effective date of the regulations.

List of Subjects in 47 CFR Part 68

Communications common carriers, Terminal equipment, Technical criteria.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–20439 Filed 8–14–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 010103003-1199-02, I.D. 083000B]

RIN 0648–AN92

List of Fisheries for 2001

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

ACTION: Final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) is publishing its final List of Fisheries (LOF) for 2001 as required by the Marine Mammal Protection Act (MMPA). The final LOF for 2001 reflects new information on interactions between commercial fisheries and marine mammals. Under the MMPA, NMFS must place a commercial fishery on the LOF under one of three categories, based upon the level of serious injury and mortality of marine mammals that occur incidental to that fishery. The categorization of a fishery in the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements.

DATES: This final rule is effective September 14, 2001. However, compliance with the requirement to register with NMFS and to obtain an authorization certificate is delayed until January 1, 2002, for fisheries added or elevated to Category II in this final rule. For fisheries affected by the delay, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Registration information, materials, and marine mammal reporting forms may be obtained from the following regional offices:

NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930-2298, Attn: Sandra Arvilla.

NMFS, Southeast Region, 9721 Executive Center Drive North, St. Petersburg, FL 33702, Attn: Teletha Griffin.

NMFS, Southwest Region, Protected Species Management Division, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, Attn: Don Peterson.

NMFS, Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115, Attn: Permits Office.

NMFS, Alaska Region, Protected Resources, P.O. Box 22668, 709 West 9th Street, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Emily Hanson, Office of Protected Resources, 301–713–2322 ext. 101; Kim Thounhurst, Northeast Region, 978–281–9138; Diane Borggaard, Southeast Region, 727–570–5312; Tim Price, Southwest Region, 562–980–4029; Brent Norberg, Northwest Region, 206–526–6733; Amy Van Atten, Alaska Region, 907–586–7642. Individuals who use a telecommunications device for the deaf may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

Delay In Compliance Date to Register Under the MMPA

Compliance with the requirement to register with NMFS and to obtain an authorization certificate is delayed until January 1, 2002, for fisheries added or

elevated to Category II in this final rule. The delay affects the following fisheries: Atlantic blue crab trap/pot; California longline; North Carolina inshore gillnet; North Carolina long haul seine; Northeast drift gillnet; Northeast trap/pot; Virginia Pound net; and, Southeast Atlantic gillnet. Except for the delayed registration requirement, the above mentioned fisheries are considered to be Category II fisheries on the date that the 2001 LOF becomes effective, and are required to comply with all other requirements of Category II fisheries (i.e., comply with applicable take reduction plan requirements and carry observers if requested).

What Is the List of Fisheries?

Under section 118 of the MMPA, NMFS must publish, at least annually, a LOF that places all U.S. commercial fisheries into one of three categories based on the level of incidental serious injury and mortality of marine mammals that occurs in each fishery. The categorization of a fishery in the LOF determines whether participants in that fishery may be required to comply with certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements.

How Does NMFS Determine In Which Category a Fishery is Placed?

The definitions for the fishery classification criteria can be found in the implementing regulations for section 118 of the MMPA (50 CFR part 229). In addition, these definitions are summarized in the preambles to the final rule implementing section 118 (60 FR 45086, August 30, 1995), the final LOF for 1996 (60 FR 67063, December 28, 1995), and the proposed LOF for 2001 (66 FR 6545, January 22, 2001).

How Do I Find Out if a Specific Fishery is in Category I, II, or III?

This final rule includes two tables that list all U.S. commercial fisheries by LOF Category. Table 1 lists all of the fisheries in the Pacific Ocean (including Alaska). Table 2 lists all of the fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean.

Am I Required to Register Under the MMPA?

Owners of vessels or gear engaging in a Category I or II fishery are required under 50 CFR 229.4 to register with NMFS and obtain a marine mammal authorization from NMFS in order to lawfully incidentally take a marine mammal in a commercial fishery. Owners of vessels or gear engaged in a Category III fishery are not required to register with NMFS or obtain a marine mammal authorization.

How Do I Register?

You must register through NMFS' Regional Offices (see **ADDRESSES**) unless you participate in a fishery that has an integrated registration program. Upon receipt of a completed registration, NMFS will issue vessel or gear owners a decal or other physical evidence of a current and valid registration that must be displayed or that must be in the possession of the master of each vessel while fishing (MMPA Section 118(3)(A)).

For some fisheries, NMFS has integrated the MMPA registration process with existing state and Federal fishery license, registration, or permit systems and related programs. Participants in these fisheries are automatically registered under the MMPA and are not required to pay the $25 registration fee.

Which Fisheries Have Integrated Registration Programs?

The following fisheries have integrated registration programs under the MMPA: all Alaska Category II fisheries; all Washington and Oregon Category II fisheries; the Gulf of Maine/U.S. Mid-Atlantic lobster trap/pot fishery; the Federal portion of the Northeast sink gillnet fishery; and, the Federal portion of the Atlantic squid, mackerel, butterfish trawl fishery. Special procedures and instructions for registration in these integrated fisheries are described in the preamble to the final LOF for 1998 (63 FR 5748, February 4, 1998).

How Do I Renew My Registration Under the MMPA?

The Regional Offices annually send renewal packets to participants in Category I or II fisheries that have previously registered; however, it is your responsibility to ensure that registration or renewal forms are submitted to NMFS at least 30 days in advance of fishing. If you have not received a renewal packet by January 1 or are registering for the first time, request a registration form from the appropriate Regional Office (see **ADDRESSES**).

Am I Required to Submit Reports When I Injure or Kill a Marine Mammal During the Course of Commercial Fishing Operations?

Any vessel owner or operator, or fisher (in the case of non-vessel fisheries), participating in a Category I, II, or III fishery must comply with 50 CFR 229.6 and report all incidental injuries or mortalities of marine mammals that occur during commercial fishing operations to NMFS. ''Injury'' is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear or any animal that is released with fishing gear entangling, trailing, or perforating any part of the body is considered injured and must be reported. Instructions on how to submit reports can be found in 50 CFR 229.6.

Am I Required to Take an Observer Aboard My Vessel?

Fishers participating in a Category I or II fishery are required to accommodate an observer aboard your vessel(s) upon request. Observer requirements can be found in 50 CFR 229.7.

Am I Required to Comply With Any Take Reduction Plan Regulations?

Fishers participating in a Category I or II fishery are required to comply with any applicable take reduction plans. NMFS may develop and implement take reduction plans for any Category I or II fishery that interacts with a strategic stock.

Sources of Information Reviewed for the 2001 LOF

NMFS reviewed the marine mammal incidental serious injury and mortality information presented in the Stock Assessment Reports (SARs) for all observed fisheries to determine whether changes in fishery classification were warranted. NMFS also reviewed other sources of new information, including marine mammal strandings data, observer program data, fisher self-reports, and other information that is not included in the SARs.

NMFS' SARs provide the best available information on both the level of serious injury and mortality of marine mammals that occurs incidental to commercial fisheries and the Potential Biological Removal (PBR) levels for marine mammal stocks. PBR is defined by the MMPA as, ''the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing the stock to reach or maintain its optimum sustainable population.''

The information contained in the SARs is reviewed by regional scientific review groups (SRGs) representing Alaska, the Pacific coast (including Hawaii), and the Atlantic coast (including the Gulf of Mexico). The SRGs were created by the MMPA to review the science that goes into the stock assessment reports and to advise NMFS on population status and trends,

uncertainties in the science, research needs, and other issues.

The LOF for 2001 was based on information provided in the final SARs for 1996 (63 FR 60, January 2, 1998), the final SARs for 1999 (65 FR 12514, March 9, 2000), and the final SARs for 2000 (66 FR 15081, March 15, 2001). The final SARs for 1999 and 2000 provide new estimates of total serious injury and mortality of marine mammals that occur incidental to some U.S. commercial fisheries and provide new estimates of PBR levels for some marine mammal stocks.

Comments and Responses

NMFS received 13 comment letters on the proposed 2001 LOF (66 FR 6545). Issues outside the scope of the LOF were not responded to in this final rule. Typographic errors noted by commenters were corrected where appropriate.

Comments on Registration Requirements

Comment 1: Three commenters stated that the registration requirement is unnecessary, the fee unjustified, and that the proposed rule does not explain how the marine mammal resource will benefit from registration.

Response: The MMPA requires that owners of a vessel engaged in a Category I or II fishery register and obtain an authorization for each vessel used in a Category I or II fishery and ensure that a decal or other physical evidence of a current and valid registration is displayed or in the possession of the master of each vessel (MMPA Section 118(3)(A)). The purpose of the registration requirement is to provide information that can be used to assess fishery efforts and their impacts on marine mammals (S Rep. No.220, 103rd Cong., 2d Sess. 6 (1994)). Section 118(5)(C) of the MMPA authorizes NMFS to charge a fee for the granting of an authorization. However, the level of fees charged may not exceed the administrative costs incurred in granting an authorization. Registration also serves to authorize the take of marine mammals incidental to commercial fishing operations.

NMFS recognizes that the registration requirement, although small, places a burden and expense on the participants in the fishery. To address this problem, NMFS has integrated the MMPA registration process with existing State and Federal fishery license, registration, or permit systems, when practicable, and will continue to work to integrate fisheries that have not yet been integrated. Participants in integrated fisheries are automatically registered under the MMPA and are not required to pay the registration fee. Refer to the section titled ''Which Fisheries Have Integrated Registration Programs?'' for additional information.

Comment 2: One commenter stated that registering and authorizing fishermen in the Atlantic blue crab trap/pot fishery would be very difficult and would place an unnecessary burden and expense on the participants of the fishery.

Response: NMFS recognizes that there are a large number of participants in the Atlantic blue crab trap/pot fishery, and that registering and authorizing those fishers will place a burden on both fishery participants and NMFS. As a result, NMFS is in the process of working to integrate the MMPA registration process for those fishers with existing State and Federal fishery license, registration, or permit systems. Because this fishery is primarily prosecuted in State waters and authorized through State licenses, the success of integration will depend heavily on cooperative efforts with the various State fisheries agencies. Once integration is completed in states where it is possible, participants in this fishery would not be required to register separately under the MMPA or pay the $25 fee.

To provide additional time for NMFS to work with states to integrate the MMPA registration process with existing State or Federal license, registration, or permit systems, NMFS has delayed the compliance date for fisheries added or elevated to Category II in the 2001 LOF to register with NMFS and obtain an authorization certificate until January 1, 2002. The delay affects the following fisheries: Atlantic Blue Crab Trap/Pot; California Longline; North Carolina Inshore Gillnet; North Carolina Long Haul Seine; Northeast Drift Gillnet; Northeast Trap/Pot; Virginia Pound Net; and, Southeast Atlantic Gillnet. Except for the delayed registration requirement, NMFS emphasizes that these fisheries are considered to be Category II fisheries on the date that the 2001 LOF becomes effective, and are required to comply with all other requirements of Category II fisheries (i.e., comply with applicable take reduction plan requirements, carry observers if requested, and report all incidental injuries or mortalities of marine mammals that occur during commercial fishing operations to NMFS). Category I and II fisheries not listed above must be registered and obtain a valid authorization certificate.

Comments on Fisheries in the Atlantic Ocean, Caribbean, or Gulf of Mexico

Comment 3: One commenter stated that the Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery may warrant elevation to Category II. Interactions with bottlenose dolphin are documented and additional observer effort should be placed in this fishery. The commenter noted that gillnet fishermen in North Carolina have stated in public meetings that they believe dolphins preferentially follow and forage in and around shrimp boats, and could therefore become entangled in the nets.

Response: NMFS is evaluating stranding and observer data for this fishery to determine the degree of interaction between this fishery and marine mammals. NMFS will summarize the data in the proposed 2002 LOF.

Comment 4: One commenter was concerned that gillnets in the Caribbean may be interacting with marine mammals in greater numbers than current data supports and recommended placing observers in these fisheries.

Response: NMFS is currently monitoring marine mammal strandings in the Caribbean to determine whether marine mammals are interacting with the Caribbean gillnet fishery.

Comment 5: One commenter stated that the buoy that entangled a bottlenose dolphin in the Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot fishery was attached at the other end of the line to a cement block. This is an unorthodox practice, it is probably illegal, and it could have been done by anyone.

Response: NMFS agrees with the commenter. Further investigation indicated that this gear configuration is not a normal component of the stone crab fishery. NMFS will remove bottlenose dolphin (Eastern Gulf of Mexico coastal stock) from the species list for the Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot fishery.

Comment 6: One commenter noted that there has never been a report of manatees becoming entangled in lobster or stone crab gear.

Response: Upon consultation with the Fish and Wildlife Service, which has jurisdiction over manatees, the report of a manatee entangled in the spiny lobster trap/pot fishery was determined to be incorrect and was removed from the citation in the 2001 LOF. NMFS did not identify a manatee interaction with the stone crab gear in the proposed 2001 LOF.

Comment 7: One commenter noted that NMFS identified the stock of a

bottlenose dolphin killed incidental to the Florida spiny lobster trap/pot fishery as from the Western North Atlantic coastal stock; however, the incident occurred in the Gulf of Mexico.

Response: NMFS agrees with the commenter. NMFS will remove the Western North Atlantic coastal stock of bottlenose dolphin from the Florida spiny lobster trap/pot fishery and replace it with the Eastern Gulf of Mexico coastal stock. NMFS notes that this animal was released alive although the condition of the animal was unknown.

Comment 8: One commenter stated that using the two-tiered fishery classification criteria in combination with an overly precautionary PBR calculation methodology ensures that even a fishery with a very limited interaction level is listed under Category II.

Response: Section 118(c)(1)(A) of the MMPA requires NMFS to publish a list of commercial fisheries and classify each fishery based on whether it has a frequent (Category I), occasional (Category II), or remote likelihood or no known (Category III) incidental mortality and serious injury of marine mammals. To make an objective determination regarding what should be classified as ''frequent'', ''occasional'', or ''remote,'' NMFS developed criteria to use when mortality and serious injury data and abundance data are available. The fishery classification criteria consists of a two-tiered, stock-specific approach that first addresses the total impact of all fisheries on each marine mammal stock and then addresses the impact of individual fisheries on each stock. This approach is based on consideration of the rate, in numbers of animals per year, of incidental mortalities and serious injuries of marine mammals due to commercial fishing operations relative to the PBR level for each marine mammal stock. Thus, the rate of interaction of a fishery with a marine mammal stock with a low PBR can be significant even it appears to be a minimal problem based on the size of the fishery or frequency of interactions.

The MMPA defines PBR to mean, ''the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population.'' The PBR level is the product of the following factors: (a) the minimum population estimate of the stock, (b) one-half the maximum theoretical or estimated net productivity rate of the stock at a small population size, and (c) a recovery factor of between 0.1 and 1.0. The parameters in the PBR calculation are used because they are assumed to provide adequate accommodation of the amount of uncertainty observed in marine mammal and commercial fishery interactions. Extensive modeling has shown the PBR calculation to be robust to an appropriate range of bias and variance.

Additionally, in the absence of representative information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS determines whether the incidental serious injury or mortality is ''occasional'' by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area.

Comment 9: One commenter supported elevation of the Northeast Trap/Pot Fishery.

Response: Comment noted. The reclassification includes a Category II designation for crab trap/pot fisheries such as red crab and jonah crab fisheries but also includes fisheries of other species groups, such as hagfish, that are also caught in traps and pots.

Comments on the Atlantic Squid, Mackerel, and Butterfish Trawl Fishery

Comment 10: One commenter supported elevation of this fishery to Category I.

Response: Comment noted. NMFS agrees and is elevating this fishery to Category I in the 2001 LOF.

Comment 11: One commenter stated that the consideration for elevation of the Atlantic squid, mackerel, and butterfish trawl fishery to Category I was precipitated in part by the observed take of one white-sided dolphin and one pilot whale during 1996-1998. According to the commenter, the data were not available to determine the applicability of using the ratio estimator method to expand the dolphin take to 161 animals. The commenter also stated that this approach may be an improper manipulation of the data since no correlation exists between fish catch and marine mammal interactions, and further inspection of the trip-level information regarding these two incidents is necessary.

Response: The proposed elevation of this fishery was based on the data presented in the draft 2000 SAR, which indicated a serious injury/mortality rate of greater than 50 percent of the PBR for both pilot whale and common dolphin stocks. In the final 2000 SAR, the PBR of the pilot whale stock(s) was increased from 78 to 113. As a result, the incidental serious injury/mortality for that stock during the period of analysis for this LOF no longer exceeds 50 percent of the PBR. In the final 2000 SAR, the PBR for the common dolphin stock was also increased (from 107 to 227). However, the serious injury/mortality of this stock remains in excess of PBR. Thus, NMFS is elevating the fishery in this LOF, but the action is now based solely on takes of common dolphins. As described in the final 2000 SAR, 3 mortalities were observed in this fishery in 1996 and one in 1997. NMFS is not making a correlation between fish catch and marine mammal interactions. NMFS uses total landings as a proxy for effort.

NMFS data and analysis presented in the stock assessment reports are peer-reviewed and also made available for public review and comment, and we believe the data and analysis presented in the stock assessment reports are appropriate and scientifically justifiable. However, NMFS encourages the commenter to review and provide comment on the draft 2001 stock assessment reports.

Comments on the Mid-Atlantic Coastal Gillnet Fishery

Comment 12: Comments were received both for and against elevation of this fishery. The commenters opposed to this action referenced problems with the coastal bottlenose dolphin stock assessment report with regard to stock size, stock structure, and PBR.

Response: NMFS has decided not to elevate the fishery at this time. Although a Category I designation is warranted based on estimates of take relative to the current PBR of 25 for this stock, NMFS has new information regarding the coastal bottlenose dolphin stock that was not available at the time of the preparation of the proposed LOF. Therefore, NMFS has determined that it is more appropriate to evaluate the appropriate categorization of this fishery once the new stock information has been reviewed through the NMFS stock assessment report process. The Mid-Atlantic coastal gillnet fishery remains in Category II in this LOF.

Comments on the Atlantic Ocean, Caribbean, and Gulf of Mexico Large Pelagics Longline and Large Pelagics Drift Gillnet Fisheries

Comment 13: One commenter stated that inappropriate data and analysis were used in the 2000 draft stock assessment reports for marine mammals

that interact with the Atlantic pelagic longline fishery.

Response: NMFS believes data and analysis presented in the stock assessment reports are peer-reviewed and also made available for public review and comment, and we believe the data and analysis presented in the stock assessment reports are appropriate and scientifically justifiable. However, NMFS encourages the commenter to review and provide comment on the draft 2001 stock assessment reports.

Comment 14: NMFS should remove the Atlantic pelagic drift gillnet fishery from the 2001 LOF because that fishery is now closed.

Response: NMFS proposed to remove this fishery from the LOF because NMFS regulations now prohibit driftnetting for the swordfish and tuna component of this fishery. The listing for the Atlantic Ocean, Caribbean, and Gulf of Mexico large pelagics drift gillnet fishery is removed in this LOF. Any large or small mesh drift gillnet fisheries that do occur are incorporated into other LOF gillnet listings.

Comment 15: NMFS should review and revise, as necessary, the species listed for each fishery to ensure that only those species known to incur injury or mortality incidental to specific fisheries are listed. NMFS should delete species that have not been documented or otherwise verified to have been seriously injured or killed by pelagic longline fishing gear. The commenter specifically identified species that NMFS should review.

Response: NMFS will investigate whether the available data warrant changing the list of species that interact with this fishery. The species list in the LOF is reflective of historical information, rather than the most recent 5 years of data as presented in the SARs. The LOF tables list the marine mammal species/stocks incidentally injured or killed, including non-serious injuries, in each fishery based on observer data, logbook data, stranding reports, fishers' reports, anecdotal reports, and other sources of information. The list of species/stocks in the LOF includes all species or stocks known to incur injury or mortality for a given fishery; however, not all species or stocks identified are necessarily independently responsible for a fishery's classification.

Comment 16: One commenter requested that NMFS subdivide the fishery into three regional fisheries in the LOF to more accurately reflect the biology of marine mammals to facilitate establishing a standardized process for monitoring effort, estimating serious injury and incidental mortality, and evaluating the effectiveness of reduction efforts.

Response: NMFS addressed similar comments in the final LOF for 1997 (see Comment/Response 37 in 62 FR 33, January 2, 1997) and the final LOF for 1999 (see Comment/Response 18 in 64 FR 9067, February 24, 1999). In reviewing those actions, we determined that there was insufficient justification for a regional subdivision of the fishery. At this time, we are not aware of any new management efforts or changes in marine mammal take that would warrant a regional subdivision of the fishery.

Comments on the Atlantic Blue Crab Trap/Pot Fisheries

Comment 17: One commenter supported elevation of this fishery to Category II.

Response: Comment noted. NMFS agrees and is elevating this fishery to Category II in the 2001 LOF.

Comment 18: One commenter opposed elevation of the Atlantic blue crab trap/pot fishery to Category II.

Response: Comment noted. NMFS disagrees and is elevating this fishery to Category II in the 2001 LOF.

Comment 19: Three commenters opposed the implementation of the rule requiring Delaware crab licensees to register for marine mammal authorization, citing no known incident of marine mammals becoming entangled in crab pot gear in Delaware waters.

Response: Bottlenose dolphins are found in Delaware waters seasonally. NMFS is not aware of any evidence that either the crab pot fishery or the behavior of bottlenose dolphins in Delaware waters is different than in areas where takes have been documented or in a manner such that entanglement is not likely to occur. Since the distribution of the species overlaps the distribution of the fishery, there is a potential for incidental take. Therefore, inclusion of Delaware waters in the fishery listing is warranted. Also see response to Comment 2 for information on registration.

Comment 20: One commenter recommended that the issue of potential threats of this fishery to bottlenose dolphin be referred to the Bottlenose Dolphin Take Reduction Team.

Response: It is not the role of take reduction teams to decide what data are appropriate for inclusion in the LOF. The determination of data to use in the LOF is made by NMFS with advice from the Scientific Review Groups through the SAR process, to which the public can also provide input. The role of any take reduction team is to make recommendations on reducing the serious injury and mortality of marine mammals incidental to the various fisheries in which the impacts have been documented. However, NMFS will present data on this fishery to the take reduction team, and the take reduction team will have opportunity to review the data and provide comments on how it is collected, analyzed, and interpreted.

Comment 21: One commenter stated that in spite of the large number of blue crab trap/pots that are in use in North Carolina, this gear poses minimum threat to bottlenose dolphin because of the low number of documented interactions.

Response: The level of risk is determined relative to the PBR of the marine mammal stock in question, not relative to the size of the fishery. In addition, the threat of any one fishery must be viewed in the context of takes from all fisheries known to cause serious injury/mortality. For stocks with low PBRs, even rare interactions can represent a significant threat of serious injury/mortality relative to PBR. Between 1994 and 1998, 22 bottlenose dolphin carcasses (4.4 dolphins per year on average) recovered by the Stranding Network between North Carolina and Florida's Atlantic coast displayed evidence of possible interaction with a trap/pot fishery (i.e., rope and/or pots attached, or rope marks). Data for states from Virginia north have not yet been examined in this context, but may include additional animals. Given that other sources of annual serious injury and mortality estimates (e.g., observer data) related to the Atlantic Blue Crab Trap/Pot Fishery are unavailable, the stranding data were used as a minimum estimate of annual serious injury and mortality. Although the probability of a single blue crab trap/pot interacting with a bottlenose dolphin may be small, the large amount of gear and the evidence provided from stranding data indicate that there is an occasional likelihood of serious injury or mortality to bottlenose dolphin from blue crab trap/pot gear.

Comment 22: One commenter stated that the description of the geographic range of the Atlantic blue crab trap/pot fishery is incorrect. It is not possible for an area to lie north of 72°30′ W longitude, the description does not clearly identify whether or not internal State waters are included in the geographic range of the fishery, and the offshore boundary of the range of the fishery is not identified. If the offshore boundary is intended to be 72°30′ W, it far exceeds the geographic range of the fishery since blue crab trap/pots are primarily fished in coastal waters.

Response: NMFS is aware that the Atlantic blue crab trap/pot fishery generally occurs to the west of 72°30′ W longitude. However, this line was chosen because it is a pre-existing line in the LOF and was originally designated to be consistent with a line recognized in Northeast fishery management plans. NMFS has chosen to use this line as a division between the Atlantic blue crab trap/pot fishery and the Northeast trap/pot fishery. The 72°30′ W line is administratively efficient because it is the same line dividing the Northeast sink gillnet and Mid-Atlantic coastal gillnet fisheries. The Atlantic blue crab trap/pot fishery includes all Atlantic blue crab effort west of a line extending due south from the south shore of Long Island at 72°30′ W, and south and east of the line beginning at the intersection of the outer boundary of the EEZ and 83°00′ W, then northward along that meridian to 24°35′ N (near the Dry Tortugas Islands), then eastward along that parallel. This includes state waters. For the full definition of the line of demarcation between the Atlantic Ocean and the Gulf of Mexico see 50 CFR 600.105(c)).

Comment 23: One commenter stated that the elevation of this fishery is precipitated by a level of mortality that exceeds a threshold percentage of PBR. However, the PBR estimate for bottlenose dolphin is not scientifically defensible.

Response: See response to Comment 8. NMFS acknowledges that there is new information regarding the coastal bottlenose dolphin stock that was not available at the time of the preparation of the proposed LOF (see response to Comment 12). The occasional documented occurrence of bottlenose dolphin interactions with the Atlantic blue crab fishery, in addition to bottlenose dolphin stranding data showing possible indications of pot interactions, indicate a Category II designation for the Atlantic blue crab fishery is warranted at this time until additional information indicates a different listing is warranted. Unlike observer programs, which provide an estimate of total mortality in a particular fishery, stranding data and documented takes represent a minimum count of the potential levels of interaction, and therefore serve to indicate potential problems, rather than quantifying them.

Comment 24: One commenter stated that the information considered in the Tier 2 evaluation for this fishery is geographically inconsistent with the data used to determine the status of the bottlenose dolphin stock. The agency is using marine mammal mortality estimates from areas that are not incorporated in the bottlenose dolphin stock assessment.

Response: Most of the Atlantic marine mammal stocks are migratory, and there is potential for a high degree of variability in abundance throughout the range at any given time. Thus, in order to estimate abundance of a stock, it is necessary to determine the optimal sampling strategy based on the most likely scenario for obtaining a reliable estimate of the stock in question. For example, although individuals of the Gulf of Maine/Bay of Fundy harbor porpoise stock travel to the Mid-Atlantic, NMFS conducts the assessment in the extreme northeast portion of the summer range because the stock is concentrated for breeding in that time/area. The sampling strategy for the bottlenose dolphin abundance estimate was chosen as the best and most practicable survey scheme given knowledge of stock structure at that time. NMFS acknowledges that the abundance estimate in the 2000 SAR is problematic given new information about stock structure, and we will consider any new information in the next annual revision to the SAR. However, the abundance estimate in the 2000 SAR remains the currently published estimate for the entire coastal stock complex.

Comment 25: One commenter stated that the dolphin mortality estimate for this fishery is derived solely from stranding network information. The training and expertise necessary to accurately determine fisheries interactions is not consistent throughout the region.

Response: NMFS accepts and works within the limitations of stranding data. Mortalities are not counted as fishery interactions unless the training and expertise of the respective stranding network personnel is appropriate to evaluate whether there are indications of such interaction, or appropriate voucher specimens (e.g., photos) are available to confirm the determination. Fishing gear often leaves very clear marks on the skin of cetaceans such that it is possible to see mesh and knots in the case of gillnets or to clearly determine that a line was twisted multi-filament line as opposed to monofilament. The stranding network personnel are also instructed to take a very conservative approach when evaluating whether the carcass of a stranded animal exhibits signs of fishery interaction. Typically, the majority of stranded carcasses are assigned to a category entitled ''cannot be determined'' if there is uncertainty, if the carcass is too decomposed, or if stranding network personnel trained in recognizing signs of human interaction do not actually have the opportunity to examine the carcass and voucher specimens are unavailable. Additionally, NOAA Technical Memorandum NMFS-OPR-15, Gross Evidence of Human-Induced Mortality in Small Cetaceans, by Andrew J. Read and Kimberly T. Murray, July 2000, was designed to assist marine mammal researchers and stranding network members distinguish between fatal injuries due to human activities from those of natural causes.

Comment 26: While it may be appropriate to use stranding data to focus observer programs, it is not appropriate to use stranding data to estimate total mortality for a given mammal stock.

Response: NMFS does not use stranding data to estimate total mortality. Stranding data are used to provide a minimum count of animals that may have been killed or seriously injured incidental to fishing activities. However, NMFS agrees that currently stranding data cannot be used to extrapolate mortality and serious injury for an entire fishery. NMFS does use stranding data to focus observer programs.

Comment 27: One commenter stated that the derivation of estimates of mortality and serious injury from this gear based on stranding records is inappropriate. Because observer data relative to bottlenose dolphin serious injury and mortality estimates for this fishery are unavailable, the mortality and serious injury from this gear cannot be reliably estimated.

Response: NMFS agrees that stranding data cannot be used to extrapolate mortality and serious injury for an entire fishery because the level of fishing effort relative to a given stranding is unknown. Therefore, the catch-per-unit-effort cannot be calculated and an extrapolation to the total level of effort cannot be performed. Observer data are preferable if the coverage is sufficient to detect takes. However, there are some fisheries, particularly fisheries with many participants such as the blue crab fishery, for which it is not practicable to conduct a marine mammal observer program of sufficient sampling power given the current level of resources and technology. There is a similar problem with detecting large whale serious injury/mortality in the lobster pot fishery, yet entanglements of whales in this gear continue to be reported from sources outside of the observer program. NMFS uses the best available data to determine whether there is a potential for occasional serious injury or

mortality of marine mammals incidental to the operation of a fishery. In the case of the blue crab fishery, stranding data are the best available data at the present time, and these data support elevation of the fishery to Category II. Furthermore, NMFS considers these data to be a minimum estimate of the total serious injury or mortality because not all animals that die as a result of entanglements are expected to strand. Also, some animals strand as a result of fishery-interactions, but because of the condition of the carcass when found, it is not possible to attribute the cause of death to a fishery-interaction. Those animals would therefore not be counted and would lead to an underestimate of the number of animals that strand as a result of fishery-interactions. Also see response to Comment 25.

Comments on the Mid-Atlantic Pound Net Fishery

Comment 28: One commenter supported the elevation of this fishery to Category II.

Response: NMFS appreciates the commenter's support of the proposed action. However, in this LOF, NMFS has revised both the name and the boundaries of the proposed fishery. Only pound nets fished in Virginia waters will be elevated to Category II. All other pound net effort will remain in the Category III Mid-Atlantic mixed species stop seine/weir/pound net fishery (see ''Fishery Name and Organizational Changes'' section). The Virginia pound net fishery will include all pound net effort in Virginia waters, regardless of leader mesh size. NMFS has decided to limit the Category II pound net fishery to Virginia waters because bottlenose dolphin entanglements in pound nets appear to be concentrated in Virginia waters.

NMFS is examining the nature of pound net, weir, and staked trap fisheries along the east coast, and when more information is available on the nature of these related fisheries, NMFS will determine whether the potential for take warrants reclassification of the pound net fishery in areas other than Virginia.

Comment 29: One commenter opposed the elevation of the Mid-Atlantic pound net fishery to Category II.

Response: Comment noted. See response to Comment 28 for information on the elevation of this fishery.

Comment 30: One commenter recommended that the issue of potential threats of this fishery to bottlenose dolphin be referred to the Bottlenose Dolphin Take Reduction Team.

Response: See response to Comment 20.

Comment 31: One commenter stated that it is not appropriate to list a fishery as Category II on the basis of data that suggest that the fishery has occasional takes of bottlenose dolphin. In a study conducted by NMFS in 1988 to 1999, no bottlenose dolphin entanglements were observed in North Carolina pound nets in approximately 4,000 observed sets. North Carolina Division of Marine Fisheries (NCDMF) studies observing 91 pound net trips, each with multiple sets, also observed no marine mammal interactions.

Response: By definition, a Category II fishery is one that has occasional incidental serious injury and mortality of marine mammals (50 CFR 229.2). NMFS was not aware of the NCDMF pound net study until after the proposed 2001 LOF was published. Based on the NCDMF study, the NMFS Beaufort Laboratory's observation of the North Carolina pound net fishery, NMFS will leave the North Carolina pound net fishery in Category III under the current Mid-Atlantic stop seine/weir/pound net fishery. NMFS notes that upon further investigation by North Carolina Division of Marine Fisheries gear specialists, the marks from the stranded animal that was attributed to the North Carolina Long Haul Seine Fishery in the proposed 2001 LOF suggests entanglement in pound net gear. However, based on the information available, it is unclear whether a pound net or long haul seine entangled the animal. The NMFS Beaufort Laboratory will continue to observe the pound net fishery to study sea turtles, and will monitor whether any interactions with bottlenose dolphin are observed. Additionally, NMFS will continue to monitor the fishery through stranding data. NMFS will determine the appropriate name of the fishery given the ongoing analysis of similar gear types along the entire East Coast in a future LOF.

Comment 32: The tier 2 evaluation of this fishery referenced two bottlenose dolphin carcasses found in the leads of pound nets in Virginia during 1993-1997. The pound net fishery in Virginia is much different than the North Carolina fishery, which occurs in much shallower water with leads constructed with smaller mesh sizes.

Response: See responses to Comments 28 and 31. NMFS will continue to seek information on whether different mesh sizes used in pound net leads result in differential bycatch rates of bottlenose dolphins or any other marine mammal stock.

Comment 33: The statement in the tier 2 evaluation of this fishery that other sources (than stranding data) of annual serious injury and mortality are not available is incorrect. The pound nets observed by NMFS and the NCDMF should qualify as other sources of annual serious injury and mortality and should be used to estimate bottlenose dolphin serious injury and mortality.

Response: NMFS was not aware of the NCDMF study until after the proposed 2001 LOF was published. See response to Comment 31.

Comments on the North Carolina Long Haul Seine Fishery

Comment 34: One commenter supported the elevation of the North Carolina long haul seine fishery to Category II.

Response: Comment noted. NMFS agrees and has elevated this fishery to Category II in the 2001 LOF.

Comment 35: One commenter opposed the elevation of the North Carolina long haul seine fishery to Category II.

Response: Comment noted. NMFS disagrees and has elevated this fishery to Category II in the 2001 LOF.

Comment 36: One commenter stated that the issue of potential threats of this fishery to bottlenose dolphin be referred to the Bottlenose Dolphin Take Reduction Team.

Response: See response to Comment 20.

Comment 37: One commenter reported that effort in this fishery has decreased to less than 20 crews and is expected to continue to decline because of infringement of fixed gear fisheries into traditional long haul fishing areas and competition from more efficient and less labor intensive fisheries. The prosecution of this fishery, which occurs primarily in the open waters of Pamlico Sound, and the construction of the gear would make it extremely difficult for a bottlenose dolphin to become entangled in the gear.

Response: NMFS is aware of effort changes in this fishery. However, given the documented release of three animals from a long haul seine fishery, NMFS feels a Category II listing is warranted at this time. NMFS acknowledges that the prosecution of this fishery may affect the type of interaction with bottlenose dolphin (e.g., rather than being entangled they are encircled by the gear). However, a Category II designation would enable NMFS to address these occasional interactions through the take reduction team process and to better assess the extent of the problem.

Comment 38: One commenter stated that from 1992 through 2000, the NCDMF conducted studies to characterize this fishery and collect bycatch data, observing 51 long haul trips. No bottlenose dolphin interactions were observed during the study.

Response: NMFS was not aware of the NCDMF study until after the proposed 2001 LOF was published. However, NMFS believes that in light of the low level of observer coverage, additional observations are needed. If further observations indicate that interactions with bottlenose dolphins are rare, then NMFS will change the listing of this fishery accordingly.

Comments on the Gulf of Mexico Gillnet Fishery

Comment 39: One commenter noted that there is no evidence that the Gulf of Mexico King and Spanish mackerel gillnet fishery has been involved in the accidental entanglement or subsequent mortality of bottlenose dolphins and requested that NMFS designate the fishery as Category III.

Response: NMFS has decided to reevaluate the available data, and meanwhile maintain this fishery in Category III in the 2001 LOF. NMFS will continue to monitor serious injury and mortality of marine mammals in gillnet fisheries in the Gulf of Mexico and propose classification changes that are warranted by the data and other available information.

Comment 40: One commenter supported the elevation of the Gulf of Mexico gillnet fishery to Category II and noted that additional data may indicate that this fishery warrants elevation to Category I.

Response: Comment noted. See response to Comment 39.

Comments on Fisheries in the Pacific Ocean

Comment 41: One commenter stated that many of the Alaskan gillnet fisheries remain in Category III despite evidence that where gillnets and cetaceans coincide, entanglements occur. The commenter believes that observer effort would provide evidence that interactions in this region are greater than expected.

Response: NMFS is currently placing observers in Alaskan gillnet fisheries on a rotational basis and will use the data obtained to evaluate whether the current categorization of those fisheries is correct. The Alaska Marine Mammal Observer Program (AMMOP) is currently conducting a survey to make specific recommendations on methods to observe these small-boat fisheries. The remoteness, extreme environmental conditions, and short open seasons associated with these fisheries requires extensive knowledge of the fishing characteristics and geography before an efficient and effective observer program can be implemented. AMMOP observed the drift gillnet and set gillnet fisheries in Cook Inlet in 1999 and 2000 and is concentrating on the Kodiak salmon gillnet fisheries for 2001 and 2002. Suggestions from the Alaska Scientific Review Group will help determine where the most pressing needs will be for observer coverage, based on possible frequency and severity of marine mammal interactions. The Category II fisheries will have priority for observer coverage, but as the program expands, there will be more effort put into investigating the categorization of the Category III fisheries as well.

Comment 42: One commenter stated that the Bering Sea Aleutian Islands (BSAI) groundfish trawl fishery and the BSAI groundfish longline fishery should be placed in Category II because the annual take of killer whales (North Pacific Northern resident stock or Eastern North Pacific Northern transient stock) attributable to both fisheries exceeds 1 percent of PBR. Additionally, the take of humpback whales (Western North Pacific stock or Central North Pacific stock) and Steller sea lions (Western U.S. stock) exceeds 1 percent of PBR for the BSAI groundfish trawl fishery.

Response: Estimates of mortality and serious injury and the classification of the BSAI groundfish trawl and longline fisheries is based on high levels of industry-supported observer coverage. Observer coverage ranges between 53-74 percent in the BSAI groundfish trawl fishery and between 27-80 percent in the BSAI groundfish longline fishery, yielding mortality and serious injury estimates with a relatively high degree of confidence. The mortality and serious injury estimates are only slightly above 10 percent of PBR. At the current level, the serious injury and mortality rates are likely having a negligible impact on the stocks. Therefore, a reclassification is not necessary at this time.

Comment 43: One commenter noted that many Hawaiian fisheries are conducted with gear types known to interact with cetaceans but that there is little observer coverage and a poorly supported stranding network in Hawaii. Additional effort to gather information on interactions is warranted.

Response: all Hawaiian fisheries are currently classified as Category III because they are believed to have a remote likelihood or no known incidental mortality or serious injury of marine mammals. Under the MMPA, NMFS only has the authority to require observers in Category I and II fisheries except as described in 50 CFR 229.7(d). Additionally, other than a rotating observer program in the Alaska Region, existing marine mammal observer programs are tied directly to existing take reduction plans. NMFS will not be able to implement large, new observer programs for marine mammals until new funds are available or until the success of the current take reduction plans makes the associated observer programs unnecessary.

Comment 44: One commenter stated that the CA angel shark/halibut and other species large mesh (>3.5 inch) set gillnet fishery is separated into two fisheries in the Pacific SARs.

Response: Only one fishery exists. NMFS will correct the Pacific SARs to clarify that only one fishery exists.

Comment 45: One commenter stated that the LOF places all salmon drift gillnet fisheries in Puget Sound into a single Category II fishery, which excludes treaty fishing from this designation. The Pacific SAR treats these fisheries separately in the SAR for the Washington Inland stock of the harbor porpoise. The SAR lists the estimated annual mortality from the ''Puget Sound treaty and non-treaty sockeye salmon gillnet'' component of the fishery as 15 animals. Given that this mortality is greater than 50 percent of the PBR for this stock (20), this fishery is more appropriately categorized as a Category I fishery.

Response: The proposed 1996 LOF (60 FR 31666, June 16, 1995) and the final rule implementing section 118 of the MMPA (60 FR 45086, August 30, 1995) explains that treaty Indian tribal fisheries are conducted pursuant to the tribes' treaty rights. Existing treaty Indian fishing rights are not affected by the amendments to the MMPA, and therefore tribal fisheries are conducted under the authority of the Indian treaties rather than the MMPA. As a result, NMFS does not include reference to tribal fisheries in the LOF. The rationale for the categorization of the Puget Sound salmon drift gillnet fishery (excluding tribal fishing) is included in the 1996 LOF (60 FR 67063, December 28, 1996).

Comments on the Hawaii Swordfish, Tuna, Billfish, Mahi Mahi, Wahoo, Oceanic Sharks Longline/Set Line (Hawaii Longline) and California Longline Fisheries

Comment 46: Two commenters supported the proposed elevation of the Hawaii longline/set line fishery to Category II. One of the commenters also supported the addition of the California

longline fishery to Category II, but also noted that additional data may indicate that these two fisheries warrant elevation to Category I.

Response: NMFS has decided not to elevate the Hawaii longline fishery to Category II in the 2001 LOF because of changes in the operation of the fishery and ongoing and planned data collection efforts that will improve knowledge about the level of marine mammal serious injury and mortality incidental to this fishery. NMFS will to continue to monitor serious injury and mortality in the Hawaii longline fishery and propose classification changes that are warranted by the data and other available information. See the response to Comment 48 for additional information on the reasons why NMFS decided to maintain the Hawaii longline fishery in Category III. The California longline fishery is elevated to Category II in the 2001 LOF.

Comment 47: Two commenters opposed the elevation of the Hawaii longline fishery to Category II.

Response: NMFS has decided to maintain the Hawaii longline fishery in Category III in the 2001 LOF. See response to Comment 48 for additional information on the reasons why NMFS decided to maintain the Hawaii longline fishery in Category III.

Comment 48: Two commenters stated that NMFS did not appropriately analyze the data in determining the appropriate classification of the Hawaii longline fishery. One commenter stated that the crux of the category analysis is not whether a fishery interacts with a marine mammal, but whether it has caused a defined amount of mortality and serious injury. To be in Category II, a fishery must cause ''occasional'' incidental mortality and serious injury of marine mammals.

One commenter stated that the abundance estimates and PBR levels used in the 2000 Pacific SARs were based on 12 aerial surveys conducted within 25 nautical miles of the main Hawaiian Islands. Therefore, NMFS is unable to perform the tier 1 and tier 2 analysis that it sets forth for other category elevations. These surveys covered approximately 20,000 square miles, while the Hawaii longline fishery operates in an area over 4.5 million square nautical miles. Since no comprehensive marine mammal surveys have been completed for the remaining area in which the fishery operates, the survey data were used. This assessment should be extended to the entire range of the fishery and then compared to the take to arrive at a meaningful determination.

One commenter noted that in the explanation of the proposed elevation of the Hawaii longline fishery, NMFS did not discuss the tier 1 or tier 2 analysis, instead NMFS states that the fishery has been documented to interact with false killer whales, short-finned pilot whales, and several species of dolphins. NMFS cites no surveys, studies, or other information to indicate the number of interactions that may have occurred with these species or whether those numbers rise to the levels required by the regulations.

One commenter stated that NMFS has failed to discuss whether the removal rate for these species by all fisheries, collectively, meets the requirement of the Category II definition.

One commenter stated that NMFS strict protocol for data analysis was ignored. The proposed elevation for the Hawaii longline fishery is not legally or scientifically supported.

One commenter stated that NMFS is required to use these alternative, qualitative factors to inform its analysis of whether a marine mammal's removal rate rises to annual levels comparable to ten percent of PBR with other fisheries, and one percent of PBR alone. NMFS has not performed this analysis, and even if it has, NMFS did not identify even one of the qualitative factors to make its decision.

One commenter noted that NMFS states that the re-categorization of this fishery is consistent with the way NMFS has addressed other U.S. pelagic longline fisheries. Fisheries should not be categorized by ''analogy'' if adequate research was not conducted.

Response: Determination of ''frequent'', ''occasional'', and ''remote'' in the LOF, as required by the MMPA, is subjective. To make the process more objective, NMFS developed criteria to use when mortality and serious injury data and abundance data are available. The criteria developed consists of a two-tiered, stock-specific approach, that first addresses the total impact of all fisheries on each marine mammal stock [tier 1], and then addresses the impact of individual fisheries on each stock [tier 2] by comparing the total annual mortality and serious injury of a stock of marine mammals with that stock's PBR level. This approach is based on consideration of the rate, in numbers of animals per year, of incidental mortalities and serious injuries of marine mammals due to commercial fishing operations relative to the PBR level for each marine mammal stock. As defined in 50 CFR 229.2, ''a commercial fishery that occasionally causes mortality or serious injury of marine mammals is one that, collectively with other fisheries, is responsible for the annual removal of more than 10 percent of any marine mammal stock's potential biological removal level and that is, by itself, responsible for the annual removal of between 1 and 50 percent, exclusive of any stocks's potential biological removal level.''

As described in the proposed 2001 LOF, the draft 2000 Pacific SARs present data about the stocks of marine mammals that interact with the Hawaii longline fishery and calculate a rate of serious injury and mortality between the fishery and each stock of marine mammals based on observer data. NMFS acknowledges in the SARs and in the proposed 2001 LOF that the aerial surveys conducted for marine mammals within the U.S. EEZ off of Hawaii underestimate the abundance and PBR level for those stocks. In the absence of more complete abundance estimates, NMFS recognizes that these values are considered minimum population estimates. As a result, NMFS did not base the proposal to elevate the Hawaii longline fishery to Category II strictly on a comparison between PBR and marine mammal mortality and serious injury (tier 1 and tier 2 analysis).

However, if data to conduct a quantitative tier analysis are unavailable or inappropriate, NMFS may use other, qualitative factors to determine the appropriate classification of a fishery. The definition of Category II fisheries in 50 CFR 229.2 provides for this situation, stating that, ''in the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, the Assistant Administrator will determine whether the incidental serious injury or mortality is ''occasional'' by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area.'' When using qualitative data, NMFS only needs to determine if the interaction rises to the level of ''occasional.''

Three types of information were used to support the proposal to elevate the Hawaii longline fishery to Category II. First, observer data provided evidence of interactions between the Hawaii longline fishery and marine mammals that NMFS determined was more than a rare occurrence. As explained earlier in this response, the rate of interaction is determined by comparing the number of animals per year that are killed or seriously injured incidental to commercial fishing operations. It is not

based on a comparison of the number of animals killed or seriously injured to the number of sets made by a fishery. Therefore, the rate of interaction with a fishery with a marine mammal stock with a low PBR can be significant even if it appears to be a minimal problem based on the size of the fishery.

Second, the Hawaii longline fishery has been documented to interact with a number of marine mammal species, including false killer whales, short-finned pilot whales, and several species of dolphins. The Pacific SARs explain in detail the interactions between this fishery and each stock of marine mammals. The citation for the SARs used to develop the proposed 2001 LOF was provided in the proposed rule and was available for reference by the public. NMFS does not present detailed information on analysis, studies, and surveys in the LOF because that information is available in the SARs. NMFS also has records of an interaction between the Hawaii longline fishery and a sperm whale in 1999 and a humpback whale in 1991, both of which are listed as endangered under the Endangered Species Act and strategic under the Marine Mammal Protection Act.

Third, all other pelagic longline fisheries in the U.S. are classified as Category I or II. The use of analogy with other U.S. pelagic longline fisheries is appropriate because of the similarities between the Hawaii longline fishery and other U.S. pelagic longline fisheries in terms of the gear used and the target species.

However, despite this information, NMFS has decided to maintain the Hawaii longline fishery in Category III for three reasons. First, NMFS is planning to conduct a new abundance survey in 2002 to estimate abundance for marine mammals inhabiting waters off of the main Hawaiian Islands and the Northwest Hawaiian Islands, including areas in which the Hawaii longline fishery operates. The data obtained from the abundance estimates will yield revised PBR levels for marine mammal stocks, which can then be compared to mortality and serious injury estimates from observer data in a tier analysis.

Second, since publication of the proposed rule, a Biological Opinion (B.O.) on Proposed Authorization of Pelagic Fisheries under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region was issued by NMFS (March 30, 2001). The B.O. included several Reasonable and Prudent Alternatives (RPAs) to address the adverse effects of the Hawaii longline fishery on green, leatherback, and loggerhead turtles. The requirements included in the RPAs will change the operation of the Hawaii longline fishery. One of the RPAs prohibits swordfish style fishing methods. Although intended to reduce turtle bycatch, these RPAs should also reduce marine mammal bycatch incidental to the Hawaii longline fishery.

Third, the B.O. includes terms and conditions to implement the RPAs, including continuing the Hawaii longline observer program at an annual average level of 20 percent. The observer coverage will allow NMFS to monitor serious injury and mortality to marine mammals that occurs incidental to the Hawaii longline fishery.

The three factors will increase data and knowledge about marine mammals and serious injury and mortality of marine mammals incidental to the Hawaii longline fishery. NMFS will monitor the fishery and propose any classification changes that are warranted by the data.

Comment 49: One commenter stated that there have been no drastic changes in the level of interactions observed with this fishery and marine mammals or in the range of species encountered. The implementation of the 50 nautical mile closed area around the Northwestern Hawaiian Islands has eliminated interactions with monk seals, decreasing diversity and interaction rate. NMFS should clarify the term ''diversity'' as applied to the Hawaii longline fishery and if a specific number of species must interact with a fishery for it to qualify for recategorization.

Response: The MMPA does not define ''diverse'' or specify a threshold number of species or individuals when applied to fishery interactions with marine mammal species. The term ''diversity'' was used to explain that several species of marine mammals have been observed to interact with the Hawaii longline fishery. There is not a threshold number of species with which a fishery interacts for the fishery to qualify for recategorization. However, there are criteria defining the frequency of interaction between a fishery and marine mammals that are used to determine if a fishery qualifies to be recategorized. See 50 CFR 229.2 for additional information on the criteria used to categorize a fishery.

Comment 50: One commenter notes that NMFS stated that the draft 2000 Pacific SARs present data about these stocks of marine mammals and calculate a rate of interaction between the Hawaii longline fishery and each stock based on observer data. Because the proposed rule does not define the rate, the public is unable to comment on that rate. NMFS gives no information on the stock assessment numbers or PBR numbers of these species, so it is impossible to properly comment on NMFS' reliance on this information.

Response: The proposed rule cited the draft 2000 Pacific SARs as a source of information about the stocks of marine mammals that interact with the Hawaii longline fishery, including the calculating of the rate of interaction between the Hawaii longline fishery and each stock of marine mammals based on observer data. The citation for the SARs used to develop the proposed 2001 LOF was provided in the proposed rule and was available for reference by the public. NMFS does not present detailed information on analysis, studies, and surveys in the LOF because that information is cited in the SARs.

Additionally, all data presented in the SARs undergoes a peer-review process through the regional Scientific Review Groups to ensure that the data and analysis used are scientifically justifiable and appropriate. The SARs are also made available each year for public review and comment.

Comment 51: One commenter noted that NMFS does not state whether the interactions resulted in the ''removal'' of an animal as required by the Category II definition.

Response: When conducting a tier analysis, NMFS compares the total annual mortality and serious injury of a stock of marine mammals with that stock's PBR level. As cited in the proposed rule and as explained in the response to Comment 50, the SARs explain the interactions that have occurred between a fishery and a marine mammal in more detail, including whether the interaction caused serious injury or mortality.

Comment 52: One commenter stated that recategorizing the Hawaii longline fishery would impose an additional burden on the longline fishery by requiring the owner of each vessel to obtain a marine mammal authorization certificate.

Response: Owners or operators of vessels or gear engaged in a Category I or II fishery are required to register with NMFS to obtain a marine mammal authorization and pay a $25 fee unless NMFS has integrated the MMPA registration process with an existing State and Federal license, registration, or permit system. If the Hawaii longline fishery was elevated to Category II, the MMPA registration program would have been integrated with the Hawaii longline limited access permit system, and therefore participants in the Hawaii longline fishery would not have been required to register separately and pay

the $25 fee, posing no additional burden on participants of the fishery.

Comment 53: One commenter stated that the requirements of a Category II classification would include the burden of mandatory use of logbooks and observer programs.

Response: A Category II classification does not require the use of logbooks. However, all fishers, regardless of the classification of their fishery in the LOF, are required to report all incidental injuries or mortalities of marine mammals within 48 hours after the end of each fishing trip during which the incidental mortality or injury occurred, or, for non-vessel fisheries, within 48 hours of the occurrence. Category I and II fisheries are required to accommodate an observer on board upon request. Observer coverage is already required for the Hawaii longline fishery to comply with the Endangered Species Act, and in the course of their duties, those observers collect data on marine mammals. Therefore, the vessels in the Hawaii longline fishery will not have been subjected to additional observer requirements if the fishery had been elevated to Category II.

Comment 54: One commenter stated that if the Hawaii longline fishery is elevated to Category II, fishermen will face additional paperwork and licensing burdens. This burden will soon be eclipsed, however, by the requirement that all vessels accommodate observers at the request of the Federal government. Fishermen might even be required to pay for those observers. In addition, as a Category II fishery, vessels will be subject to fishing restrictions developed under a take reduction plan, which is clearly not ecologically required in this case. NMFS has not demonstrated that such additional expenses are necessary.

Response: The elevation of a fishery to Category I or II could have three consequences. First, owners or operators of vessels or gear engaged in a Category I or II fishery are required to register with NMFS to obtain a marine mammal authorization and pay a $25 fee unless NMFS has integrated the MMPA registration process with existing State and Federal license, registration, or permit systems. See response to Comment 52 for additional information on the registration process.

Second, owners of vessels or gear operating in a Category I or II fishery are required to accommodate an observer on board upon request. This provision allows NMFS to collect data to better characterize marine mammal interactions. See response to Comment 53 for additional information on observer coverage in the Hawaii longline fishery.

Third, fishers participating in a Category I or II fishery are required to comply with any applicable take reduction plans. Currently, no take reduction plan exists for the Hawaii longline fishery. Funding available for take reduction plans is currently being used for the development and implementation of other take reduction plans, and therefore NMFS has no plans to convene a take reduction team for the Hawaii longline fishery in the foreseeable future. Therefore, recategorization of the Hawaii longline fishery to Category II would not have been expected to place additional burden or expense on participants in that fishery.

Comment 55: One commenter stated that using data more than five years old (as in the citation of the humpback whale in 1991) may violate the time limit for data citation.

Response: As general guidance, NMFS uses five years of data to calculate a mean annual mortality and serious injury for marine mammals for use in the SARs. However, there is no specific time limit for data citation and NMFS scientists determine the most appropriate data to use on a case-by-case basis. The data and resulting analyses are peer reviewed by NMFS' Scientific Review Groups and are also made available for public review and comment.

Comment 56: One commenter stated that the citation of an interaction with a humpback whale in 1991 may not have been with a longline deployed by this fishery, but with a short longline deployed by tuna handline fishermen.

Response: As documented in the 2000 SAR, fishery observers recorded one humpback whale from the Central North Pacific stock entangled in pelagic longline gear in 1991.

Comment 57: One commenter presented a calculation for false killer whales and concluded that the PBR should be 229 whales instead of the 0.8 whales as stated in the FR notice and SARs.

Response: How PBR is calculated is outside of the scope of this rulemaking. The data that is used to prepare the LOF is based on NMFS SARs. All data presented in the SARs undergoes a peer-review process through the regional Scientific Review Groups to ensure that the data and analysis used are scientifically justifiable and appropriate. The SARs are also made available each year for public review and comment.

Comment 58: One commenter noted that the proposed 2001 LOF added the California longline fishery to Category II. However, this fishery is not listed as an authorized fishery subject to the jurisdiction of the Pacific Fishery Management Council. This omission needs to be remedied on the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) List of Fisheries.

Response: NMFS will review the MSFCMA List of Fisheries and make appropriate changes.

Comment 59: One commenter stated that inaccurate data were used to justify the categorization of the California longline fishery in Category II. The proposed LOF mentioned that logbooks showed an interaction with a Hawaiian monk seal in the California longline fishery, but also that NMFS believes the identification to be incorrect.

Response: The mention of the Hawaiian monk seal in a logbook was not thought to be correct, and therefore NMFS did not consider that report in the decision of whether or not to propose categorizing the California longline fishery as Category II.

Additional Comments

Comment 60: One commenter stated that NMFS has not identified the economic consequences of the rule as required by the Regulatory Flexibility Act. NMFS has not satisfied its obligations under the National Environmental Policy Act, since the Environmental Assessment on which it relies is over five years old. Nor has NMFS evaluated properly whether the proposed rule will in fact have no effect on endangered or threatened species under the Endangered Species Act because implementation of a take reduction plan could benefit humpback whales.

Response: As explained in the Classification section of the proposed rule, NMFS reviewed and explained the economic consequences as required by the Regulatory Flexibility Act and certified that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

NMFS obligations under the National Environmental Policy Act and Endangered Species Act are also satisfied. As explained in the Classification section of the proposed rule and in the Classification section to this final rule, the final 2001 LOF would not make any significant change in the management of reclassified fisheries, and, therefore, it would not change the analysis or conclusion of the 1995 Environmental Assessment. For any management action taken, for example development of a Take Reduction Plan, NMFS would prepare environmental

documents specific to that action as required under NEPA and section 7 of the ESA.

Comment 61: One commenter requested an extension of the public comment period because the public comment period on the proposed 2001 LOF closed before the 2000 final SARs were released.

Response: The proposed rule explained NMFS process for incorporating information from the SARs in the proposed and final LOF (66 FR 6547). NMFS specifically structured the SAR and LOF cycles so that the draft SARs would be used in the proposed LOF. If information in the final SARs changes as a result of public comment on the draft SARs, that new information is incorporated into the final LOF. This cycle ensures that the LOF uses the most recent available data to categorize fisheries. Additionally, when the draft SARs are made available for public comment, they have already been extensively peer-reviewed by the Scientific Review Groups. Both the SARs and LOF are available for public comment and both documents are revised each year, providing considerable opportunity for public comment.

Comment 62: One commenter stated that the classification of aquaculture facilities in Category III is inappropriate. Despite prohibitions, shooting of marine mammals continues to occur and is likely to increase with the increase in Federal support for aquaculture.

Response: The intentional lethal take of marine mammals was made illegal by the 1994 amendments to the MMPA, except in situations where it is imminently necessary in self defense or to save the life of a person in immediate danger. Incidental, but not intentional, serious injury or mortality to marine mammals from commercial fishing operations are used for categorizing fisheries for the LOF, as stated in section 118(c) of the MMPA. The incidental serious injury and mortality rate of marine mammals in aquaculture facilities places those facilities in Category III.

Summary of Changes to the LOF for 2001

With the following exceptions, the placement and definitions of U.S. commercial fisheries are identical to those provided in the LOF for 2000. The following summarizes changes in fishery classification, fishery definition, number of participants in a particular fishery, the species that are designated as strategic stocks, and the species and/or stocks that are incidentally killed or seriously injured that are made final by this LOF for 2001.

Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean

Fishery Classification

The ''Atlantic Squid, Mackerel, Butterfish Trawl Fishery'' is moved from Category II to Category I.

The ''Atlantic and Gulf of Mexico Blue Crab Trap/Pot Fishery'' is divided into two fisheries, the ''Atlantic Blue Crab Trap/Pot Fishery'' and the ''Gulf of Mexico Blue Crab Trap/Pot Fishery.'' The ''Atlantic Blue Crab Trap/Pot Fishery'' is elevated from Category III to Category II. NMFS is maintaining the ''Gulf of Mexico Blue Crab Trap/Pot Fishery'' in Category III to reevaluate the available data on this fishery's interactions with marine mammals. NMFS will continue to monitor serious injury and mortality in the ''Gulf of Mexico Blue Crab Trap/Pot Fishery'' and will propose classification changes that are warranted by the data and other available information.

The ''North Caroline Inshore Gillnet Fishery'' is moved from Category III to Category II.

All Southeastern Atlantic Gillnet Fisheries (except for the separate Category II ''Southeastern U.S. Atlantic Shark Gillnet Fishery'') are moved from Category III to Category II and renamed the ''Southeast Atlantic Gillnet Fishery.'' The ''Southeast Atlantic Gillnet Fishery'' includes the ''Florida East Coast Pelagics King and Spanish Mackerel Gillnet Fishery,'' and the shad component of the previous ''Southeast U.S. Atlantic Coastal Shad, Sturgeon Gillnet Fishery.'' New information since publication of the proposed rule indicates that there are an additional 139 participants in the Southeast shad component of this fishery. This increases the total number of participants in the ''Southeast Atlantic Gillnet Fishery'' to 779.

Addition of Fisheries to the LOF

The ''Caribbean Gillnet Fishery'' is added to the LOF as a Category III fishery.

The ''Caribbean Mixed Species Trap/Pot Fishery'' is added to the LOF as a Category III fishery.

The ''Gulf of Mexico Haul/Beach Seine Fishery'' is added to the LOF as a Category III fishery.

The ''Gulf of Mexico Mixed Species Trap/Pot Fishery'' is added to the LOF as a Category III fishery.

The ''Gulf of Mexico Mixed Species Trawl Fishery'' is added to the LOF as a Category III fishery.

The ''Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean Cast Net Fishery'' is added to the LOF as a Category III fishery.

The ''North Carolina Long Haul Seine Fishery'' is added to the LOF as a Category II fishery. This fishery is separate from the Category II ''Mid-Atlantic Haul/Beach Seine Fishery.''

In the proposed LOF for 2001, NMFS proposed to add two fishery listings to the LOF: the ''Northeast Anchored Pelagic Gillnet Fishery'' and the ''Northeast Drift Gillnet Fishery.'' Since the proposed rule was published, NMFS has changed how gillnet fishing effort data are recorded. In response, NMFS identified four categories of gillnet fishing effort: (1) Anchored Sink Gillnet, (2) Drift Sink Gillnet, (3) Anchored Float Gillnet, and (4) Drift Float Gillnet. To distinguish fisheries by the type of gillnet used, NMFS revised the gillnet fishery classification. The Category I ''Northeast Sink Gillnet Fishery'' uses anchored sink gillnet gear. The Category II ''Northeast Anchored Pelagic Gillnet Fishery'' identified in the proposed LOF is renamed the ''Northeast Anchored Float Gillnet Fishery.'' Drift sink gillnet and drift float gillnet gear are included in the Category II ''Northeast Drift Gillnet Fishery.''

The ''Northeast Trap/Pot Fishery'' is added to the LOF as a Category II fishery.

The ''Southeastern U.S. Atlantic, Gulf of Mexico Golden Crab Trap/Pot Fishery'' is added to the LOF as a Category III fishery.

The ''Southeastern U.S. Atlantic, Gulf of Mexico Stone Crab Trap/Pot Fishery'' is added to the LOF as a Category III fishery.

The ''Virginia Pound Net Fishery'' is added to the LOF as a Category II fishery. In the proposed LOF for 2001, NMFS proposed to elevate the pound net fishery in the entire Mid-Atlantic area to Category II based on evidence of coastal bottlenose dolphin mortality in pound net leaders in Virginia. NMFS determined that interactions between bottlenose dolphins and pound nets in the Chesapeake Bay area, specifically in the Virginia-water portion, occasionally occur. In addition to the data presented in the proposed 2001 LOF, several recent mortalities of bottlenose dolphins in pound net leaders have occurred in the Chesapeake Bay area. Other pound net effort in the Mid-Atlantic is incorporated into the Category III ''U.S. Mid-Atlantic Mixed Species Stop Seine/Weir/Pound Net Fishery.''

Removals of Fisheries from the LOF

The ''Atlantic Ocean, Caribbean, Gulf of Mexico Large Pelagics Drift Gillnet Fishery'' is removed from the LOF. Any large or small mesh drift gillnet fisheries

that do occur are incorporated into other LOF gillnet listings.

The Category III ''Gulf of Maine, Southeast U.S. Atlantic Coastal Shad, Sturgeon Gillnet Fishery'' is removed from the LOF. Sturgeon is a prohibited species in State and Federal waters, and gillnet fishing for shad in the southeast is now included in the Category II ''Southeast Atlantic Gillnet Fishery.'' Gillnet fishing for shad in the Northeast is included in the Category I ''Northeast Sink Gillnet Fishery,'' the Category II ''Northeast Anchored Float Gillnet Fishery'', or the Category II ''Northeast Drift Gillnet Fishery,'' depending on the type of gear used. Gillnet fishing for shad in the Mid-Atlantic is included in the Category II ''U.S. Mid-Atlantic Coastal Gillnet Fishery.''

Fishery Name and Organizational Changes

The Category III ''Bluefish, Croaker, Flounder Trawl Fishery'' is incorporated into the Category III ''Mid-Atlantic Mixed Species Trawl Fishery.''

The Category III ''Gulf of Mexico Inshore Gillnet Fishery,'' the ''Gulf of Mexico Coastal Gillnet Fishery,'' and the ''Gulf of Mexico King and Spanish Mackerel Gillnet Fishery'' are combined into the Category III ''Gulf of Mexico Gillnet Fishery.''

The Category II ''Gulf of Maine Small Pelagics Surface Gillnet Fishery'' is incorporated into the Category II ''Northeast Anchored Float Gillnet Fishery.''

The Category I ''Gulf of Maine, U.S. Mid-Atlantic Lobster Trap/Pot Fishery'' is renamed the ''Northeast/Mid-Atlantic American Lobster Trap/Pot Fishery.''

The Category III ''Gulf of Maine, U.S. Mid-Atlantic Mixed Species Trap/Pot Fishery'' is separated into the Category II ''Northeast Trap/Pot Fishery'' and the Category III ''Mid-Atlantic Mixed Species Trap/Pot Fishery.''

The title of the Category II ''Haul Seine Fisheries'' category is renamed ''Haul/Beach Seine Fisheries'' for clarity.

The title of the Category III ''Haul Seine Fisheries'' category is renamed ''Haul/Beach Seine Fisheries'' and the ''Beach Seine Fisheries'' category is removed for clarity.

The Category II ''Mid-Atlantic Haul Seine Fishery'' is split into the Category II ''North Carolina Long Haul Seine Fishery'' and the Category II ''Mid-Atlantic Haul/Beach Seine Fishery.''

The Category III ''Mid-Atlantic, Southeastern U.S. Atlantic, Gulf of Mexico Shrimp Trawl Fishery'' is renamed the ''Southeastern U.S. Atlantic, Gulf of Mexico Shrimp Trawl Fishery.''

The Category III ''Southeastern U.S. Atlantic, Gulf of Mexico Snapper-Grouper and Other Reef Fish Bottom Longline/Hook-and-Line Fishery'' is renamed the ''Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean Snapper-Grouper and Other Reef Fish Bottom Longline/Hook-and-Line Fishery.''

The Category III ''Southeastern U.S. Atlantic, Caribbean Haul Seine Fishery'' is divided into the Category III ''Southeastern U.S. Atlantic Haul/Beach Seine Fishery'' and the Category III ''Caribbean Haul/Beach Seine Fishery.'' The ''Caribbean Haul/Beach Seine Fishery'' combines the Category III ''Caribbean Haul Seine Fishery'' and the Category III ''Caribbean Beach Seine Fishery.''

The Category III ''U.S. Mid-Atlantic Mixed Species Stop/Seine/Weir Fishery'' is renamed the ''U.S. Mid-Atlantic Mixed Species Stop Seine/Weir/Pound Net(except the North Carolina Roe Mullet Stop Net) Fishery.''

The Category III ''Southeastern U.S. Atlantic, Gulf of Mexico, Caribbean Spiny Lobster Trap/Pot Fishery'' is split into the Category III ''Florida Spiny Lobster Trap/Pot Fishery'' and the Category III ''Caribbean Spiny Lobster Trap/Pot Fishery.''

Number of Vessels/Persons

The estimated number of participants in the ''Atlantic Ocean, Caribbean, Gulf of Mexico Large Pelagics Longline Fishery'' is updated to 443. This represents the number of permits issued, not active participants.

The estimated number of participants in the ''Calico Scallops Trawl Fishery'' is updated to 12.

The estimated number of participants in the ''Florida Spiny Lobster Trap/Pot Fishery'' is updated to 2,145.

List of Species That Are Incidentally Injured or Killed by a Particular Fishery

The reference to a West Indian Manatee, FL stock is removed, and the stock of the bottlenose dolphin is changed to Eastern Gulf of Mexico coastal stock for the ''Florida Spiny Lobster Trap/Pot Fishery.''

The North Atlantic humpback whale stock is added to the list of species or stocks interacting with the ''Mid-Atlantic Menhaden Purse Seine Fishery.'' A humpback whale was reported by a fishery as entangled in a purse seine and released alive.

The Atlantic spotted dolphin stock is added to the ''Southeastern U.S. Atlantic Shark Gillnet Fishery,'' due to an observed take of the animal incidentally caught and released alive.

The reference to the Bottlenose dolphin, Eastern Gulf of Mexico coastal stock, was removed from the ''Southeastern U.S. Atlantic Gulf of Mexico Stone Crab Trap/Pot Fishery.''

Commercial Fisheries in the Pacific Ocean

Addition of Fisheries to the LOF

The ''Alaska Herring Spawn on Kelp Pound Net Fishery is added to the LOF as a Category III fishery. This fishery includes fisheries of Southeast Alaska and Prince William Sound.

The ''Alaska Snail Pot Fishery'' is added to the LOF as a Category III fishery. This fishery targets three species of sea snails in the Bering Sea using small pots (less than 18 inches, 45.7 cm).

The ''California Longline Fishery'' is added to the LOF as a Category II fishery. This fishery is primarily directed at swordfish caught outside of the U.S. EEZ off of California, but unloading their catch in California ports.

Fishery Name and Organizational Changes

The Category III ''Alaska Clam Hand Shovel Fishery'' and the ''Alaska Clam Mechanical/Hydraulic Fishery'' are renamed the ''Alaska Clam Fishery.''

The ''Alaska Southern Bering Sea, Aleutian Islands, and Western Gulf of Alaska Sablefish Longline/Set Line (Federally Regulated Waters) Fishery'' is split into the into the ''Alaska Bering Sea, Aleutian Islands Groundfish Longline/Set Line (Federally Regulated Waters, Including Miscellaneous Finfish and Sablefish) Fishery'', the ''Alaska Gulf of Alaska Groundfish Longline/Set Line (Federally Regulated Waters, Including Miscellaneous Finfish and Sablefish),'' and the ''Alaska State-Managed Waters, Groundfish Longline/Set Line (Including Sablefish, Rockfish, and Miscellaneous Finfish)'' Fishery. The ''Alaska State Waters Sablefish Longline/Set Line Fishery'' and the ''Alaska Miscellaneous Finfish/Groundfish Longline/Set Line Fishery'' would be incorporated appropriately into the three new fisheries. All of these fisheries are Category III fisheries.

The ''Alaska Octopus/Squid ''Other'' Fishery'' is renamed the ''Alaska Octopus/Squid Pot Fishery.''

The ''Alaska Southeast Alaska Herring Food/Bait Pound Net Fishery'' is renamed the ''Alaska Southeast Herring Roe/Food/Bait Pound Net Fishery.''

The ''Southeast Alaska Salmon Drift Gillnet Fishery'' is renamed the ''Alaska Southeast Salmon Drift Gillnet Fishery''

List of Fisheries

The following two tables list U.S. commercial fisheries according to their assigned categories under section 118 of the MMPA. The estimated number of vessels/participants is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants in a fishery, the number from the 1996 LOF is used.

The tables also list the marine mammal species and stocks that are incidentally killed or injured in each fishery based on observer data, logbook data, stranding reports, and fishers' reports. This list includes all species or stocks known to incur injury or mortality in a given fishery. However, not all species or stocks identified are necessarily independently responsible for a fishery's categorization. There are a few fisheries that are in Category II that have no recently documented interactions with marine mammals. Justifications for placement of these fisheries are by analogy to other gear types that are known to injure or kill marine mammals, as discussed in the final LOF for 1996 (60 FR 45086, December 28, 1995).

Commercial fisheries in the Pacific Ocean (including Alaska) are included in Table 1; commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean are included in Table 2. An asterisk (*) indicates that the stock is a strategic stock; a plus (+) indicates that the stock is listed as threatened or endangered under the Endangered Species Act.

TABLE 1—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN

Fishery Description	Estimated no. of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
Category I		
GILLNET FISHERIES:		
CA angel shark/halibut and other species large mesh (>3.5in) set gillnet.	58	Harbor porpoise, central CA Common dolphin, short-beaked, CA/OR/WA Common dolphin, long-beaked CA California sea lion, U.S. Harbor seal, CA Northern elephant seal, CA breeding Sea otter, CA
CA/OR thresher shark/swordfish drift gillnet	130	Steller sea lion, Eastern U.S.*+ Sperm whale, CA/OR/WA*+ Dall's porpoise, CA/OR/WA Pacific white sided dolphin, CA/OR/WA Risso's dolphin, CA/OR/WA Bottlenose dolphin, CA/OR/WA offshore Short-beaked common dolphin CA/OR/WA Long-beaked common dolphin CA/OR/WA Northern right whale dolphin, CA/OR/WA Short-finned pilot whale, CA/OR/WA* Baird's beaked whale, CA/OR/WA Mesoplodont beaked whale, CA/OR/WA Cuvier's beaked whale, CA/OR/WA Pygmy sperm whale, CA/OR/WA California sea lion, U.S. Northern elephant seal, CA breeding Humpback whale, CA/OR/WA-Mexico* Minke whale, CA/OR/WA Striped dolphin, CA/OR/WA Killer whale, CA/OR/WA Pacific coast Northern fur seal, San Miguel Island
Category II		
GILLNET FISHERIES:		
AK Bristol Bay salmon drift gillnet	1,903	Steller sea lion, Western U.S.*+ Northern fur seal, Eastern Pacific* Harbor seal, Bering Sea Beluga whale, Bristol Bay Gray whale, Eastern north Pacific Spotted seal, AK Pacific white-sided dolphin, North Pacific
AK Bristol Bay salmon set gillnet	1,014	Harbor seal, Bering Sea Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Northern fur seal, Eastern Pacific* Spotted seal, AK
AK Cook Inlet salmon drift gillnet	576	Steller sea lion, Western U.S.*+ Harbor seal, GOA Harbor porpoise, GOA Dall's porpoise, AK Beluga whale, Cook Inlet*+

TABLE 1—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated no. of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
AK Cook Inlet salmon set gillnet	745	Steller sea lion, Western U.S.*+ Harbor seal, GOA Harbor porpoise, GOA Dall's porpoise, AK Beluga whale, Cook Inlet*+
AK Kodiak salmon set gillnet	188	Harbor seal, GOA Harbor porpoise, GOA Sea otter, AK
AK Metlakatla/Annette Island salmon drift gillnet	60	None documented
AK Peninsula/Aleutian Islands salmon drift gillnet	164	Northern fur seal, Eastern Pacific* Harbor seal, GOA Harbor porpoise, Bering Sea Dall's porpoise, AK
AK Peninsula/Aleutian Islands salmon set gillnet	116	Steller sea lion, Western U.S.*+ Harbor porpoise, Bering Sea
AK Prince William Sound salmon drift gillnet	541	Steller sea lion, Western U.S.*+ Northern fur seal, Eastern Pacific* Harbor seal, GOA Pacific white-sided dolphin, North Pacific Harbor porpoise, GOA Dall's porpoise, AK Sea Otter, AK
AK Southeast salmon drift gillnet	481	Steller sea lion, Eastern U.S.*+ Harbor seal, Southeast AK Pacific white-sided dolphin, North Pacific Harbor porpoise, Southeast AK Dall's porpoise, AK Humpback whale, central North Pacific*+
AK Yakutat salmon set gillnet	170	Harbor seal, Southeast AK Gray whale, Eastern North Pacific
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line treaty Indian fishing is excluded).	725	Harbor porpoise, inland WA Dall's porpoise, CA/OR/WA Harbor seal, WA inland
PURSE SEINE FISHERIES:		
AK Southeast salmon purse seine	416	Humpback whale, central North Pacific*+
CA anchovy, mackerel, tuna purse seine	150	Bottlenose dolphin, CA/OR/WA offshore California sea lion, U.S. Harbor seal, CA
CA squid purse seine	65	Short-finned pilot whale, CA/OR/WA*
TRAWL FISHERIES:		
AK miscellaneous finfish pair trawl	2	None documented
LONGLINE FISHERIES:		
California longline	45	California sea lion
OR swordfish floating longline	2	None documented
OR blue shark floating longline	1	None documented
Category III		
GILLNET FISHERIES:		
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet	1,922	Harbor porpoise, Bering Sea
AK miscellaneous finfish set gillnet	3	Steller sea lion, Western U.S.*+
AK Prince William Sound salmon set gillnet	30	Steller sea lion, Western U.S.*+ Harbor seal, GOA
AK roe herring and food/bait herring gillnet	2,034	None documented
CA set and drift gillnet fisheries that use a stretched mesh size of 3.5 in or less.	341	None documented
Hawaii gillnet	115	Bottlenose dolphin, HI Spinner dolphin, HI
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing).	24	Harbor seal, OR/WA coast
WA, OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet.	913	None documented
WA, OR lower Columbia River (includes tributaries) drift gillnet	110	California sea lion, U.S. Harbor seal, OR/WA coast
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast Northern elephant seal, CA breeding
PURSE SEINE, BEACH SEINE, ROUND HAUL AND THROW NET FISHERIES:		
AK Metlakatla salmon purse seine	10	None documented
AK miscellaneous finfish beach seine	1	None documented
AK miscellaneous finfish purse seine	3	None documented

TABLE 1—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated no. of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
AK octopus/squid purse seine	2	None documented
AK roe herring and food/bait herring beach seine	8	None documented
AK roe herring and food/bait herring purse seine	624	None documented
AK salmon beach seine	34	None documented
AK salmon purse seine (except Southeast Alaska, which is in Category II).	953	Harbor seal, GOA
CA herring purse seine	100	Bottlenose dolphin, CA coastal California sea lion, U.S. Harbor seal, CA
CA sardine purse seine	120	None documented
HI opelu/akule net	16	None documented
HI purse seine	18	None documented
HI throw net, cast net	47	None documented
WA (all species) beach seine or drag seine	235	None documented
WA, OR herring, smelt, squid purse seine or lampara	130	None documented
WA salmon purse seine	440	None documented
WA salmon reef net	53	None documented
DIP NET FISHERIES:		
CA squid dip net	115	None documented
WA, OR smelt, herring dip net	119	None documented
MARINE AQUACULTURE FISHERIES:		
CA salmon enhancement rearing pen	>1	None documented
OR salmon ranch	1	None documented
WA, OR salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters
TROLL FISHERIES:		
AK north Pacific halibut, AK bottom fish, WA, OR, CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries.	1,530 (330 AK)	None documented
AK salmon troll	2,335	Steller sea lion, Western U.S.*+ Steller sea lion, Eastern U.S.*+
American Samoa tuna troll	<50	None documented
CA/OR/WA salmon troll	4,300	None documented
Commonwealth of the Northern Mariana Islands tuna troll	50	None documented
Guam tuna troll	50	None documented
HI net unclassified	106	None documented
HI trolling, rod and reel	1,795	None documented
LONGLINE/SET LINE FISHERIES:		HI trolling, rod and reel
AK Bering Sea, Aleutian Islands groundfish longline/set line (federally regulated waters, including miscellaneous finfish and sablefish).	115	Northern elephant seal, CA breeding Killer whale, Eastern North Pacific resident Killer whale, transient Steller sea lion, Western U.S.*+ Pacific white-sided dolphin, North Pacific Dall's porpoise, AK Harbor seal, Bering Sea
AK Gulf of Alaska groundfish longline/set line (federally regulated waters, including miscellaneous finfish and sablefish).	876	Steller sea lion, Western U.S.*+ Harbor seal, Southeast AK Northern elephant seal, CA breeding
AK halibut longline/set line (State and Federal waters)	3,079	Steller sea lion, Western U.S.*+
AK octopus/squid longline	7	None documented
AK state-managed waters groundfish longline/setline (including sablefish, rockfish, and miscellaneous finfish).	731	None documented
CA shark/bonito longline/set line	10	None documented
HI swordfish, tuna, billfish, mahi mahi, wahoo, oceanic sharks longline/set line.	140	Humpback whale, Central North Pacific*+ False killer whales, HI Risso's dolphin, HI Bottlenose dolphin, HI Spinner dolphin, HI Short-finned pilot whale, HI Sperm whale, HI
WA, OR, CA groundfish, bottomfish longline/set line	367	None documented
WA, OR North Pacific halibut longline/set line	350	None documented
TRAWL FISHERIES:		

TABLE 1—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated no. of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
AK Bering Sea and Aleutian Islands Groundfish Trawl	166	Steller sea lion, Western U.S.*+ Northern fur seal, Eastern pacific* Killer whale, Eastern North Pacific resident Killer whale, Eastern North Pacific transient Pacific white sided dolphin, North Pacific Harbor porpoise, Bering Sea Harbor seal, Bering Sea Harbor seal, GOA Bearded seal, AK Ringed seal, AK Spotted seal, AK Dall's porpoise, AK Ribbon seal, AK Northern elephant seal, CA breeding Sea otter, AK Pacific walrus, AK Humpback whale, Central North Pacific*+ Humpback whale, Western North Pacific*+
AK food/bait herring trawl	3	None documented
AK Gulf of Alaska groundfish trawl	198	Steller sea lion, Western U.S.*+ Northern fur seal, Eastern Pacific* Harbor seal, GOA Dall's porpoise, AK Northern elephant seal, CA breeding Fin whale, Northeast Pacific
AK miscellaneous finfish otter or beam trawl	6	None documented
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet)	58	None documented
AK state-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl	2	None documented
WA, OR, CA groundfish trawl	585	Steller sea lion, Western U.S.*+ Northern fur seal, Eastern Pacific* Pacific white-sided dolphin, central North Pacific Dall's porpoise, CA/OR/WA California sea lion, U.S. Harbor seal, OR/WA coast
WA, OR, CA shrimp trawl	300	None documented
POT, RING NET, AND TRAP FISHERIES:		
AK Bering Sea, Gulf of Alaska finfish pot	257	Harbor seal, GOA Harbor seal, Bering Sea Sea otter, AK
AK crustacean pot	1,852	Harbor porpoise, Southeast AK
AK octopus/squid pot	72	None documented
AK snail pot	2	None documented
CA lobster, prawn, shrimp, rock crab, fish pot	608	Sea otter, CA
OR, CA hagfish pot or trap	25	None documented
WA, OR, CA crab pot	1,478	None documented
WA, OR, CA sablefish pot	176	None documented
WA, OR shrimp pot & trap	254	None documented
HI crab trap	22	None documented
HI fish trap	19	None documented
HI lobster trap	15	Hawaiian monk seal*+
HI shrimp trap	5	None documented
HANDLINE AND JIG FISHERIES:		
AK miscellaneous finfish handline and mechanical jig	100	None documented
AK North Pacific halibut handline and mechanical jig	93	None documented
AK octopus/squid handline	2	None documented
American Samoa bottomfish	<50	None documented
Commonwealth of the Northern Mariana Islands bottomfish	<50	None documented
Guam bottomfish	<50	None documented
HI aku boat, pole and line	54	None documented
HI deep sea bottomfish	434	Hawaiian monk seal*+
Hi inshore handline	650	Bottlenose dolphin, HI
HI tuna	144	Rough-toothed dolphin, HI Bottlenose dolphin, HI Hawaiian monk seal*+
WA groundfish, bottomfish jig	679	None documented
HARPOON FISHERIES:		
CA swordfish harpoon	228	None documented
POUND NET/WEIR FISHERIES:		
AK herring spawn on kelp pound net	452	None documented
AK Southeast herring roe/food/bait pound net	3	None documented
WA herring brush weir	1	None documented

TABLE 1—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated no. of vessels/ persons	Marine mammal species and stocks incidentally killed/injured
BAIT PENS:		
WA/OR/CA bait pens	13	None documented
DREDGE FISHERIES:		
Coastwide scallop dredge	108 (12 AK)	None documented
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
AK abalone	1	None documented
AK clam	156	None documented
WA herring spawn on kelp	4	None documented
AK dungeness crab	3	None documented
AK herring spawn on kelp	363	None documented
AK urchin and other fish/shellfish	471	None documented
CA abalone	111	None documented
CA sea urchin	583	None documented
HI coral diving	2	None documented
HI fish pond	10	None documented
HI handpick	135	None documented
HI lobster diving	6	None documented
HI squiding, spear	267	None documented
WA, CA kelp	4	None documented
WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp hand, dive, or mechanical collection.	637	None documented
WA shellfish aquaculture	684	None documented
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
AK, WA, OR, CA commercial passenger fishing vessel	>7,000 (1,107 AK)	None documented
HI ''other''	114	None documented
LIVE FINFISH/SHELLFISH FISHERIES:		
CA finfish and shellfish live trap/hook-and-line	93	None documented

* Marine mammal stock is strategic.

+ stock is listed as threatened or endangered under the Endangered Species Act (ESA) or as depleted under the MMPA. List of Abbreviations Used in Table 1: AK, Alaska; CA , California; HI, Hawaii; GOA, Gulf of Alaska; OR, Oregon, and WA, Washington

TABLE 2—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally injured and killed
Category I		
GILLNET FISHERIES:		
Northeast sink gillnet	341	North Atlantic right whale, WNA*+ Humpback whale, WNA*+ Minke whale, Canadian east coast Killer whale, WNA White-sided dolphin, WNA* Bottlenose dolphin, WNA offshore Harbor porpoise, GME/BF* Harbor seal, WNA Gray seal, WNA Common dolphin, WNA * Fin whale, WNA *+ Spotted dolphin, WNA False killer whale, WNA Harp seal, WNA
LONGLINE FISHERIES:		

TABLE 2—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally injured and killed
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline ..	<200	Humpback whale, WNA*+ Minke whale, Canadian east coast Risso's dolphin, WNA Long-finned pilot whale, WNA* Short-finned pilot whale, WNA* Common dolphin, WNA* Atlantic spotted dolphin, WNA* Pantropical spotted dolphin, WNA* Striped dolphin, WNA Bottlenose dolphin, WNA offshore Bottlenose dolphin, GMX Outer Continental Shelf Bottlenose dolphin, GMX Continental Shelf Edge and Slope Atlantic spotted dolphin, Northern GMX Pantropical spotted dolphin, Northern GMX Risso's dolphin, Northern GMX Harbor porpoise, GME/BF*
TRAP/POT FISHERIES:		
Northeast/Mid-Atlantic American lobster trap/pot	13,000	North Atlantic right whale, WNA*+ Humpback whale, WNA*+ Fin whale, WNA*+ Minke whale, Canadian east coast Harbor seal, WNA
TRAWL FISHERIES:		
Atlantic squid, mackerel, butterfish trawl	620	Common dolphin, WNA* Risso's dolphin, WNA Long-finned pilot whale, WNA* Short-finned pilot whale, WNA* White-sided dolphin, WNA*
Category II		
GILLNET FISHERIES:		
North Carolina inshore gillnet	94	Bottlenose dolphin, WNA coastal*+
Northeast anchored float gillnet	133	Humpback whale, WNA*+ White-sided dolphin, WNA* Harbor seal, WNA
Northeast drift gillnet	unknown	None documented
Southeast Atlantic gillnet	779	Bottlenose dolphin, WNA coastal
Southeastern U.S. Atlantic shark gillnet	12	Bottlenose dolphin, WNA coastal* North Atlantic right whale, WNA*+ Atlantic spotted dolphin, WNA
U.S. Mid-Atlantic coastal gillnet	>655	Humpback whale, WNA*+ Minke whale, Canadian east coast Bottlenose dolphin, WNA offshore Bottlenose dolphin, WNA coastal*+ Harbor porpoise, GME/BF* Harbor seal, WNA Harp seal, WNA Long-finned pilot whale, WNA* Short-finned pilot whale, WNA* White sided dolphin, WNA Common dolphin, WNA
TRAWL FISHERIES:		
Atlantic herring midwater trawl (including pair trawl)	17	Harbor seal, WNA
TRAP/POT FISHERIES:		
Atlantic blue crab trap/pot	>16,000	Bottlenose dolphin, WNA coastal* West Indian manatee, FL
Northeast trap/pot	unknown	Fin whale, WNA
PURSE SEINE FISHERIES:		
Gulf of Mexico menhaden purse seine	50	Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, Northern GMX coastal
HAUL/BEACH SEINE FISHERIES:		
Mid-Atlantic haul/beach seine	25	Bottlenose dolphin, WNA coastal* Harbor porpoise, GME/BF*
North Carolina long haul seine	33	Bottlenose dolphin, WNA coastal*
STOP NET FISHERIES:		
North Carolina roe mullet stop net	13	Bottlenose dolphin, WNA coastal*
POUND NET FISHERIES:		

TABLE 2—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally injured and killed
Virginia pound net	187	Bottlenose dolphin, WNA coastal*
Category III		
GILLNET FISHERIES:		
Caribbean gillnet	>991	Dwarf sperm whale, WNA West Indian manatee, Antillean
Chesapeake Bay inshore gillnet	45	Harbor porpoise, GME/BF
Delaware Bay inshore gillnet	60	Humpback whale, WNA*+ Bottlenose dolphin, WNA coastal*+ Harbor porpoise, GME/BF*
Gulf of Mexico gillnet	724	Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX Bay, Sound, and Estuarine*
Long Island Sound inshore gillnet	20	Humpback whale, WNA*+ Bottlenose dolphin, WNA coastal*+ Harbor porpoise, GME/BF*
Rhode Island, southern Massachusetts (to Monomoy Island), and New York Bight (Raritan and Lower New York Bays) inshore gillnet.	32	Humpback whale, WNA*+ Bottlenose dolphin, WNA coastal*+ Harbor porpoise, GME/BF*
TRAWL FISHERIES:		
Calico scallops trawl	12	None documented
Crab trawl	400	None documented
Georgia, South Carolina, Maryland whelk trawl	25	None documented
Gulf of Maine, Mid-Atlantic sea scallop trawl	215	None documented
Gulf of Maine northern shrimp trawl	320	None documented
Gulf of Mexico butterfish trawl	2	Atlantic spotted dolphin, Eastern GMX Pantropical spotted dolphin, Eastern GMX
Gulf of Mexico mixed species trawl	20	None documented
Mid-Atlantic mixed species trawl	>1,000	None documented
North Atlantic bottom trawl	1,052	Long-finned pilot whale, WNA* Short-finned pilot whale, WNA* Common dolphin, WNA* White-sided dolphin, WNA* Striped dolphin, WNA Bottlenose dolphin, WNA offshore
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	>18,000	Bottlenose dolphin, WNA coastal*+
U.S. Atlantic monkfish trawl	unknown	Common dolphin, WNA*
MARINE AQUACULTURE FISHERIES:		
Finfish aquaculture	48	Harbor seal, WNA
Shellfish aquaculture	unknown	None documented
PURSE SEINE FISHERIES:		
Gulf of Maine Atlantic herring purse seine	30	Harbor porpoise, GME/BF* Harbor seal, WNA Gray seal, WNA
Gulf of Maine menhaden purse seine	50	None documented
Florida west coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal
Mid-Atlantic menhaden purse seine	22	Bottlenose dolphin, WNA coastal*+ Humpback whale, WNA*+
U.S. Atlantic tuna purse seine	unknown	None documented
U.S. Mid-Atlantic hand seine	>250	None documented
LONGLINE/HOOK-AND-LINE FISHERIES:		
Gulf of Maine tub trawl groundfish bottom longline/ hook-and-line	46	Harbor seal, WNA Gray seal, Northwest North Atlantic Humpback whale, WNA
Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon.	26,223	Humpback whale, WNA
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/hook-and-line.	>5,000	None documented
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/ hook-and-line.	124	None documented
Southeastern U.S. Atlantic, Gulf of Mexico, U.S. Mid-Atlantic pelagic hook-and-line/harpoon.	1,446	None documented
TRAP/POT FISHERIES		
Caribbean mixed species trap/pot	>501	None documented
Caribbean spiny lobster trap/pot	>197	None documented
Florida spiny lobster trap/pot	2,145	Bottlenose dolphin, Eastern Gulf of Mexico coastal

TABLE 2—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally injured and killed
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX Bay, Sound, & Estuarine* West Indian manatee, FL*+
Gulf of Mexico mixed species trap/pot	unknown	None documented
Mid-Atlantic mixed species trap/pot	unknown	Humpback whale, Gulf of Maine Minke whale, Canadian east coast Harbor porpoise, GM/BF
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot	10	None documented
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot	4,453	None documented
U.S. Mid-Atlantic eel trap/pot	>700	None documented
U.S. Mid-Atlantic and Southeast U.S. Atlantic black sea bass trap/pot.	30	None documented
STOP SEINE/WEIR/POUND NET FISHERIES:		
Gulf of Maine herring and Atlantic mackerel stop seine/weir	50	North Atlantic right whale, WNA* Humpback whale, WNA*+ Minke whale, Canadian east coast Harbor porpoise, GME/BF* Harbor seal, WNA Gray seal, Northwest North Atlantic
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented
U.S. Mid-Atlantic mixed species stop seine/weir/ pound net (except the North Carolina roe mullet stop net).	751	None documented
DREDGE FISHERIES:		
Gulf of Maine mussel	>50	None documented
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	233	None documented
U.S. Mid-Atlantic/Gulf of Mexico oyster	7,000	None documented
U.S. Mid-Atlantic offshore surf clam and quahog dredge	100	None documented
HAUL/BEACH SEINE FISHERIES:		
Caribbean haul/beach seine	15	West Indian manatee, Antillean
Gulf of Mexico haul/beach seine	unknown	None documented
Southeastern U.S. Atlantic, haul/beach seine	25	None documented
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection.	20,000	None documented
Gulf of Maine urchin dive, hand/mechanical collection	>50	None documented
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net.	unknown	None documented
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel.	4,000	None documented

* Marine mammal stock is strategic.
\+ Stock is listed as threatened or endangered under the ESA or as depleted under the MMPA.
List of Abbreviations Used in Table 2: FL - Florida; NC - North Carolina; GA - Georgia; SC - South Carolina; GME/BF - Gulf of Maine/Bay of Fundy; TX - Texas; GMX - Gulf of Mexico; WNA - Western North Atlantic.

Classification

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this final rule would not have a significant economic impact on a substantial number of small entities, as certified in the proposed rule. For convenience, the factual basis leading to the certification is repeated below, updated with new information available on the number of participants since publication of the proposed rule and a delay in the compliance date for registering with NMFS.

Under existing regulations, all fishers participating in Category I or II fisheries must register, obtain an Authorization Certificate, and pay a fee of $25. The Authorization Certificate authorizes the taking of marine mammals incidental to commercial fishing operations. NMFS has estimated that approximately 22,400 fishing vessels operate in Category I or II fisheries, and, therefore, are required to register. However, the registration for the majority of these fishers has been integrated with existing state or Federal registration programs, and those fishers do not need to register separately under the MMPA. Currently, approximately 3,800 fishers register directly with NMFS under the MMPA authorization program.

This rule would require the registration of approximately 17,138[1] additional fishers. Fisheries that are elevated to Category II in this final rule and whose participants would be required to register with NMFS include: the North Carolina Inshore Gillnet Fishery (94 participants); the Southeast Atlantic Gillnet Fishery (779 participants); and the Atlantic Blue Crab Fishery (>16,000). Fisheries that have been added to Category II of the LOF in this final rule include: the California Longline Fishery (45 participants); the Virginia Pound Net Fishery (187 participants); the Northeast Trap/Pot Fishery (unknown number of participants); the North Carolina Long Haul Seine Fishery (33 participants); and, the Northeast Drift Gillnet Fishery (unknown number of participants).

[1] This number includes 16,000 fishers who have historically participated in the Atlantic Blue Crab Trap/Pot Fishery. NMFS is currently evaluating the current number of participants in this fishery and will provide that information in a future LOF cycle.

Participants in fisheries elevated to Category II or added to the LOF may already participate in Category I or II fisheries for which they currently register under the MMPA or participate in Federal or state fisheries with integrated registration programs, and, therefore, would not be required to register separately under the MMPA or pay an additional $25 registration fee.

NMFS is planning to integrate registration requirements with other fisheries to minimize the registration burden on fishers as soon as possible. NMFS would waive the registration fee for fisheries where an integrated registration program can be arranged.

To further reduce the burden of registering, NMFS has delayed the compliance date for fisheries added or elevated to Category II in this final rule to register with NMFS and obtain an authorization certificate until January 1, 2002. The delay will give NMFS more time to work to integrate the MMPA registration process with existing state or Federal license, registration, or permit systems. As a result, NMFS expects that fewer than 2,000 fishers are likely to have to register directly with NMFS. The delay affects the following fisheries: Atlantic blue crab trap/pot; California longline; North Carolina inshore gillnet; North Carolina long haul seine; Northeast drift gillnet; Northeast trap/pot; Virginia Pound Net; and, Southeast Atlantic gillnet. These fisheries are considered to be Category II fisheries on the date that the 2001 LOF becomes effective and are required to comply with all other requirements of Category II fisheries (i.e., comply with applicable take reduction plan requirements, carry observers if requested, and report all incidental injuries or mortalities of marine mammals that occur during commercial fishing operations to NMFS). Category I and II fisheries not listed above must be registered and obtain a valid authorization certificate.

The $25 registration fee, with respect to anticipated revenues, is not considered significant. As a result of this certification, a regulatory flexibility analysis was not prepared.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of information for the registration of fishers under the MMPA has been approved by the OMB under OMB control number 0648-0293 (0.25 burden hours per report for new registrants and 0.15 burden hours per report for renewals). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collection of information, including suggestions for reducing burden, to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This final rule has been determined to be not significant for the purposes of E.O. 12866.

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) for regulations to implement section 118 of the MMPA (1995 EA). The 1995 EA concluded that implementation of those regulations would not have a significant impact on the human environment. This final rule would not make any significant change in the management of reclassified fisheries, and, therefore, this final rule is not expected to change the analysis or conclusion of the 1995 EA. If NMFS takes a management action, for example, through the development of a Take Reduction Plan (TRP), NMFS will first prepare an environmental document as required under NEPA specific for that action.

This final rule will not affect species listed as threatened or endangered under the Endangered Species Act (ESA) or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this final rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would conduct consultation under section 7 of the ESA specific for that action.

This final rule will have no adverse impacts on marine mammals and may have a positive impact on marine mammals by improving knowledge of marine mammals and the fisheries interacting with marine mammals through information collected from observer programs or take reduction teams.

This final rule will not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

August 7, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 000323080–1196–03; I.D. 031500A]

RIN 0648–AN97

Atlantic Highly Migratory Species (HMS); Atlantic Tunas Reporting, Fishery Allocations and Regulatory Adjustments

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

ACTION: Final rule.

SUMMARY: NMFS amends the regulations governing the Atlantic HMS fisheries to implement mandatory dealer reporting of all purchases of Atlantic bigeye, albacore, yellowfin, and skipjack (BAYS) tunas: to adjust the north-south dividing line for the Atlantic bluefin tuna (BFT) Angling category subdivisions and the associated subquota percentages allocated to each area, to clarify the requirement that imports, exports, and re-exports of bluefin tuna (both Atlantic and Pacific subspecies) be accompanied by a Bluefin Tuna Statistical Document (BSD), and to facilitate enforcement of, and compliance with, certain regulations. The regulatory amendment is necessary to comply with the United States' obligations under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Atlantic Tunas Convention Act (ATCA), and the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP).

DATES: Effective September 14, 2001.

ADDRESSES: Copies of supporting documents, including the HMS FMP, are available from the Highly Migratory Species Management Division, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Any comments regarding burden-hour estimates for collection-of-information requirements contained in this final rule should be sent to Christopher Rogers, Acting Chief, Highly Migratory Species Management Division, Office of

Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3282, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Pat Scida, (978) 281–9208.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Act and ATCA. ATCA authorizes the Secretary of Commerce (Secretary) to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

Background information about the need for revisions to the HMS regulations was provided in the preamble to the proposed rule (65 FR 76601, December 7, 2000), and is not repeated here. By this final rule, NMFS implements mandatory dealer reporting of all purchases of Atlantic BAYS tunas; adjusts the north-south dividing line for the BFT Angling category subdivisions; adjusts associated subquota percentages allocated to each area; modifies regulatory text to clarify the requirement that imports, exports, and re-exports of bluefin tuna (both Atlantic and Pacific subspecies) be accompanied by a BSD; and modifies regulatory text to facilitate enforcement of, and compliance with, the regulations. Specifically, to facilitate enforcement of and compliance with the regulations, this rule requires that, for trailered vessels, BFT be tagged immediately upon the vessel being removed from the water; it specifies the existing size limit for swordfish in terms of Lower Jaw Fork Length (LJFL); and it modifies the vessel identification regulations to make them consistent with other Federal fisheries regulations. This rule also restores a prohibition on assaulting or impeding NMFS employees or contractors collecting scientific or management information on Atlantic HMS that was inadvertently omitted when the HMS regulations were consolidated under 50 CFR part 635 (64 FR 29090, May 28, 1999). Finally, this rule modifies the recently published final initial 2001 BFT quota specifications per the adjustments made to the BFT Angling category north-south division line and subquota allocations.

Changes From the Proposed Rule

In the proposed rule that published on December 7, 2000, NMFS proposed removing the term ''high flyer'' from the definition of pelagic longline gear. This change to the regulations has already been implemented by an interim final rule published in the **Federal Register** on March 30, 2001 (66 FR 17370), and is no longer included as part of this rule.

Additionally, over the last several months, NMFS has received comments from the United States Coast Guard and vessel operators that the vessel identification requirements in the HMS regulations are inconsistent with the regulations for other federal fisheries on the East coast and Gulf of Mexico. Specifically, the HMS regulations require a vessel to display its vessel number in 10 inch (25.4 cm) block numerals for all vessels 65 ft (19.8 m) or less in length, while other NMFS regulations require 10 inch (25.4 cm) block numerals for vessels up to 65 ft (19.8 m) in length, but only for vessels greater than 25 ft (7.6 m) in length. For vessels 25 ft (7.6 m) in length or less, other NMFS regulations require 3 inch (7.6 cm) block numerals, or none at all. This inconsistency in the vessel identification regulations has made it difficult for the Coast Guard to enforce the regulations. In addition, it is difficult for a vessel less than 25 ft (7.6 m) in length to affix and display 10 inch (25.4 cm) block numerals. This final rule amends the HMS vessel identification regulations to make them consistent with those for other Atlantic and Gulf of Mexico species, requiring 3 inch (7.6 cm) block numerals for vessels less than 25 ft (7.6 m) in length, and, to be consistent with the terms of approval of this information collection, clarifies that the HMS vessel identification regulations do not apply to vessels with Atlantic tunas Angling category permits.

As this rule adjusts the BFT Angling category north-south division line and subquota allocations, adjustments to the recently published final initial 2001 BFT quota specifications must be made to reflect these changes. This final rule adjusts the 2001 BFT Angling category quota, subdividing the 2001 BFT Angling category quota of 609.3 metric tons (mt) as follows: School BFT—247.8 mt, with 127.0 mt to the northern area (north of 39°18′ N. latitude), 120.8 mt to the southern area (south of 38°47′ N. latitude), plus 20.6 mt held in reserve; large school/small medium BFT—330.0 mt, with 162.3 mt to the northern area and 167.7 mt to the southern area; and large medium/giant BFT—10.9 mt, with 4.8 mt to the northern area and 6.1 mt to the southern area.

There have also been several wording changes made to the regulatory text in the proposed rule, and two prohibitions were modified and one was added. These changes were made to clarify the intent of the regulatory text and to facilitate enforcement of the regulations.

Comments and Responses

NMFS conducted two public hearings on the proposed rule and received written and oral comments over a 60-day comment period. The vast majority of the comments received were in support of the proposed rule. Responses to specific comments on the issues contained in the proposed rule are provided here.

BAYS Tunas Dealer Reporting

Comment: Most comments NMFS received were supportive of the BAYS tunas dealer reporting, stating that the reporting requirement could help collect tuna landings data that are currently unreported under the current regulations. One commenter stated that the revision to the regulations could result in the capture of data regarding landings of BAYS tunas that are sold unlawfully by non-permitted fishermen. One commenter stated that the regulatory amendment needed to go further, requiring a cross-referenceable report from harvesters (vessels).

Response: NMFS agrees that the proposed BAYS tunas dealer reporting requirements could help collect information regarding tuna landings that are currently unreported. Regarding vessel reporting, the HMS regulations give NMFS the authority to issue logbooks and to collect logbook information from all vessels with permits in the Atlantic HMS fisheries. Currently, only vessels with Atlantic swordfish and shark permits (including all vessels with Atlantic tunas Longline category permits) are currently selected to submit logbooks. NMFS agrees that additional vessel reporting may provide additional information and is investigating various kinds of logbook programs for all permitted HMS vessels.

BFT Angling Category Geographic Division

Comment: Adoption of the proposed north-south dividing line change and quota subdivision would allow NMFS to manage the Angling category BFT season better, and would fix the unfair situation for vessels from Cape May, NJ, which, because they fish and land in two separate zones, were held to the more restrictive retention limit of the two fishing zones.

Response: NMFS agrees that the north-south dividing line change is appropriate. A goal of the proposed line change and the corresponding quota re-allocation is to minimize the number of

cases where anglers are fishing in one zone and landing their fish in another.

BSD Changes

Comment: NMFS should revise the BSD regulations to allow copies (instead of the original) of the original BSD be submitted to NMFS under certain circumstances, e.g., when a shipment comes into the United States with several bluefin, and a part of the shipment is re-exported while the rest remains in the United States for domestic consumption. Currently, the regulations require that the original BSD accompany the shipment and, in the case of imports, that the original BSD be submitted to NMFS. In the situation described above, it is not possible to submit an original BSD to NMFS for the domestically consumed fish and at the same time re-export part of the shipment also with an original BSD.

Response: NMFS regulations regarding BSD reporting are not under revision at this time, although NMFS recognizes the difficulty of complying with the current BSD reporting requirements in situations such as ''split shipments'', where part of an imported shipment is then re-exported, or a shipment is re-exported to two different countries. NMFS will continue to work with bluefin importers and exporters to find solutions to these situations as they arise. In addition, ICCAT recently recommended the development of statistical document programs for swordfish and bigeye tuna. During the development of these programs, NMFS also plans to address these ''split shipment'' paperwork/reporting requirements in a comprehensive manner as part of an effort to harmonize the various reporting programs and forms involved in the tracking of trade in highly migratory species.

Facilitation of Enforcement and Compliance

The only comments received on the proposed measures to facilitate enforcement and compliance were those of general support. NMFS finalizes these measures without revision.

Classification

This regulatory amendment is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and ATCA, 16 U.S.C. 971 *et seq.* The AA has determined that the regulations contained in the regulatory amendment are consistent with the Magnuson-Stevens Act, ATCA, and the HMS FMP.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed, that if adopted as proposed, it would not have a significant economic impact on a substantial number of small entities. No comments were received that would alter the basis for this determination. Given the certification, neither an Initial nor Final Regulatory Flexibility Analysis was prepared.

This regulatory amendment has been determined to be not significant for purposes of Executive Order 12866.

The regulations implemented through this final rule are not expected to increase endangered species or marine mammal interaction rates. On June 8, 2001, NMFS issued a Biological Opinion (BO) after concluding formal consultation for the HMS fisheries under section 7 of the Endangered Species Act. The BO concluded that the pelagic longline fishery is likely to jeopardize the continued existence of threatened or endangered species. This final rule will not change fishing practices for longline vessels. NMFS plans on addressing the conclusions of the BO regarding the pelagic longline fishery through separate rulemaking. This final rule will not significantly alter current fishing practices and would not likely increase takes of listed species or interfere with the implementation of the reasonable and prudent alternative measures identified in the BO to reduce adverse impacts on protected resources.

The area affected by this final action has been identified as essential fish habitat (EFH) for species managed by the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, the Caribbean Fishery Management Council, and the HMS Management Division of NMFS. It is not anticipated that this action will have any adverse impacts on EFH, and, therefore, no consultation is required.

This final rule contains a new collection-of-information requirement and restates several existing reporting requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). On March 29, 2001, OMB approved the collection-of-information requirement as a revision to the collection previously approved under OMB control number 0648–0013. The new requirement approved by OMB is an extension of dealer reporting requirements to Atlantic tunas, with an estimated public reporting burden of 12 minutes per response for dealers who would otherwise have been required to file a negative report (if permitted for swordfish or shark), 15 minutes for other dealers reporting purchases, and three minutes for other dealers to file.

This rule also restates a number of collection-of- information requirements that have been approved by OMB. These requirements and their OMB control numbers and estimated response times are: swordfish and shark dealer reports (15 minutes; 0648–0013); negative reports by swordfish and shark dealers (three minutes; 0648–0013); swordfish import dealer reports (15 minutes; 0648–0363) and swordfish certificates of eligibility (one hour; 0648–0363); bluefin tuna landing reports (two minutes; 0648–0239); bluefin tuna bi-weekly dealer report (15 minutes; 0648–0239); affixing tags to bluefin tunas and transferring tag numbers to documents (ten minutes; 0648–0239); vessel identification requirements (45 minutes; 0648–0373). All estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Any comments regarding burden-hour estimates for collection-of-information requirements contained in this final rule should be sent to (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to, a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This rule modifies the regulations at 50 CFR 635.6 on vessel identification, and at 50 CFR 635.71(b) on prohibitions on failing to report a BFT. These changes were not included in the proposed rule. The modifications to 50 CFR 635.6 (with respect to vessel identification) are needed to achieve consistency with other NMFS vessel marking regulations and relieve vessels fishing in HMS and other fisheries from the burden of having to comply with two different sets of marking requirements. Therefore, providing prior notice and an opportunity for public comment would serve no useful purpose. The modifications to 50 CFR 635.71 that clarify the existing prohibitions related to reporting a BFT, correct a cross-reference to the relevant reporting requirements, and clarify when BFT must be tagged and reported if they are in a trailered vessel, are needed to facilitate enforcement and ensure compliance with existing regulations. Delaying these clarifications to provide an opportunity for public

comment would confound enforcement efforts and would serve no useful purpose. Accordingly, the AA finds good cause to waive the Administrative Procedures Act requirement to provide prior notice and the opportunity for public comment, pursuant to authority set forth at 5 U.S.C. 553(b)(B), as such procedures would be unnecessary or would be contrary to the public interest, as applicable.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: August 9, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.5, paragraphs (a)(3), (b)(1)(i) through (iii), (b)(2)(i),(b)(2)(ii)(A) and (b)(2)(ii)(B) are revised to read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(a) * * *

(3) *BFT not sold.* If a person who catches and lands a large medium or giant BFT from a vessel issued a permit in any of the commercial categories for Atlantic tunas does not sell or otherwise transfer the BFT to a dealer who has a dealer permit for Atlantic tunas, the person must contact a NMFS enforcement agent, at a number designated by NMFS, immediately upon landing such BFT, provide the information needed for the reports required under paragraph (b)(2)(i) of this section, and, if requested, make the tuna available so that a NMFS enforcement agent or authorized officer may inspect the fish and attach a tag to it. Alternatively, such reporting requirement may be fulfilled if a dealer who has a dealer permit for Atlantic tunas affixes a dealer tag as required under paragraph (b)(2)(ii) of this section and reports the BFT as being landed but not sold on the reports required under paragraph (b)(2)(i) of this section. If a vessel is placed on a trailer, the person must contact a NMFS enforcement agent, or the BFT must have a dealer tag affixed to it by a permitted Atlantic tunas dealer, immediately upon the vessel being removed from the water. All BFT landed but not sold will be applied to the quota category according to the permit category of the vessel from which it was landed.

(b) * * *

(1) *Atlantic HMS.* (i) Dealers that have been issued an Atlantic tunas, swordfish and/or sharks dealer permit under § 635.4 must submit to NMFS all reports required under this section.

(ii) Dealers that import bluefin tuna and/or swordfish must report all such species imported on forms available from NMFS.

(iii) Reports of Atlantic tunas, Atlantic swordfish, and/or Atlantic sharks received by dealers from U.S. vessels, or reports of bluefin tuna and swordfish imported, on the first through the 15th of each month, must be postmarked not later than the 25th of that month. Reports of such fish received or imported on the 16th through the last day of each month must be postmarked not later than the 10th of the following month. For swordfish imports, a dealer must attach a copy of each certificate of eligibility to the report required under paragraph (b)(1)(ii) of this section. If a dealer issued an Atlantic tunas, swordfish or sharks dealer permit under § 635.4 has not received any Atlantic HMS from U.S. vessels during a reporting period as specified in this section, he or she must still submit the report required under paragraph (b)(1)(i) of this section stating that no Atlantic HMS were received. This negative report must be postmarked for the applicable reporting period as specified in this section. This negative reporting requirement does not apply for BFT.

* * * * *

(2)*Requirements for bluefin tuna*—(i) *Dealer reports*—(A)*Landing reports.* Each dealer issued an Atlantic tunas permit under § 635.4 must submit a completed landing report on a form available from NMFS for each BFT received from a U.S. fishing vessel. Such report must be submitted by electronic facsimile (fax) to a number designated by NMFS not later than 24 hours after receipt of the BFT. The landing report must indicate the name and permit number of the vessel that landed the BFT and must be signed by the permitted vessel's owner or operator immediately upon transfer of the BFT. The dealer must inspect the vessel's permit to verify that the required vessel name and vessel permit number as listed on the permit are correctly recorded on the landing report.

(B) *Bi-weekly reports.* Each dealer issued an Atlantic tunas permit under § 635.4 must submit a bi-weekly report on forms supplied by NMFS for BFT received from U.S. vessels and for imports of bluefin tuna. For BFT received from U.S. vessels and for bluefin tuna imported on the first through the 15th of each month, the dealer must submit the bi-weekly report forms to NMFS postmarked not later than the 25th of that month. Reports of BFT received and bluefin tuna imported on the 16th through the last day of each month must be postmarked not later than the 10th of the following month.

(ii) * * *

(A) *Affixing dealer tags.* A dealer or a dealer's agent must affix a dealer tag to each BFT purchased or received from a U.S. vessel immediately upon offloading the BFT. If a vessel is placed on a trailer, the dealer or dealer's agent must affix the dealer tag to the BFT immediately upon the vessel being removed from the water. The dealer tag must be affixed to the BFT between the fifth dorsal finlet and the caudal keel.

(B)*Removal of dealer tags.* A dealer tag affixed to any BFT under paragraph (b)(2)(ii)(A) of this section or a BSD tag affixed to an imported bluefin tuna must remain on the fish until it is cut into portions. If the bluefin tuna or bluefin tuna parts subsequently are packaged for transport for domestic commercial use or for export, the number of the dealer tag or the BSD tag must be written legibly and indelibly on the outside of any package containing the tuna. Such tag number also must be recorded on any document accompanying the shipment of bluefin tuna for commercial use or export.

* * * * *

3. In § 635.6, paragraphs (b)(1) introductory text and (b)(1)(iii) are revised to read as follows:

§ 635.6 Vessel and gear identification.

* * * * *

(b) *Vessel identification.* (1) An owner or operator of a vessel for which a permit has been issued under § 635.4, other than a permit for the Atlantic tunas Angling category, must display the vessel number—

* * * * *

(iii) At least 18 inches (45.7 cm) in height for vessels over 65 ft (19.8 m) in length; at least 10 inches (25.4 cm) in height for all other vessels over 25 ft (7.6 m) in length; and at least 3 inches (7.6 cm) in height for vessels 25 ft (7.6 m) in length or less.

4. In § 635.20, in paragraph (f)(1), the first two sentences are revised to read as follows:

§ 635.20 Size limits.

* * * * *

(f) *Swordfish.* (1) No person shall take, retain, or possess a north or south Atlantic swordfish taken from its management unit that is less than 29 inches (73 cm), CK, 47 inches (119 cm), LJFL, or 33 lb (15 kg) dressed weight. A swordfish that is damaged by shark bites may be retained only if the remainder of the carcass is at least 29 inches (73 cm) CK, 47 inches (119 cm), LJFL, or 33 lb (15 kg) dw. * * *

* * * * *

5. In § 635.27, paragraphs (a)(2)(i)through (a)(2)(iii) are revised to read as follows:

§ 635.27 Quotas.

(a) * * *

(2) * * *

(i) Under paragraph (a)(7)(ii) of this section, 52.8 percent of the school BFT Angling category landings quota, after adjustment for the school BFT quota held in reserve, may be caught, retained, possessed, or landed south of 39°18′ N. lat., with the remaining quota being available to the fisheries north of the dividing line.

(ii) An amount equal to 52.8 percent of the large school/small medium BFT Angling category quota may be caught, retained, possessed, or landed south of 39°18′ N. lat., with the remaining quota being available to the fisheries north of the dividing line.

(iii) An amount equal to 66.7 percent of the large medium and giant BFT Angling category quota may be caught, retained, possessed, or landed south of 39°18′ N. lat., with the remaining quota being available to the fisheries north of the dividing line.

* * * * *

6. In the following sections, remove the word ''tuna'', each time it appears, and add in its place the words ''bluefin tuna''.

§ 635.42 [Amended]

a. Section 635.42, paragraphs (a)(1), (a)(2), (a)(3), and (b)(3).

§ 635.43 [Amended]

b. Section 635.43, paragraphs (a)(2), and (a)(12).

7. In the following sections, remove the acronym ''BFT '', each time it appears, and add in its place the words ''bluefin tuna''.

§ 635.41 [Amended]

a. Section 635.41 introductory text, paragraph (a) introductory text, paragraphs(a)(1), (a)(2), and (b).

§ 635.42 [Amended]

b. Section 635.42, paragraph (a) heading, paragraphs (a)(1), (a)(2), (a)(3), (b) heading, (b)(1), (b)(2), and (b)(3).

§ 635.43 [Amended]

c. Section 635.43, paragraphs (a)(2), (a)(5), (b), and (c).

§ 635.44 [Amended]

d. Section 635.44, paragraphs (a) and (b).

§ 635.45 [Amended]

e. Section 635.45.

§ 635.47 [Amended]

f. Section 635.47.

§ 635.71 [Amended]

g. Section 635.71 paragraphs (a)(24), (b)(25), and (b)(26).

8. In § 635.71, paragraphs (a)(35) and (b)(28) are added, and paragraphs (b)(5) and (b)(6) are revised, to read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(35) For any person to assault, resist, oppose, impede, intimidate, interfere with, obstruct, delay, or prevent, by any means, NMFS personnel or anyone collecting information for NMFS, under an agreement or contract, relating to the scientific monitoring or management of Atlantic HMS.

(b) * * *

(5) Fail to report a large medium or giant BFT that is not sold, as specified in § 635.5(a)(3).

(6) As an angler, fail to report a BFT, as specified in § 635.5(c).

* * * * *

(28) Possess a large medium or giant BFT, after it has been landed, that does not have a dealer tag affixed to it as specified in § 635.5(b)(2)(ii), unless the BFT is not to be sold and has been reported per the requirements specified in §§ 635.5(a)(3) or 635.5(c).

* * * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 080201B]

Atlantic Highly Migratory Species; Bluefin Tuna Recreational Fishery

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

ACTION: Retention limit adjustment.

SUMMARY: NMFS adjusts the Atlantic bluefin tuna (BFT) daily retention limit for vessels participating in the recreational fishery that are permitted in the Atlantic Highly Migratory Species (HMS) Charter/Headboat category and that are licensed by the U.S. Coast Guard to carry more than six passengers. The adjustments to the daily retention limit for these vessels are specified in the **DATES** and **SUPPLEMENTARY INFORMATION** sections of this document. This action is being taken to provide increased fishing opportunities in all areas without risking overharvest of the Angling category BFT quota.

DATES: Effective August 15 through October 31, 2001, the daily recreational retention limit in all areas for Coast Guard inspected headboats with Atlantic HMS Charter/Headboat category permits is adjusted to one BFT per passenger (not including captain and crew), which may be from the school, large school, or small medium size class, with a maximum of 20 BFT per vessel.

Consistent with prior notice, the daily retention limit in all areas is one large school or small medium BFT for all vessels fishing under the BFT Angling category quota for the period from November 1, 2001 through May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Brad McHale, (978) 281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Conservation and Management Act (16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635.

A recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT) allocates western Atlantic BFT catch quotas to contracting parties. The recommendation also requires that the United States limit the catch of school size BFT to no more than 8 percent by weight of the total domestic landings quota over each 4-consecutive-year period. NMFS implements this ICCAT recommendation through annual quota specifications, annual and inseason adjustments to the school BFT retention limits, as necessary, and by reserving a portion of the school BFT quota (64 FR 29090, May 28, 1999; 64 FR 29806, June 3, 1999).

The ICCAT recommendation allows for interannual adjustments for overharvests and underharvests, provided that the 8-percent landings limit is met over the applicable 4-consecutive-year period. The 2001 fishing year is the third year in the current accounting period. This multi-year block quota approach provides NMFS with the flexibility to enhance fishing opportunities and to collect information on a broad range of BFT size classes.

Implementing Regulations for the Atlantic tuna fisheries at 50 CFR 635.27(a) establish catch quotas for the several BFT fishing categories. Vessels permitted in the Atlantic Tunas Angling category and the Atlantic HMS Charter/Headboat category are authorized to land BFT under the Angling category quota. The Angling category quota is further subdivided by fishing areas and size classes. Size class categories of BFT are defined as follows: school size BFT measure 27 to less than 47 inches (69 to less than 119 cm) curved fork length (CFL); large school BFT measure 47 to less than 59 inches (119 to less than 150 cm) CFL; small medium BFT measure 59 to less than 73 inches (150 to less than 185 cm) CFL; large medium BFT measure 73 to less than 81 inches (185 to less than 206 cm) CFL; and giant BFT measure 81 inches or greater (206 cm or greater) CFL. Final initial quota specifications for the BFT Angling category size classes and fishing areas for the 2001 fishing year were issued by NMFS on July 18, 2001 (66 FR 37421).

Implementing regulations for the Atlantic tuna fisheries at 50 CFR 635.23(b) and (c) set the daily retention limits for BFT landed under the Angling category quota. As a baseline, vessels are restricted to one BFT per vessel per day which may be from the school, large school, or small medium category and, in addition, one large medium or giant BFT per vessel per year. However, this retention limit is subject to inseason adjustment to provide for maximum utilization of the quota and enhanced fishing opportunities over the range of the recreational fisheries. NMFS may increase or reduce the per angler retention limit for any size class BFT or may change the per angler limit to a per boat limit, or the per boat limit to a per angler limit.

As announced previously, the current recreational BFT daily retention limit for all vessels fishing under the Angling category quota (i.e., vessels permitted in the Atlantic Tunas Angling category and the Atlantic HMS Charter/Headboat category) is four BFT, measuring 27 to less than 73 inches (69 to less than 185 cm) curved fork length (66 FR 31844, June 13, 2001). This daily retention limit is in effect through October 31, 2001, after which the retention limit is adjusted to one large school or small medium BFT, measuring 47 to less than 73 inches (119 to less than 185 cm) curved fork length, per vessel for the remainder of the fishing year.

Over the last several years, NMFS has received comments that a retention limit of three or four BFT per vessel per day does not provide reasonable fishing opportunities for headboats, which may carry up to 40 passengers on a tuna fishing trip. After the current retention limit adjustment was announced for the 2001 season, NMFS again received these comments. Additionally, it was noted by commenters that the conservative management approach over the last 2 years has resulted in accumulated carryover of BFT quota in several size categories reserved for recreational fishermen. Considering these comments and the available quota, NMFS has determined that a retention limit adjustment is warranted for headboats in order to increase fishing and data collection opportunities in all sectors of the recreational BFT fishery.

Therefore, NMFS is implementing an alternative retention limit for headboats in 2001. For headboats, defined as vessels that possess an Atlantic HMS Charter/Headboat category permit and that are inspected and licenced by the Coast Guard to carry more than six passengers, the daily retention limit is adjusted to one BFT per passenger (not including captain and crew) in any combination of the school, large school or small medium size classes, with a maximum of 20 BFT per vessel. This adjustment is effective for the period of August 15 through October 31, 2001. Subsequently, consistent with the prior announcement, the daily retention limit for all vessels fishing under the Angling category quota will be one large school or small medium BFT per vessel for the period of November 1, 2001 through May 31, 2002.

NMFS selected the daily retention limit and the duration of the daily retention limit adjustment after examining past catch and effort rates and the available quota for 2001. NMFS will continue to monitor the Angling category fishery closely through the Automated Landings Reporting System, the state harvest tagging programs in North Carolina and Maryland, and the Large Pelagics Survey. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that an interim closure or an additional retention limit adjustment is necessary to enhance scientific data collection from, and fishing opportunities in, all geographic areas. Additionally, NMFS may determine that an allocation from the school BFT reserve is warranted to further fishery management objectives.

Closures or subsequent adjustments to the daily retention limit, if any, will be announced through publication in the **Federal Register**. In addition, anglers may call the Atlantic Tunas Information Line at 888–872–8862 (toll-free) or 978–281–9305 (charges apply) for updates on quota monitoring and retention limit adjustments.

All BFT landed under the Angling category quota must be reported within 24 hours of landing to the NMFS Automated Landings Reporting System via toll-free phone at 888–872–8862; or the Internet (www.nmfspermits.com); or, if landed in the states of North Carolina or Maryland, to a reporting station prior to offloading. Information about these state harvest tagging programs, including reporting station locations, can be obtained in North Carolina by calling 800–338–7804, and in Maryland by calling 410–213–1531.

In addition to the allowances for retention, anglers aboard permitted vessels may continue to tag and release BFT of all sizes as authorized under the tag-and-release program (50 CFR 635.26), provided the angler tags all BFT so caught, regardless of whether previously tagged, with conventional tags issued or approved by NMFS, returns such fish to the sea immediately after tagging with a minimum of injury, and reports the tagging, and, if the BFT was previously tagged, the information on the previous tag.

Classification

This action is taken under 50 CFR 635.23(b)(3). This action is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: August 9, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–20543 Filed 8–10–01; 3:41 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 158
Wednesday, August 15, 2001

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 139

[Docket No. FAA–2000–7479; Notice No. 00–05]

RIN 2120–AG96

Certification of Airports; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; correction.

SUMMARY: This document contains corrections to the notice of proposed rulemaking (NPRM) published in the **Federal Register** on June 21, 2000 (65 FR 38636), which proposes to revise the current airport certification regulation and to establish certification requirements for airports serving scheduled air carrier operations in aircraft with 10–30 seats.

FOR FURTHER INFORMATION CONTACT: Linda Bruce, 202–267–8553; E-mail: linda.bruce@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

Comments on these corrections should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA–2000–7479, 400 Seventh Street, S.W., Room Plaza 401, Washington, DC 20590. Comments also may be sent to or viewed electronically in the Dockets Management System (DMS) at the following Internet address: http://dms.dot.gov. Commenters who wish to file comments electronically should follow the instructions on the DMS web site.

Background

FAA issued an NPRM on June 21, 2000 (65 FR 38636), which proposes to revise the current airport certification regulation and to establish certification requirements for airports serving scheduled air carrier operations in aircraft with 10–30 seats. These proposed changes would require all operators of currently certficated airports to revise their airport certification manual or specifications and comply with new standards.

FAA requires under existing part 139 that airport operators comply with certain safety requirements prior to serving operations of large air carrier aircraft (aircraft designed for at least 31 passenger seats). When an airport operator satisfactorily complies with such requirements, FAA issues that airport operator an airport operating certificate that permits the airport operator to serve large air carrier aircraft.

FAA allows airport operators serving only unscheduled operations of large air carrier aircraft to comply with part 139 in a limited manner. These airport operators are issued a limited airport operating certificate, and under the proposal, would be reclassified as Class IV airports. There are approximately 15 airport operators that currently hold a limited airport operating certificate that would, under the proposal, be classified as Class IV airports.

As published, the NPRM contains errors regarding proposed requirements for Class IV airports that may be misleading to the public and are in need of correction. These errors are in a chart in the preamble (65 FR 38648) that compares current and proposed part 139 requirements, and in the chart contained in the proposed regulatory language of § 239.203(b)(65 FR 38673).

Both of these charts incorrectly indicate that Class IV airport operators would be required to include procedures in their airport certification manual for the handling and storage and hazardous materials, traffic and wind direction indicators, and self-inspections, but these procedures would not have to meet the requirements prescribed under subpart D. However, preamble language in the proposal (65 FR 38646, 65 FR 38655, 65 FR 38656, and 65 FR 38658) correctly states that all proposed airport classifications would be required to address these safety issues, in the manner required in subpart D.

These charts should have indicated that Class IV airport operators would need to address in their airport certification manual procedures for complying with subpart D requirements for the storage and handling of hazardous materials, wind and traffic indicators, and self-inspections. These new manual elements would be in addition to those already required, which include procedures for complying with personnel, paved and unpaved surfaces, safety areas, marking, lighting, signs, and airport conditions reporting requirements.

FAA believes the NPRM provided adequate notice of proposed requirements for Class IV airports, but is issuing this correction to the charts (65 FR 38648 and 65 FR 38673) out of an abundance of caution. FAA states in the proposal at 65 FR 38646 that most holders of a limited airport operating certificate already address in their airport certification specifications, in the manner required under proposed subpart D, procedures for the handling of hazardous materials, wind and traffic indicators, and self-inspections. No comments were received regarding this item as discussed at any of the three locations in the proposal.

Although the comment period for the NPRM has closed, the FAA does not believe that the public was confused about this proposal. Any comments received on these corrections will be considered to the extent practical prior to the issuance of the final rule.

In addition, there were other errors in the preamble chart found at 65 FR 38648. This chart should have indicated that the aircraft rescue and firefighting (ARFF) requirement would no longer be negotiated. Rather, Class IV airports would be required to comply with ARFF standards prescribed in proposed §§ 139.315, 139.317, and 139.319. The chart also should have stated that Class IV airport operators already comply with personnel provisions and airport condition reporting requirements of subpart D. In both instances, the proposed rule text regarding these requirements found at 65 FR 38674 (proposed § 139.203(b)) was correct.

Finally, there is a typographical error in the chart found in the rule text at 65 FR 38673. The reference to § 139.319(l) in § 139.203(b)(6) is incorrect. The reference should be to § 139.319(k).

Correction

In proposed rule FR Doc. 00–14524, published on June 21, 2000 (65 FR 38636), make the following corrections:

1. On page 38648, table D is corrected to read as follows:

D. CURRENT AND PROPOSED REQUIREMENTS FOR CLASS IV AIRPORTS

Current requirements	Proposed requirements
1. Personnel provisions	New requirement for a recordkeeping system and personnel training.
2. Paved and unpaved surfaces	Unchanged.
3. Safety areas	Unchanged.
4. Marking, lighting and signs	Unchanged.
5.	
6. ARFF (negotiated standard)	New ARFF standards (per proposed § 139.315–321).
7. HAZMAT handling/storage (negotiated standard)	New HAZMAT handling/storage standard (per proposed § 139.323).
8. Traffic/wind indicators (negotiated standard)	New traffic/wind indicators standard (per proposed § 139.325).
9.	New requirement for an AEP (no triennial exercise required).
10. Self-inspections (negotiated standard)	New self-inspection standard (per proposed § 139.329).
11.	
12.	
13.	
14.	
15.	
16. Airport condition reporting	New notification standard.
17.	

2. On page 38673, the table in § 139.203 is corrected to read as follows:

§ 139.203 Contents of airport certification manual.

* * * * *

REQUIRED AIRPORT CERTIFICATION MANUAL ELEMENTS

Manual elements	Airport certificate class			
	Class I	Class II	Class III	Class IV
1. Lines of succession of airport operational responsibility	X	X	X	X
2. Each current exemption issued to the airport from the requirements of this part	X	X	X	X
3. Any limitations imposed by the Administrator	X	X	X	X
4. A grid map or other means of identifying locations and terrain features on and around the airport which are significant to emergency operations	X	X	X	X
5. The location of each obstruction required to be lighted or marked within the airport's area of authority	X	X	X	X
6. A description of each movement area available for air carriers and its safety areas and each road described in § 139.319(k) that serves it	X	X	X	X
7. Procedures for avoidance of interruption or failure during construction work of utilities serving facilities or navaids that support air carrier operations	X	X	X	
8. A description of the system for maintaining records as required under § 139.301	X	X	X	X
9. A description of personnel training as required under § 139.303	X	X	X	X
10. Procedures for maintaining the paved areas as required under § 139.305	X	X	X	X
11. Procedures for maintaining the unpaved areas as required under § 139.307	X	X	X	X
12. Procedures for maintaining the safety areas as required under § 139.309	X	X	X	X
13. A plan showing the runway and taxiway identification system along with the location and inscription of the signs as required under § 139.311	X	X	X	X
14. A description of, and procedures for maintaining, the marking, signs, and lighting systems as required under 139.311	X	X	X	X
15. A snow and ice control plan as required under § 139.313	X	X	X	
16. A description of the facilities, equipment, personnel, and procedures for meeting the rescue and firefighting requirements in accordance with §§ 139.317 and 139.319	X	X	X	X
17. A description of any approved exemption to rescue and firefighting requirements as authorized under § 139.321	X	X	X	X
18. Procedures for handling fuel, lubricants and oxygen required under § 139.323	X	X	X	X
19. A description of, and procedures for maintaining, the traffic and wind direction indicators as required under § 139.325	X	X	X	X
20. An emergency plan as required under § 139.327	X	X	X	X
21. Procedures for conducting the self-inspection program as required under § 139.329	X	X	X	X
22. Procedures for controlling ground vehicles as required under § 139.331	X	X	X	
23. Procedures for obstruction removal, marking, or lighting as requried under § 139.333	X	X	X	
24. Procedures for protection of navaids as required under § 139.335	X	X	X	
25. A description of public protection as required under § 139.337	X	X	X	
26. A wildlife hazard management plan as required under § 139.339	X	X	X	
27. Procedures for airport condition reporting as required under § 139.341	X	X	X	X
28. Procedures for identifying, marking, and reporting construction and other unserviceable areas as required under § 139.343	X	X	X	
29. Any other item that the Administrator finds is necessary to ensure safety in air transportation	X	X	X	X

Issued in Washington, DC, on August 9, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

[FR Doc. 01–20518 Filed 8–14–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 874

[Docket No. 97P–0210]

Ear, Nose, and Throat Devices; Reclassification of Endolymphatic Shunt Tube With Valve

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to reclassify the endolymphatic shunt tube with valve from class III to class II. The device is intended to be implanted in the inner ear to relieve the symptoms of vertigo and hearing loss due to endolymphatic hydrops (increase in endolymphatic fluid) of Meniere's disease. This reclassification is based upon new information regarding the device contained in a reclassification petition submitted by E. Benson Hood Laboratories, Inc. (Hood Laboratories). Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice of availability of a draft guidance document that would serve as the special control if this proposal becomes final. FDA is taking this action under the Federal Food, Drug, and Cosmetic Act (the act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments), the Safe Medical Devices Act of 1990 (SMDA), and the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Submit written or electronic comments by November 13, 2001. See section XII for the proposed effective date of a final rule based on this document.

ADDRESSES: Submit written comments 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: James K. Kane, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2080.

SUPPLEMENTARY INFORMATION:

I. Background (Regulatory authorities)

The act (21 U.S.C. 301 *et seq.*), as amended by the 1976 amendments (Public Law 94–295), the SMDA (Public Law 101–629), and FDAMA (Public Law 105–115), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the 1976 amendments), generally referred to as preamendments devices, are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act (21 U.S.C. 360c(f)) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until: (1) The device is reclassified into class I or II; (2) FDA issues an order classifying the device into class I or II in accordance with new section 513(f)(2) of the act, as amended by FDAMA; or (3) FDA issues an order finding the device to be substantially equivalent, under section 513(i) of the act (21 U.S.C. 360c(i)), to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807 of the regulations.

A preamendments device that has been classified into class III may be marketed, by means of premarket notification procedures, without submission of a premarket approval application (PMA) until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval.

Reclassification of classified preamendments devices is governed by section 513(e) of the act. This section provides that FDA may, by rulemaking, reclassify a device (in a proceeding that parallels the initial classification proceeding) based upon ''new information.'' The reclassification can be initiated by FDA or by the petition of an interested person. The term ''new information,'' as used in section 513(e) of the act, includes information developed as a result of a reevaluation of the data before the agency when the device was originally classified, as well as information not presented, not available, or not developed at that time. (See, e.g., *Holland Rantos* v. *United States Department of Health, Education, and Welfare,* 587 F.2d 1173, 1174 n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch*, 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard*, 366 F.2d 177 (7th Cir. 1966).)

Reevaluation of the data previously before the agency is an appropriate basis for subsequent regulatory action where the reevaluation is made in light of newly available regulatory authority (see *Bell* v. *Goddard*, supra, 366 F.2d at 181; *Ethicon, Inc.* v. *FDA*, 762 F. Supp. 382, 389–91 (D.D.C. 1991)), or in light of changes in ''medical science.'' (See *Upjohn* v. *Finch*, supra, 422 F.2d at 951.) Regardless of whether data before the agency are past or new data, the ''new information'' to support reclassification under section 513(e) of the act must consist of ''valid scientific evidence,'' as defined in section 513(a)(3) of the act (21 U.S.C. 360c(a)(3)) and 21 CFR 860.7(c)(2). (See, e.g., *General Medical Co.* v. *FDA*, 770 F.2d 214 (D.C. Cir. 1985); *Contact Lens Assoc.* v. *FDA*, 766 F.2d 592 (D.C. Cir.), cert. denied, 474 U.S. 1062 (1985)). FDA relies upon ''valid scientific evidence'' in the classification process to determine the level of regulation for devices. For the purpose of reclassification, the valid scientific evidence upon which the agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, e.g., nonpublic information in a pending PMA. (See section 520c of the act (21 U.S.C. 360j(c).)

II. Regulatory History of the Device

In the **Federal Register** of November 6, 1986 (51 FR40378), FDA issued a final rule classifying the endolymphatic shunt tube with valve into class III (21 CFR 874.3850). The preamble to the proposal to classify the device (47 FR 3280, January 22, 1982) included the

recommendation of the Ear, Nose, and Throat Devices Panel (the Panel) regarding the classification of the device, a summary of the reasons the device should be subject to premarket approval, and identification of certain risks to health presented by the device. The Panel also recommended under section 513(c)(2)(A) of the act that a high priority for the application of section 515 of the act be assigned to the endolymphatic shunt tube with valve.

In the **Federal Register** of January 6, 1989 (54 FR 550), FDA published a notice of intent to initiate proceedings to require premarket approval of 31 preamendments class III devices assigned a high priority by FDA for application of premarket approval requirements. Among other things, the notice described the factors FDA takes into account in establishing priorities for initiating proceedings under section 515(b) of the act for issuing final rules requiring that preamendments class III devices have approved PMAs or declared completed product development protocol (PDPs). Using those factors, FDA determined that the endolymphatic shunt tube with valve, identified in § 874.3850, had a high priority for initiating a proceeding to require premarket approval. Accordingly, FDA began a rulemaking to require that the endolymphatic shunt tube with valve have an approved PMA or a PDP that has been declared completed.

In the **Federal Register** of May 4, 1990 (55 FR 18830), FDA issued a proposed rule to require the filing of a PMA or a notice of completion of a PDP for the endolymphatic shunt tube with valve. In accordance with section 515(b)(2)(A) of the act, the preamble to the proposal included the agency's proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the premarket approval requirements, and the benefits to the public from the use of the device. The proposal also provided an opportunity for interested persons to comment on the proposed rule and to request a change in the classification of the device based on new information relevant to its classification. The period for requesting a change in the classification of the device closed on May 21, 1990. The period for commenting on the proposed rule closed on July 3, 1990. FDA did not receive any comments on the proposed rule.

On July 27, 1990, FDA received a petition from Hood Laboratories requesting a change in the classification of the endolymphatic shunt tube with valve from class III to class II. In response to requests from FDA for additional information, the Hood Laboratories petition was amended on April 8, 1991, and May 8, 1992, and filed on May 29, 1992. The Panel met on June 11, 1992, and recommended that the generic endolymphatic shunt tube with valve be reclassified from class III to class II. FDA disagreed with the Panel's recommendation. FDA found that the petition contained insufficient valid scientific evidence to determine that the controls described in section 513(a)(1)(B) of the act, in addition to the general controls applicable to all devices, would provide reasonable assurance of the device's safety and effectiveness for its intended use. In particular, FDA found that Hood Laboratories did not adequately address the issues of normal endolymphatic shunt pressure, the mode of action of the endolymphatic shunt tube with valve, flow characteristics, nor the risks associated with the use of the device. Accordingly, in the **Federal Register** of December 9, 1996 (61 FR 64909), FDA published a notice denying Hood Laboratories' petition to reclassify the endolymphatic shunt tube with valve from class III to class II.

On May 27, 1997, Hood Laboratories submitted a second petition (Ref. 1) in accordance with section 513(e) of the act and § 860.130 (21 CFR 860.130(a)), based on new information. The petitioner again requested reclassification of the endolymphatic shunt tube with valve from class III to class II and provided new information that adequately addressed FDA's concerns. As discussed further below, the petitioner submitted additional information regarding the risks associated with the endolymphatic shunt tube with valve. The new information showed that risks such as incidences of infection and clogging have similar occurrences in the valved and nonvalved endolymphatic shunts. The nonvalved device was classified into class II in 1986.

In accordance with section 513(e) of the act, § 860.130, and based on new information submitted or otherwise available to the agency with respect to the device, FDA is proposing to reclassify this device from class III to class II when the device is intended to be implanted in the inner ear to relieve the symptoms of vertigo and hearing loss due to endolymphatic hydrops of Meniere's disease. Consistent with the act and the regulation, FDA did not refer the petition to the Panel for its recommendation on the requested change in classification.

III. Device Description

The endolymphatic shunt tube with valve is a device that consists of a pressure-limiting valve associated with a tube intended to be implanted in the inner ear to relieve the symptoms of vertigo and hearing loss due to endolymphatic hydrops (increase in endolymphatic fluid) of Meniere's disease. The device directs excess endolymph (the fluid contained in the membranous labyrinth of the ear) from the distended (enlarged or swollen) end of the endolymphatic system into the mastoid cavity (area of the temporal bone behind the ear) where reabsorption of the fluid occurs. The function of the pressure-limiting inner ear valve is to maintain the physiologically normal endolymphatic pressure and to ensure a unidirectional flow of endolymph.

Hood Laboratories' endolymphatic shunt tube with valve is the only device of its type in commercial distribution in the United States. It consists of a silicone catheter connected to a silicone tube that is inside a molded silicone body. The inside silicone tube has a slit valve at one end that allows the endolymph to exit. The silicone tube is inserted into the end of the endolymphatic sac to allow the endolymph to flow through the valve and into the mastoid cavity via the tail-like portion of the molded silicone body.

IV. Proposed Reclassification

FDA is proposing to reclassify the endolymphatic shunt tube with valve intended to be implanted in the inner ear to relieve the symptoms of vertigo and hearing loss due to endolymphatic hydrops of Meniere's disease from class III to class II. FDA believes that class II with the guidance document entitled ''Class II Special Controls Guidance Document: Endolymphatic Shunt Tube With Valve'' as the special control would provide reasonable assurance of safety and effectiveness of the device.

V. Risks to Health

When the device was classified into class III (51 FR 40378), FDA identified the primary risk to health presented by the device as a build up of fluid pressure in the inner ear due to a clogged or inoperative valve. FDA also believed that any surgical procedure to correct a defective valve presented additional risks to health, including infection due to revision surgery.

During the open public meeting (June 11, 1992) (Ref. 2) and review of the first Hood Laboratories reclassification petition, the Panel noted the similarities between the valved and nonvalved

shunts. Both the valved shunt device (class III) and the nonvalved shunt device (class II) drain excess endolymph from the distended end of the endolymphatic system into the mastoid cavity where resorption occurs. They further noted that both devices are intended to relieve the symptoms of Meniere's disease. The nonvalved shunt (class II device) permits the unrestricted flow of excess endolymph, while the valved shunt (class III device) is intended to control the flow of endolymph so that a normal endolymphatic pressure is maintained. During its review and discussion of the first petition (June 11, 1992), the Panel also acknowledged the difficulty in diagnosing, treating, and assessing the treatment plans for Meniere's disease and could not agree that the valved shunt is effective, but believed the device ''does something worthwhile'' in treating the symptoms. An invited guest speaker (Ref. 13) was concerned with the long-term functioning and integrity of the capillary tubing material, Supramid™, that was used in Hood Laboratories' shunt.

FDA noted that the benefits resulting from implantation of the endolymphatic shunt tube with valve, i.e., relief of vertigo, fluctuating hearing loss, tinnitus, and aural fullness which typifies Meniere's disease, appeared to be very similar to those resulting from implantation of the nonvalved shunt (Ref. 2). At the end of the meeting, FDA believed that there were potential benefits of the device in improving hearing, relief of vertigo, reduction of fullness in the ear, and mitigation of tinnitus. However, FDA believed that the petitioner had not adequately addressed the concerns about any buildup of fluid pressure in the inner ear due to a clogged or inoperative valved device, or the risk of infection from revision surgery. FDA believed that sufficient information existed regarding the risks associated with the device, but that the information needed to be assembled in such a way as to enable the agency to determine the safety and effectiveness of the device for its intended use.

Since that time, the petitioner has assembled additional information regarding the risks associated with the endolymphatic shunt tube with valve. Huang and Lin (Ref. 3) and Arenberg (Ref. 4) report that risks such as incidence of infections and clogging have similar occurrences in the valved and nonvalved endolymphatic shunts. Both shunts have been used for more than 20 years without reportable events of major or frequent safety or effectiveness problems. A search of FDA's medical device reporting (MDR) database reveals no deaths, serious injuries, or malfunctions. Although the claim of maintaining normal endolymphatic pressure by the valved shunt has not been established during its use over the past 20 years, FDA now believes that the risks previously identified with the valved shunt are not substantially different from those associated with the nonvalved shunt, and that special controls would provide reasonable assurance of the safety and effectiveness of the device.

VI. Summary of Reasons for Reclassification

After considering the new information contained in the petitioner's second petition, reevaluation of the data contained in the first petition, and more than 20 years of safe use of the device, FDA believes that special controls would provide reasonable assurance of the safety and effectiveness of the endolymphatic shunt tube with valve for its intended use. Observational data (Refs. 4 through 12) suggest that the shunt tube with valve may preserve hearing and reduce or eliminate symptoms in some persons with Meniere's disease who require surgical intervention. FDA believes that the endolymphatic shunt tube with valve intended to be implanted in the inner ear to relieve the symptoms of vertigo and hearing loss due to endolymphatic hydrops of Meniere's disease should be reclassified into class II because special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the device, and there is now sufficient information to establish special controls to provide such assurance.

VII. Summary of Data Upon Which the Reclassification is Based

In addition to the potential risks identified above, there are potential benefits of the device in improving hearing: (1) Relief of vertigo, (2) reduction of the fullness in the ear, and (3) mitigation of tinnitus. Observational data, including case reports submitted by Hood Laboratories, suggest that the valved shunt may preserve hearing and reduce or eliminate symptoms in persons with Meniere's disease who require surgical intervention (Refs. 4 through 12).

Wright (Ref. 9) maintains that the valved implant is superior to other methods of endolymphatic sac surgery after 7 years of experience and followup. Stahle (Ref. 7) reports that his results suggest that the pressure-sensitive, unidirectional inner ear valve is safe for long-term human implantation. He also reports that severely incapacitated patients can be relieved of vertigo without a destructive labyrinthectomy and can have significant sustained sensory hearing improvements as well. Other data suggest improved hearing in patients with the valved shunt as compared to patients implanted with the nonvalved shunt (Refs. 8 through 9). The determination of the lack of injury to the inner ear is based upon indirect evidence such as audiological testing and the evaluation of vertigo.

Based on the available information, FDA believes that the special control discussed below is capable of providing reasonable assurance of the safety and effectiveness of the endolymphatic shunt tube with valve with regard to the identified risks to health of this device.

VIII. Special Control

In addition to general controls, FDA believes that the guidance document entitled ''Class II Special Controls Guidance Document: Endolymphatic Shunt Tube With Valve,'' is an adequate special control to address the potential risks to health described for this device. Technical areas noted in the guidance to address the potential risks to health for this device include:

A. Labeling

Based on the scientific data available, FDA believes labeling that restricts the use of the device to patients considered appropriate by the attending physician will lessen the need for revision surgery.

B. Valve Performance

One hundred percent sample testing, prior to implantation, would demonstrate valve performance equivalency to any currently marketed device.

C. Materials Specification

Adherence to a bio-material with chemical stability in a physiological environment will address the concern of long-term functioning and integrity of the device.

D. Biocompatibility Testing

Adherence to biocompatibility testing procedures presented in FDA, Center for Devices and Radiological Health, Office of Device Evaluation, Blue Book Memorandum G95–1, ''Use of International Standard ISO–10993–1, Biological Evaluation of Medical Devices Part-1: Evaluation and Testing,'' (Ref. 14) can control the risk of adverse tissue reaction.

E. Sterility Testing

Adherence to the sterility testing procedures presented in the guidance document entitled ''510(k) Sterility Review Guidance,'' January 2, 1990 (K90–1) (Ref. 15) can help control the risk of infection by guarding against the implantation of an unsterile device.

IX. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this proposed reclassification action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

X. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866, and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4)). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Reclassification of this device from class III to class II will relieve all manufacturers of the device of the cost of complying with the premarket approval requirements in section 515 of the act. Because reclassification will reduce regulatory costs with respect to this device, it will impose no significant economic impact on any small entities, and it may permit small potential competitors to enter the marketplace by lowering their costs. The agency therefore certifies that this reclassification action, if finalized, will not have a significant economic impact on a substantial number of small entities. In addition, this reclassification action will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement of analysis under section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

XI. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no information that is subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995. The special control does not require the respondent to submit additional information.

XII. Submission of Comments and Proposed Dates

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this proposal by November 13, 2001. Two copies of any comments are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments are available for review in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA proposes that any final regulation based on this proposal become effective 30 days after its date of publication in the **Federal Register**.

XIII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. E. Benson Hood Laboratories, Inc., Reclassification Petition, May 27, 1997.

2. Transcript of 36th Meeting of the Ear, Nose, and Throat Devices Panel, Washington DC, June 11, 1992.

3. Huang, T. S. and C. C. Lin, ''Endolymphatic Sac Surgery for Meniere's Disease: A Composite Study of 339 Cases,'' *Laryngoscope*, vol. 95, pp. 1082–1086, 1985.

4. Letter from I. Kaufman Arenberg, Ear Center, P.C. to Lew Martin, Hood Laboratories, April 1, 1991.

5. Letter from J. William Wright III, Ear Institute of Indiana to Lew Martin, Hood Laboratories, January 15, 1991.

6. Letter from Tsun-Sheng Huang, Chang Gung Memorial Hospital to Lew Martin, March 14, 1991.

7. Stahle, J. and I. K. Arenberg, ''Ten Year Follow-up on the First Five Inner Ear Valve Implants for Intractable Vertigo in Sweden,'' *American Journal of Otology*, vol. 8, pp. 287–293, 1987.

8. Huang, T. S., ''Valve Implants Compared to Other Surgical Methods,'' *American Journal of Otology*, vol. 8, pp. 301–306, 1987.

9. Wright, J. W. and G. W. Hicks, ''Valved Implants in Endolymphatic Sac Surgery,'' *American Journal of Otology*, vol. 8, pp. 307–312, 1987.

10. Arenberg, I. K. and T. J. Balkany, ''Revision Endolymphatic Sac and Duct Surgery for Recurrent Meniere's Disease and Hydrops: Failure Analysis and Technical Aspects,'' *Laryngoscope*, p. 92, November 1982.

11. Arenberg, I. K., ''The Fine Points of Valve Implant Surgery for Hydrops: An Update,'' *American Journal of Otology*, vol. 3, No. 4, April 1982.

12. Arenberg, I. K. and W. P. R. Gibson, ''Nondestructive Surgery for Vertigo,'' *Operative Challenges in Otolaryngology Head and Neck Surgery*, edited by H. C. Pillsbury and M. M. Goldsmith, Mosby Yearbook Publishing, 1990.

13. Presentation by Mattox, D. E., Johns Hopkins University, ''Histology and Ultrastructure of Explanted Shunts with Valves,'' at the 36th Meeting of the Ear, Nose, and Throat Devices Panel, Washington DC, June 11, 1992.

14. FDA, Center for Devices and Radiological Health, Office of Device Evaluation, Blue Book Memorandum G95–1, ''Use of International Standard ISO–10993–1, Biological Evaluation of Medical Devices Part-1: Evaluation and Testing.''

15. FDA, Center for Devices and Radiological Health, Office of Device Evaluation, Guidance Document ''510(k) Sterility Review Guidance,'' February 12, 1990 (K90–1).

List of Subjects in 21 CFR Part 874

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, FDA proposes to amend part 874 as follows:

PART 874—EAR, NOSE, AND THROAT DEVICES

1. The authority citation for 21 CFR part 874 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 874.3850 is revised to read as follows:

§ 874.3850 Endolymphatic shunt tube with valve.

(a) *Identification*. An endolymphatic shunt tube with valve is a device that consists of a pressure-limiting valve associated with a tube intended to be implanted in the inner ear to relieve symptoms of vertigo and hearing loss due to endolymphatic hydrops (increase in endolymphatic fluid) of Meniere's disease.

(b) *Classification*. Class II (special controls). The special control for this device is the FDA guidance document entitled ''Class II Special Controls Guidance Document: Endolymphatic Shunt Tube With Valve.''

Dated: August 2, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 01–20571 Filed 8–14–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[SPATS No. IL–100–FOR]

Illinois Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Illinois regulatory program (Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Illinois proposes revisions to and additions of statutory provisions concerning lands eligible for remining, the Illinois Interagency Committee on Surface Mining Control and Reclamation, lands unsuitable petitions, and rulemaking procedures. Illinois intends to revise its program to be consistent with SMCRA and to clarify ambiguities.

This document gives the times and locations that the Illinois program and the proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., e.s.t., September 14, 2001. If requested, we will hold a public hearing on the amendment on September 10, 2001. We will accept requests to speak at the hearing until 4 p.m., e.s.t. on August 30, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Andrew R. Gilmore, Director, Indianapolis Field Office, at the address listed below.

You may review copies of the Illinois program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Indianapolis Field Office.

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone: (317) 226–6700.

Illinois Department of Natural Resources, Office of Mines and Minerals, Land Reclamation Division, 300 W. Jefferson Street, Suite 300, Springfield, IL 62701, Telephone (217) 782–4970.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office. Telephone: (317) 226–6700. Internet: IFOMAIL@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *'' and ''rules and regulations consistent with regulations issued by the Secretary'' pursuant to the Act. 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Illinois program on June 1, 1982. You can find background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the June 1, 1982, **Federal Register** (47 FR 23883). You can find later actions concerning the Illinois program at 30 CFR 913.15, 913.16, and 913.17.

II. Description of the Proposed Amendment

By letter dated June 28, 2001 (Administrative Record No. IL–5068), Illinois sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). The proposed amendment consists of changes made to the Illinois Surface Coal Mining Land Conservation and Reclamation Act at 225 ILCS 720. The statutory changes were enacted through Public Act 90–0490 and became effective on August 17, 1997. Illinois sent the amendment at its own initiative. Below is a summary of the changes proposed by Illinois.

A. 225 ILCS 720/1.03 Definitions

Public Act 90–0490 amended subsection (a) by adding the following definition of ''lands eligible for remining'':

(9–a) ''Lands eligible for remining'' means those lands that would otherwise be eligible for expenditures under the Abandoned Mined Lands and Water Reclamation Act.

B. 225 ILCS 720/1.04 Advisory Council on Reclamation

1. Public Act 90–0490 revised subsection (a) by adding the language ''or his or her designee'' at the end of the first sentence. The revised sentence reads as follows:

(a) There is created the Surface Mining Advisory Council to consist of 9 members, plus the Director or his or her designee.

2. Public Act 90–0490 revised the first sentence of subsection (c) by adding the language ''Office of Mines and Minerals within the''. The revised sentence reads as follows:

(c) The Council shall act solely as an advisory body to the Director and to the Land Reclamation Division of the Office of Mines and Minerals within the Department.

C. 225 ILCS 720/1.05 Interagency Committee

Public Act 90–0490 amended Section 1.05 by adding a provision that abolished the Interagency Committee on Surface Mining Control and Reclamation. The provision reads as follows:

The Interagency Committee on Surface Mining Control and Reclamation shall be abolished on June 30, 1997. Beginning July 1, 1997, all programmatic functions formerly performed by the Interagency Committee on Surface Mining Control and Reclamation shall be performed by the Office of Mines and Minerals within the Department of Natural Resources, except as otherwise provided by Section 9.04 of this Act.

D. 225 ILCS 720/2.08 Standards for Approval of Permits and Revisions

Public Act 90–0490 added new subsection (e) concerning lands eligible for remining. This new subsection reads as follows:

(e) After the effective date of this amendatory Act of 1997, the prohibition of subsection (d) shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person making such application. As used in this subsection:

(1) ''unanticipated event or condition'' means an event or condition encountered in a remining operation that was not

contemplated in the applicable surface coal mining and reclamation permit; and

(2) ''violation'' has the same meaning as such term has under subsection (d).

E. 225 ILCS 720/6.07 Forfeiture

Public Act 90–0490 added new subsection (f) concerning lands eligible for remining. This new subsection reads as follows:

(f) In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds appropriated for expenditure under the Abandoned Mined Lands and Water Reclamation Act may be used if the amount of the bond or deposit is not sufficient to provide for adequate reclamation or abatement.

F. 225 ILCS 720/6.08 Release of Bonds

Public Act 90–0490 added new subsection (i) concerning lands eligible for remining. This new subsection reads as follows:

(i) Surface coal mining operations on lands eligible for remining shall not affect the eligibility of those lands for reclamation and restoration under the Abandoned Mined Lands and Water Reclamation Act after the release of the bond or deposit for any such operation under this Section.

G. 225 ILCS 720/7.03 Procedure for Designation

Public Act 90–0490 amended subsection (b) by adding the language ''unless the petition is rejected by the Department as incomplete, frivolous, or submitted by a person lacking an interest which is or may be adversely affected by surface coal mining operations'' to the end of the subsection. The revised subsection reads as follows:

(b) Immediately after a petition under this Section is received, the Department shall prepare a land report in accordance with Section 7.04, unless the petition is rejected by the Department as incomplete, frivolous, or submitted by a person lacking an interest which is or may be adversely affected by surface coal mining operations.

H. 225 ILCS 720/7.04 Land Report

Public Act 90–0490 amended the third sentence of subsection (a) to clarify that each Land Report shall contain a detailed statement on the potential coal resources of the area by adding the word ''coal'' between the words ''potential'' and ''resources.'' It also amended the last sentence of subsection (a) by adding a reference to Section 7.03, procedure for designation.

I. 225 ILCS 720/9.01 Rules

Public Act 90–0490 amended Section 9.01 by deleting existing subsections (c) through (g) and the first sentence of subsection (h). The balance of subsection (h) was redesignated as subsection (c) and subsection (i) was redesignated as subsection (d). Existing subsections (c) and (d) contain procedures for public notice of and comment on a rule-making proceeding. Existing subsections (e) through (g) contain agency procedures for adoption of rules. The first sentence of existing subsection (h) contains information on when an adopted rule is effective.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Illinois program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. IL–100–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Indianapolis Field Office at (317) 226–6700.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Indianapolis Field Office (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t. on August 30, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse

effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 24, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–20444 Filed 8–14–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–229–FOR]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is reopening the public comment period on a proposed amendment to the Kentucky regulatory program (Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The proposed amendment consists of revisions to the Kentucky regulations pertaining to subsidence control. The amendment is intended to revise the Kentucky program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4 p.m., [E.D.T.], August 30, 2001.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to William J. Kovacic, Field Office Director, at the address listed below.

Copies of the Kentucky program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (859) 260–8400, E-Mail: *bkovacic@osmre.gov*

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington

Field Office, Telephone: (859) 260–8400.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *'' and ''rules and regulations consistent with regulations issued by the Secretary'' pursuant to the Act. See 30 U.S.C. 1253(a)(1) and (7). On the basis of this criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982.

You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the May 18, 1982, **Federal Register** (47 FR 21404). You can find subsequent actions concerning the conditions of approval and program amendments at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

By letter dated January 25, 2001 (Administrative Record No. KY–1502), Kentucky submitted a proposed amendment to its program consisting of changes to the Kentucky Administrative Regulations (KAR) at 405 KAR 18:210—Subsidence Control. Kentucky is responding to OSM's suspension of regulations pertaining to presubsidence surveys of structures and rebuttable presumption of causation of subsidence damage (64 FR 71652, December 22, 1999). Specifically, Kentucky proposes to: (a) Delete the requirement for presubsidence surveys of structures at section 1(4); (b) amend section 2(2) to change the minimum period of prior notice by the permittee to surface owners prior to undermining their property from 10 days to 30 days in emergency conditions; and (c) delete the rebuttable presumption of causation of subsidence damage in section 3(4).

A Statement of Consideration of public comments dated April 11, 2001, received by Kentucky, was filed April 12, 2001, with the Kentucky Legislative Research Committee. As a result of the comments, by letter dated May 7, 2001, Kentucky made changes to the original submission and included three minor amendments (Administrative Record No. KY–1513). The revisions were made at 405 KAR 18:210. By letter dated June 8, 2001, (Administrative Record No KY–1513), Kentucky submitted the final version of the proposed amendment. Following are the changes to 405 KAR made in the final submission and not previously described in the March 5, 2001, **Federal Register** notice. Deletions of previously proposed language will not be described in this notice nor will revisions concerning nonsubstantive wording, format, or organizational changes.

Kentucky has revised 405 KAR 18:210 section 2(2) whereby the surface owner may waive the 30-day waiting requirement by a written waiver that is granted after the permittee has given the initial notice required under section 2(1) and that is separate from any other waiver, lease, deed, easement, agreement, or other conveyance of property rights. The emergency notice required in section 2(2) must still be given. The emergency notice itself cannot be waived, but the permittee's obligation to wait 30 days after that notice before undermining the property can be waived.

On page 1 under NECESSITY, FUNCTION, AND CONFORMITY: Line 9, Kentucky deleted ''350.028(2)'' and added ''350.028(1)''.

On page 2 under NECESSITY, FUNCTION, AND CONFORMITY: Line 18, after ''of 1992'', Kentucky deleted ''whereas the'' and added ''The''.

On page 4 Section 1(2)(a) Line 12, Kentucky deleted ''their'' and added ''the''.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. Specifically, OSM is seeking comments on the revisions described above to the original submission. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 15-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. KY–229–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Lexington Field Office at (859) 260–8400.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at the OSM Administrative Record Room (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may also be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you want us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you want to speak at the public hearing, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. (local time), on August 30, 2001. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, we will hold no hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been given the opportunity to be heard. If you are in the audience and have not been scheduled to speak, and you wish to do so, you will be allowed to speak after those who have been scheduled.

We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a

public hearing, may be held. If you wish to meet with OSM representatives to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866 .

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program provision does not constitute a major federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The state submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the state. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 5, 2001.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 01–20443 Filed 8–14–01; 8:45 am]

BILLING CODE 4310–05–P

POSTAL SERVICE

39 CFR Part 111

Refunds and Exchanges for Metered Postage

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to amend Domestic Mail Manual (DMM) P014, Refunds and Exchanges, to clarify the refund policy for metered postage. These changes are being made in conjunction with the proposed changes to P030 (Postage Meters and Meter Stamps).

DATES: The Postal Service must receive your comments on or before September 14, 2001. No extensions on the comment period will be granted.

ADDRESSES: Mail or deliver written comments to the Manager, Postage Technology Management, 1735 N Lynn

Street, Room 5011, Arlington, VA 22209–6050. You can view and copy all written comments at the same address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: James Luff, 703–292–3693.

SUPPLEMENTARY INFORMATION: Changes to the regulations for refunds and exchanges are needed to make the terminology consistent with the terminology used in proposed DMM P030, and to clarify and incorporate changes in the refund policy for metered postage and for the postage value remaining in a postage evidencing system. The proposal also incorporates and revises, as appropriate, the proposed rule published in the **Federal Register** (65 FR 58499) on September 29, 2000 regarding the policies for refunds and exchanges for mail bearing information-based indicia. The proposed changes to DMM P014 include the following:

1. The term ''postage evidencing system'' is the collective term used in policies that affect postage meters and other postage metering systems such as those that use a Postal Security Device (PSD), those that generate information-based indicia (IBI), and PC Postage (TM). ''Meter stamps'' and ''meter impressions'' are now called ''indicia printed by a postage evidencing system'' (''indicia'') and ''meter units'' are now called ''postage value in a postage evidencing system.'' For consistency, the process used to apply postage with any postage evidencing system will still be called ''metering''; such mail will still be called ''metered mail.''

2. Customers will no longer be able to convert unused postage stamps into meter settings. The option to convert unused postage stamps to permit imprint advance deposit accounts has not changed.

3. Refunds of unused indicia printed by a postage evidencing system on unmailed envelopes will be made for the full value of the indicia, however a fee may be charged for processing.

4. We clarified the refund process for each type of postage evidencing system. The Postal Service handles refunds for all postage evidencing systems except for PC Postage (TM) systems. Refunds for PC Postage are processed through the system provider.

5. The time limit for obtaining a refund for unused postage evidencing system indicia is 30 days for all postage evidencing systems. Current P014 allows up to 1 year for refunds of unused postage meter indicia. The proposed revision of P014 for Information-Based Indicia (IBI) published in the **Federal Register** on September 29, 2000 (65 FR 58499) allowed 10 days for IBI.

Notice and Comment

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed amendments to the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

For reasons stated in the preamble, the Postal Service proposes to amend 39 CFR part 111 as follows:

PART 111—[AMENDED]

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

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

2. Revise the Domestic Mail Manual (DMM) as follows:

P Postage and Payment Methods

P000 Basic Information

P010 General Standards

* * * * *

[Revise section P014 as follows:]

P014 Refunds and Exchanges

* * * * *

1.0 STAMP EXCHANGES

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1.7 Stamps Converted to Other Postage Forms

A customer may submit postage stamps for conversion to an advance deposit for permit imprint mailings, subject to these conditions:

a. Only full panes of postage stamps (or coils of stamps in the original sealed wrappers) are accepted for conversion. Accepted stamps include commemorative stamps issued no more than 1 year before the requested conversion date or regular stamp issues not officially withdrawn from sale.

b. A request for stamp conversions must be made in writing to the district manager of Customer Service and Sales in the district where the customer's post office is located. The customer's request must include:

(1) Name, denomination, quantity, and value of stamps for which conversion is requested.

(2) Name of the post office where the stamps were bought.

(3) Evidence of purchase of the stamps.

c. The amount of postage applied to a permit imprint advance deposit account through conversion is the full face value of the stamps.

d. The district manager may ask the customer to submit additional records to support the information in the request. After reviewing the documentation, the district manager approves or denies the request. The customer is notified when the conversion is approved. The postmaster is advised of the procedures for accepting the stamps and making the required accounting entries.

e. No part of any amount applied to a permit imprint advance deposit account from the conversion of postage stamps is later refundable in cash or by any other means.

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2.0 POSTAGE AND FEES REFUNDS

2.1 Refund Standards

A refund for postage and fees may be made under:

a. The standards below if postage and special or retail service fees are paid and no service is rendered, or if the amount collected was more than the lawful rate.

b. 3.0 for refund requests for metered postage. Metered postage is printed by a postage evidencing system (P030). Refunds may be requested for unused indicia, unused postage value remaining in a postage evidencing system, and the unused balance in a postage payment account.

c. 4.0 for refund requests for postage made at the time of mailing.

d. P021 for rejected personalized envelopes.

* * * * *

2.5 Refunds for Metered Postage

A refund for complete and legible valid, unused indicia printed on unmailed envelopes, wrappers, or labels is made under 3.2 when they are submitted by the licensee within 30 days from the dates shown on the indicia. For all indicia, except those produced by a PC Postage (TM) system, the licensee submits the indicia to the licensing post office and the USPS processes the refund. USPS charges a fee of 10% if the face value of the indicia is $250 or less. If the face value is more than $250, the service fee is $10 per hour for the actual hours to process the refund; the minimum charge is $25. The licensee submits indicia produced by a PC Postage system to the system provider for refund processing. The

provider may charge a fee for processing refund requests.

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2.8 Applying for Refund

Except for refunds for metered postage under 2.5, the customer must apply for a refund on Form 3533; submit it to the postmaster; and provide the envelope, wrapper, or a part of it showing the names and addresses of the sender and addressee, canceled postage and postal markings, or other evidence of postage and fees paid for which the refund is requested.

2.9 Ruling on Refund Request

Refunds are decided as follows:

a. Metered postage, except for PC Postage systems. The postmaster at the licensing post office grants or denies requests for refunds for metered postage under 3.2.a. The licensee may appeal adverse decisions through the manager of Postage Technology Management, USPS Headquarters (G043).

b. PC Postage systems. The system provider grants or denies requests for refunds for indicia printed by PC Postage systems under 3.2.b, using established USPS criteria. The licensee may appeal adverse decisions through the manager of Postage Technology Management, USPS Headquarters.

c. Optional Procedure (OP) mailing. A mailer's request for a refund for an Optional Procedure (OP) mailing must be submitted to the RCSC manager.

d. All other postage. The local postmaster grants or denies all other requests for refunds under 2.0. The customer may appeal adverse decisions through the postmaster to the RCSC.

* * * * *

3.0 REFUND REQUEST FOR METERED POSTAGE

3.1 Unused Postage Value in Postage Evidencing Systems

The unused postage value remaining in a postage evidencing system withdrawn from service may be refunded. If the postage evidencing system is withdrawn for faulty or misregistering operation, a final postage adjustment or refund may be withheld pending the system provider's report of the cause. If the postage evidencing system is damaged by fire, postage is refunded or transferred only if the registers are legible or the register values can be reconstructed by the system provider based on adequate supporting documentation. Refunds for specific postage evidencing systems are handled as follows:

a. For a manually reset meter being checked out of service, unused postage value may be transferred to another of the licensee's meters licensed at the same post office, or the licensee may request a refund. The USPS must examine a manually reset meter and verify the amount before any remaining funds are cleared from the meter and a refund or credit is initiated for unused postage value, or additional money is collected to pay for postage value used, based on what is found. Licensees may also submit their own transaction records, if any, or a system-generated register as supporting documentation.

b. For a remotely reset Generation 1 postage evidencing system being checked out of service, the postage value remaining on the system may be transferred by the USPS to another of the licensee's postage evidencing systems licensed at the same post office, or the licensee may request a refund. Refunds may be issued for unused postage in the meter. The USPS must examine the meter and verify the amount before a refund or credit is initiated for unused postage or additional postage is collected, based on what is found, unless the provider has a USPS-approved system for automated transfer of funds from one meter to another. In this instance, the provider must examine the meter before a refund can be issued for the remaining postage balance. The licensee may also submit transaction records or a system-generated register as supporting documentation.

c. For a PSD Meter or IBI Meter being checked out of service, an amount equivalent to the postage value remaining on the system will be refunded to the licensed user along with any unused balance in the licensee's postage payment account. The provider must examine a PSD Meter or IBI Meter and verify the amount before a refund or credit is initiated for unused postage or additional postage is collected, based on what is found. The licensee may also submit transaction records, if any, or a system-generated register as supporting documentation.

d. For a PC Postage system that is withdrawn from service, the USPS refunds the entire postage value remaining on the postal security device (PSD) for the user's system. The refund is issued through the licensee's provider. The licensee must notify the provider of the intent to withdraw the system. To determine the remaining postage value on the PC Postage system, the licensee has the PC Postage system generate a refund request indicium for transmittal to the provider for verification. A refund can be issued only when the system PSD is in the provider's possession.

3.2 Unused Postage Evidencing System Indicia on Mailpieces or Labels

All refund requests for unused postage evidencing system indicia must include proof that the person or entity requesting the refund is the licensee for the postage evidencing system that printed the indicia. Refunds are considered as follows:

a. Unused postage evidencing system indicia, except for those printed by a PC Postage system, are considered for refund only if complete and legible. They must be submitted by the licensed user to the postmaster at the licensing post office with Form 3533 within 30 days of the date in the indicia. The refund request must be submitted with the part of the envelope or wrapper showing the addressee's name and address (including the window on a window envelope). Indicia printed on labels or tapes not stuck to wrappers or envelopes must be submitted loose. If a part of the indicia is printed on one envelope or card and the remaining part on another, the two must be fastened together to show that they represent one indicium. Refunds are allowable for indicia on metered reply envelopes only when it is obvious that an incorrect amount of postage was printed on them. Envelopes or address parts of wrappers on mail returned to sender from the mailing office, marked to show no effort was made to deliver (e.g., ''received without contents''), must be submitted separately with an explanation.

b. Unused indicia printed by a PC Postage system are considered for refund only if they are complete, legible, and valid and are submitted to the authorized provider for verification within 30 days of the date of mailing shown in the indicia, with the required documentation. In support of the refund request, indicia printed on an envelope or wrapper are submitted with the part of the envelope or wrapper showing the addressee's name and address (including the window in a window envelope). For indicia printed on a label that is not affixed to an envelope or wrapper, the complete label is submitted loose.

3.3 Ineligible Metered Postage Items

The following metered postage items are ineligible for refunds:

a. Reply envelopes or cards paid at the proper postage rate.

b. Indicia printed on labels or tape removed from wrappers or envelopes.

c. Indicia lacking a date or identification of the licensing post office.

d. Indicia printed on mail dispatched and returned to sender as undeliverable

as addressed, including mail marked ''no such post office'' and mail addressed for local delivery and returned after directory service was given or delivery was attempted.

3.4 Rounding

Any fraction of a cent in the total to be refunded is rounded down to the whole cent (e.g., $4.187 is rounded to $4.18).

4.0 REFUND REQUEST FOR EXCESS POSTAGE (VALUE ADDED REFUND)—AT TIME OF MAILING

* * * * *

4.10 Form 8096 Required

The presenter must provide the USPS with an original Form 8096 completed and signed by each of the presenter's customers who meter any pieces in the mailing for which a VAR is requested, and a list of those customers. If postage is affixed to the pieces using a postage evidencing system by an intermediate agent (not the presenter of the mailing) for the owner of the pieces, a signed Form 8096 must be on file from the agent whose postage evidencing systems were used to affix the postage. Refund requests are denied if all required Forms 8096 are not provided.

4.11 Form 8096 Not Required

Form 8096 is not required for a customer whose mail is metered by the presenter with the presenter's own postage evidencing system. In such cases, the presenter must provide the post office where it submits refund requests with a list, in ascending numeric order, of its own postage evidencing system serial numbers and those of any intermediate agent used for affixing postage to the pieces included in the mailing.

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An appropriate amendment to 30 CFR part 111 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–20559 Filed 8–14–01; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

39 CFR Part 111

Production, Distribution, and Use of Postage Meters (Postage Evidencing Systems) and Postal Security Devices

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to revise Domestic Mail Manual (DMM) P030 to include policies and regulations pertaining to more secure postage evidencing systems, such as those that use a Postal Security Device (PSD), those that generate information-based indicia (IBI), and PC Postage (TM). The term ''postage evidencing systems'' is the collective term used when referring to these systems.

This proposed rule replaces current DMM P030, Postage Meters and Meter Stamps, and the proposed DMM P050, Information-Based Indicia, that was published for public comment in the October 2, 2000, **Federal Register** (65 FR 58682). That **Federal Register** notice proposed the addition of a new section to the DMM for systems that generate IBI and included regulations pertaining to PSDs and PC Postage. In developing the current proposal the Postal Service considered the public comments received in response to the October 2 notice, advances in postage evidencing system technology and security, and the experience we gained by testing and implementing the first postage evidencing systems to generate information-based indicia (IBI).

The Postal Service is issuing this proposal for public comment. We will revise the proposed policies and regulations, if required, and publish a final rule. Since all comments will be made available for public inspection, any marked ''proprietary'' or ''confidential'' will be returned to the sender without consideration.

The Postal Service will publish proposed revisions to Title 39, Code of Federal Regulations (CFR) part 501, *Authorization to Manufacture and Distribute Postage Meters*, to include policies and regulations pertaining to more secure postage evidencing systems, such as those that use a PSD, those that generate IBI, and PC Postage, in a future issue of the **Federal Register**.

DATES: The Postal Service must receive your comments on or before September 14, 2001. No extensions on the comment period will be granted.

ADDRESSES: Mail or deliver written comments to the Manager, Postage Technology Management, 1735 N Lynn Street, Room 5011, Arlington, VA 22209–6050. You can view and copy all written comments at the same address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: James Luff, 703–292–3693.

SUPPLEMENTARY INFORMATION: Proposed DMM P030 extends the regulations for postage meters to all secure postage evidencing systems. ''Postage evidencing systems'' is an umbrella term that includes traditional postage meters, PSD Meters, IBI Meters, and PC Postage systems, as defined in P030.1.0. Unless otherwise noted, the regulations apply to all postage evidencing systems. Exceptions were made where necessary to distinguish the policies and regulations that apply to the newer postage evidencing systems, such as PC Postage. We added new topics and reorganized the text to enable users to find information more easily. The Postal Service will continue to refer to the mail produced by postage evidencing systems as ''metered mail.'' The payment forms given in current P030 for traditional remote reset meters (electronic funds transfer and checks) are extended to PSD Meters and IBI Meters. PC Postage systems will be limited to the payment forms proposed in the **Federal Register** notice of October 2, 2000, namely credit cards and automated clearing house (ACH) debit. The Postal Service will separately publish revisions to P014, Refunds and Exchanges, to incorporate the changes made to P030.

The following is a summary of the major changes made in this proposal in comparison with current P030, Postage Meters and Meter Stamps, and the proposed P050, Information-Based Indicia, as published October 2, 2000.

1. The regulations define the basic characteristics of all secure postage evidencing systems and identify the distinguishing features of the different system types.

2. Indicia generated by any USPS-approved secure postage evidencing system may be used on all classes of mail except Periodicals. Such mail is called ''metered mail'' and is entitled to all privileges and subject to all conditions applying to the various classes of mail.

3. We revised the regulations throughout to reflect the reduced role of the licensing post office in license applications, postage evidencing system check in and check out, and postage evidencing system resetting. These customer transactions shift from the licensing post office to the provider.

4. We are retiring manually reset meters. Such a meter may be installed only as replacement for an existing manually reset meter of the same type to fulfill the remaining lease or rental period. We no longer allow alternative meter resetting locations for manually reset meters.

5. We replaced the section in DMM 56 on meter setting with four separate sections, one for each distinct set of

financial transactions and procedures, depending on system type.

6. A license may be cancelled if there is no postage evidencing system applied to it for 30 days or more.

7. Postage evidencing systems returned to the provider can be shipped via Priority Mail.

8. We extended from every 6 months to every 12 months the time between required submissions for envelopes that must be submitted for quality assurance evaluation for certain PC Postage systems.

9. We now use the term ''fraud warning'' for the cautionary labels on postage evidencing systems that contain basic reminders on use of the system, warn against system tampering or misuse, and note penalties.

10. Physical inspections by the provider and examinations by the licensing post office have been extended from every 6 months to every 12 months for postage evidencing systems used outside the country.

11. Procedures for the refund of unused postage value remaining in a postage evidencing system checked out of service are included for each type of system.

12. We added a new regulation that different forms of postage may not be mixed on a mailpiece since stamps, indicia printed with fluorescent ink or on labels with fluorescence, and indicia that include a facing identification mark (FIM) are each treated differently in facing and cancellation.

13. The detailed requirements for tagging labels with fluorescence that were included in P050 as published in the **Federal Register** October 2, 2000, were replaced by a requirement that the fluorescent tagging on the label be sufficient to face and process the mail.

14. There is now an option to identify the licensing post office in the indicia using only the 5-digit ZIP Code.

15. The revised regulations for date accuracy allow customers the same options whether the metered mail is submitted at the retail window or deposited in a collection box.

16. We no longer limit deposit of single-piece-rate mail outside the area served by the licensing post office to a ''handful'' of mail.

Notice and Comment

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed amendments to the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

For reasons stated in the preamble, the Postal Service proposes to amend 39 CFR part 111 as follows:

PART 111—[AMENDED]

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

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

2. Revise the Domestic Mail Manual (DMM) as follows:

P Postage and Payment Methods

P000 Basic Information

* * * * *

[Revise the title and text of P030 as follows:]

P030 Postage Meters (Postage Evidencing Systems)

Summary: P030 describes the use and regulations for postage meters (postage evidencing systems) to prepare metered mail.

1.0 BASIC INFORMATION

1.1 Definition

Postage evidencing systems are secure postage metering systems that generate indicia imprinted on or affixed to a mailpiece to evidence prepayment of postage. The USPS regulates these systems and their use to protect postal revenue. Only USPS-authorized manufacturers or product service providers (''providers'') may design, produce, and distribute the systems. Misuse of a postage evidencing system to avoid payment of postage is punishable by law. The major components of a postage evidencing system are:

a. Funds registers and accounting functions to store and maintain postal financial data. Two funds registers are required:

(1) The descending register that records the postage value remaining in the postage evidencing system.

(2) The ascending register that increases as postage is printed. This register records the total value of all postage printed during the life of the postage evidencing system unless it is reset to zero by the provider during servicing between customers or if it reaches its maximum limit.

b. Indicia generated by the system to show evidence of postage prepayment on the mailpiece.

c. USPS and provider infrastructure to support user licensing and customer information, ensure proper payment for postage, set and reset the system with postage value, and provide for inventory management. Provider and USPS interface to accomplish these functions.

1.2 Types

Generation 1 postage evidencing systems use industry-standard electronic components for managing the registers and accounting for postal funds. Generation 2 postage evidencing systems use a USPS-approved electronic component called a ''Postal Security Device'' (''PSD'') for managing the registers and accounting for postal funds. All PSDs must meet USPS performance criteria and must have a self-disabling feature that prohibits the printing of postage when specific programmed requirements are not met. For all Generation 2 postage evidencing systems the provider and USPS infrastructure must interface to support licensing and customer information, ensure proper payment for postage, and provide for inventory management. The systems are categorized as follows:

a. Traditional postage meter—a Generation 1 postage evidencing system:

(1) The industry-standard electronic components used for managing registers and accounting for postal funds may or may not include a self-disabling feature that prohibits the printing of postage when specific programmed requirements are not met.

(2) Indicia are printed either by a letterpress or digital printing process. Letterpress indicia are generated by the impact of a hard, inked printing die on the print surface. Digital indicia are generated electronically and produced on the print surface by a nonimpact technology, such as an ink jet, thermal, or laser printing process.

(3) The provider and USPS infrastructure systems for all Generation 1 postage evidencing systems interface to support licensing and customer information and to provide for inventory management. Generation 1 postage meters can be either manually reset (the meter must be physically taken to the USPS for resetting) or remotely reset. Remotely reset meters are replacing manually reset meters in accordance with a phased USPS retirement plan. The USPS infrastructure currently supports payment for postage for all Generation 1 postage evidencing systems, both manually reset and remotely reset. The provider infrastructure supports payment for postage for remotely reset meters but does not support payment for postage for manually reset meters.

b. PSD Meter—a Generation 2 postage evidencing system:

(1) A PSD Meter must use a USPS-approved PSD.

(2) The indicia generated by a PSD Meter must be digital indicia approved by the USPS.

(3) A PSD Meter must be reset using an electronic connection between the provider's postage resetting system and the postal registers in the PSD.

c. Information-Based Indicia (IBI) Meter—a Generation 2 postage evidencing system:

(1) An IBI Meter must use a USPS-approved PSD.

(2) An IBI Meter must generate information-based indicia (IBI). IBI are digital indicia that include human-readable information and a USPS-approved two-dimensional barcode or other USPS-approved symbology, with a digital signature and other required data fields.

(3) An IBI Meter must be reset with an electronic connection between the provider's postage resetting system and the postal registers in the PSD.

d. PC Postage (TM) system—a Generation 2 postage evidencing system:

(1) A PC Postage system must use a USPS-approved electronic PSD.

(2) The indicia generated by a PC Postage system must be IBI.

(3) A PC Postage system must be reset with postage value using a personal computer to establish an electronic connection between the provider's postage resetting system and the postal registers in the PSD. The user must employ a personal computer to access critical infrastructure functions.

1.3 Authorized Providers

Postage evidencing systems are available only from authorized providers. All postage evidencing systems and PSDs remain the property of the USPS-authorized provider and are available only through a lease or rental agreement with the provider or its authorized agent. The USPS holds providers responsible for the control, secure operation, distribution, maintenance, inspection where required, and replacement of postage evidencing systems and PSDs throughout their entire life cycle. The provider is also responsible for the secure disposal or destruction of postage evidencing systems and PSDs at the end of their useful life. The following providers are authorized:

Ascom Hasler Mailing Systems Inc, 19 Forest Pkwy, Shelton Ct 06484–6140, 800–243–6275, www.ascom-usa.com

Francotyp-Postalia Inc, 140 N Mitchell Ct Ste 200, Addison Il 60101–5629, 800–341–6052, www.fp-usa.com

Neopost 30955 Huntwood Ave, Hayward Ca 94544–7084, 800–624–7892, www.neopostinc.com

Neopost Online, 3400 Bridge Pkwy Ste 201, Redwood City Ca 94065–1168, www.neopostonline.com

Pitney Bowes Inc, 1 Elmcroft Rd Stamford Ct 06926–0700, 800–322–8000, www.pitneybowes.com

Psi Systems Envelope Manager Software, 247 High St, Palo Alto Ca 94301–1041, 800–576–3279 x140, www.envmgr.com

Stamps.Com, 3420 Ocean Park Blvd Ste 1040,Santa Monica Ca 90405–3035 www.stamps.com

1.4 Licensee

The licensee of a postage evidencing system is the person or entity authorized by the USPS to lease and use a system. The licensee cannot own a postage evidencing system or PSD and may possess a postage evidencing system only under a valid lease or rental agreement with an approved provider or its agent. The licensee is responsible for the control, maintenance, and use of the postage evidencing system in accordance with USPS regulations.

1.5 Possession of a Postage Evidencing System

No person or entity other than an authorized provider, its authorized agent, the USPS, or a licensee may have a postage evidencing system or PSD in their possession. Any other person or entity in possession of a postage evidencing system or PSD must immediately surrender it to the provider or to the USPS.

1.6 Use of a Postage Evidencing System

No person or entity other than an authorized provider may use a postage evidencing system until the provider initializes the system or, where applicable, the USPS sets and seals the system, performs the required validations, and checks the system into service. Once the postage evidencing system is properly in service, it may be used by the licensee or others authorized by the licensee. The licensee is responsible for control and use of the system.

1.7 Classes of Mail

Postage may be paid by imprinting or affixing indicia generated by a USPS-approved postage evidencing system on any class of mail except Periodicals. Such mail is called ''metered mail'' and is entitled to all privileges and subject to all conditions applying to the various classes of mail.

2.0 LICENSING

2.1 Procedures

To possess and use a postage evidencing system, the user must register with the USPS and be granted a license. A single license allows the licensee to use multiple postage evidencing systems for metered mail deposited in the licensing post office in accordance with 11.0. A postage evidencing system can be licensed to only one post office. The user must submit a separate registration, be granted a separate license authorization, and have a separate postage evidencing system for each licensing post office where the user intends to deposit mail. The procedures are as follows:

a. The applicant submits to the provider all data required for the license, including the ZIP Code of the licensing post office where the user intends to deposit the metered mail.

b. The provider submits the required information to the USPS electronically.

c. The USPS notifies the provider after granting the license.

d. The USPS can cancel the licensee's authorization to lease and use postage evidencing systems if an active system is not associated with the license for 30 days or more. The customer must reregister for a license to resume the use of a postage evidencing system.

2.2 Licensee's Agreement

By registering for a USPS license to rent or lease and use a postage evidencing system, the applicant agrees that the license may be revoked immediately and the provider notified by the USPS to withdraw the postage evidencing system from service for the following reasons:

a. The postage evidencing system is used in any fraudulent or unlawful scheme or enterprise.

b. The postage evidencing system is not used for 12 consecutive months.

c. The licensee fails to exercise sufficient control of the postage evidencing system or PSD or fails to comply with the regulations for its care or use.

d. The postage evidencing system or PSD is taken or used outside the United States, its territories or possessions, except as specifically authorized under these regulations by the manager of Postage Technology Management, USPS Headquarters.

e. Mail is deposited at other than the licensing post office (except as permitted under 11.0 or D072).

2.3 Refusal to License a User

The USPS notifies both the applicant and the provider in writing when

authorization for a license is refused. Any applicant refused authorization may appeal the decision under 2.5. The USPS may refuse authorization for a license for the following reasons:

a. The applicant submitted false information on the license application.

b. The applicant violated any regulation regarding the care or use of a PSD, postage evidencing system, or the indicia generated by a system that resulted in the revocation of the applicant's postage meter or postage evidencing system license within 5 years before the date the applicant submits the application.

c. There is sufficient reason to believe that the applicant will use the postage evidencing system or PSD in violation of USPS regulations.

2.4 Revocation of a License

The USPS can revoke the user's license when the user does not fulfill the responsibilities for the care and use of a PSD, postage evidencing system, or the indicia generated by a system. The USPS notifies the licensee's provider(s) of the revocation so that the provider(s) can notify the licensee, cancel the lease or rental agreement(s), and withdraw all postage evidencing systems from service. The notification is sent by certified mail. Revocation takes effect 10 calendar days after the licensee receives the revocation notice unless, within that time, the licensee appeals the decision under 2.5. A license is subject to revocation if it is used for any illegal scheme or enterprise, or there is probable cause to believe that it is to be used in violation of USPS regulations.

2.5 Appeal Process

An applicant who is refused a license, or a licensee whose license is revoked, may file a written appeal with the manager of Postage Technology Management, USPS Headquarters (see G043), within 10 calendar days after receiving notification of the decision.

3.0 LICENSED USER'S RESPONSIBILITIES

3.1 Signed Lease or Rental Agreement With Financial Agreement for Resetting

The licensee must enter into a signed lease or rental agreement with the provider that includes provisions for resetting the postage evidencing system with postage and a Postage Payment Agreement under which the licensee agrees to make payment for postage using a payment method approved by the USPS. The USPS is not a party to the lease or rental agreement but use of a postage evidencing system is subject to the regulations of the USPS and the terms and conditions of the Postage Payment Agreement.

3.2 Custody

A postage evidencing system or PSD that is in the possession or custody of a licensee must remain in that user's custody until it is returned to the authorized provider or to the USPS, or is seized by the U.S. Postal Inspection Service for violation of Federal law.

3.3 Update Licensee Information

The licensee must update required license registration information with the provider whenever there is any change in the licensee's name, address, telephone number, licensing post office, location of the postage evidencing system, or PSD. The USPS will update the license information based on the receipt of updated information submitted by the provider.

3.4 Relocation of Licensee

When a licensee notifies the provider of a change of the licensing post office in accordance with 3.3, the provider will perform the appropriate accounting functions to withdraw the postage evidencing system from service at the original licensing post office and install it and reauthorize it for use at the new licensing post office, or issue another postage evidencing system for use at the new location.

3.5 Required Resetting

All postage evidencing systems must be reset at least once every 3 months. A zero value reset will meet this requirement.

3.6 Transaction Files

Some postage evidencing systems generate records of transactions relating to indicia creation, funds transfer (including postage value downloads), and system or PSD audits. For postage evidencing systems that do not maintain automated transaction records, licensees are encouraged to maintain their own records of the readings of the ascending and descending registers for each day of operation. Transaction records are important in the validation of requests for refunds in the case of system malfunction.

3.7 Inspection and Examination

The licensee must, upon request, make immediately available for examination and audit by the provider or by the USPS any postage evidencing system or PSD in the licensee's possession and any corresponding transaction records. The USPS can perform physical or remote examination of any postage evidencing system or PSD. The licensee must meet the requirements for provider inspections and USPS examinations. Postage evidencing systems located within the United States are inspected in accordance with the Postage Evidencing Systems Inspection and Examination Schedule below. For postage evidencing systems located outside the country, *see* 3.15.

POSTAGE EVIDENCING SYSTEMS INSPECTION AND EXAMINATION SCHEDULE

Security level	Postage evidencing system	Provider inspection	USPS examination requirements
1	Manually reset postage meter	Every 6 months	Must bring to post office for examination when not reset within 3 months.
2	Remote reset postage meter with letterpress or digital indicia, but without self-disabling feature.	Annually or every 6 months when there is no setting activity in 6 months.	Examinations in special circumstances.
3	Remote reset meter with letterpress indicia and self-disabling feature.	Every 2 years or every 6 months when there is no setting activity in 6 months.	Examinations in special circumstances.
4	Remote reset postage meter with digital indicia and self-disabling feature.	Every 2 years or enhanced inspection process when approved by USPS.	Examinations in special circumstances.
5	PSD Meter, IBI Meter, or a PC Postage system.	Inspections in special circumstances	Examinations in special circumstances.

3.8 Quality Assurance

Some PC Postage systems print indicia with a printer that may also be used for nonpostal applications. Users of such systems must forward a mailpiece bearing an indicium produced by the postage evidencing system and associated printer to the provider for quality assurance evaluation. The licensee must forward a quality assurance mailpiece to the provider when the system is installed, when there is a change to the printer connected to the system, and at least once every 12 months thereafter, in accordance with provider directions.

3.9 Labels With Fraud Warning and Serial Number

The licensee must ensure that the fraud warning label placed by the provider on the postage evidencing system or its housing is not removed or destroyed while the postage evidencing system is in the licensee's possession. The fraud warning contains basic reminders on leasing or rental and use of the postage evidencing system, warnings against system tampering or misuse resulting in nonpayment of postage owed, and the penalties for such system misuse. The USPS does not authorize postage evidencing systems for use without this fraud warning. When the postage evidencing system has a serial number or barcode equivalent on the system housing, the user must ensure that neither the serial number nor the barcode is removed or destroyed while the postage evidencing system is in the licensee's possession.

3.10 Custody of Suspect Postage Evidencing Systems or PSDs

The USPS may conduct unannounced, on-site examinations of postage evidencing systems or PSDs reasonably suspected of being manipulated or defective. A postal inspector may immediately withdraw a suspect postage evidencing system or PSD from service for physical and/or laboratory examination. The inspector withdrawing a suspect postage evidencing system or PSD issues the licensee a written acknowledgement of receipt of the item; forwards a copy to the provider; and, if appropriate, assists in obtaining a replacement postage evidencing system or PSD. Unless there is reason to believe that the postage evidencing system or PSD is fraudulently set with postage, existing postage in the postage evidencing system or PSD is refunded to the licensee, in accordance with established refund procedures, when it is withdrawn from service.

3.11 Defective Postage Evidencing System or PSD

A defective postage evidencing system is one that is inoperable or inaccurately reflects its proper status. A faulty postage evidencing system or PSD may not be used under any circumstance. The procedures for dealing with a defective system are as follows:

a. The licensee must immediately report any defective postage evidencing system or PSD to the provider.

b. The provider must retrieve any defective postage evidencing system or PSD within 3 business days of notification by the licensee.

c. The provider may supply the licensee with a replacement postage evidencing system unless there is a reasonable basis for suspecting actual or attempted tampering.

d. The provider may not authorize or issue a refund for monies remaining on the faulty postage evidencing system until the faulty system is in the possession of the provider and has been carefully inspected.

3.12 Missing Postage Evidencing Systems or PSDs

The licensee must immediately report to the provider the loss or theft of any postage evidencing system or PSD or the recovery of any missing postage evidencing system or PSD. The report must include the system identification number and the date, location, and details of the loss, theft, or recovery. In the case of suspected theft, the licensee must submit a copy of the police report to the provider upon request. The provider will report all details of the incident to the manager of Postage Technology Management, USPS Headquarters, in accordance with established procedures.

3.13 Returning a Postage Evidencing System or PSD

A licensee in possession of a faulty, misregistering, retired, or withdrawn postage evidencing system or PSD, or a licensed user who no longer plans to keep a postage evidencing system or PSD in their possession for any reason, must return it within 3 business days to the provider to be withdrawn from service. Postage evidencing systems and PSDs must be shipped by Priority Mail unless the manager of Postage Technology Management, USPS Headquarters, gives written permission to ship at another rate or special service.

3.14 Approval for Use of Postage Evidencing Systems at Military Post Offices

A person authorized by the Department of Defense to use the services of an overseas military post office, such as an APO or FPO, can use a USPS-approved postage evidencing system. For such users, the APO or FPO will be designated as the licensing post office on their user license. These users must deposit the mail prepared with their system at the licensing post office. All USPS policies and regulations regarding postage evidencing systems apply.

3.15 Approval for Use of Postage Evidencing Systems Outside the United States

With written approval from the manager of Postage Technology Management, USPS Headquarters (see G043), licensees may use postage evidencing systems outside the customs territory of the United States to print evidence of U.S. postage. Any exceptions must be specifically approved in writing by the manager of Postage Technology Management, USPS Headquarters. The procedures and conditions are as follows:

a. Licensees must maintain a permanent, established business address in the United States.

b. Postage evidencing systems used in foreign locations may be leased only from those providers who have an authorized dealer or representative in the country where the postage evidencing system is to be located. The only exception is for those PC Postage systems for which the PSD remains in the custody and possession of the provider rather than the licensee.

c. Licensees are subject to all USPS regulations and U.S. statutes pertaining to mail, mail fraud, and misuse of postage evidencing systems.

d. All postage evidencing systems authorized by the USPS for use in foreign locations must have enhanced security features that include remote reset, a self-disabling feature that prevents printing of postage when specific programmed requirements are not met, and digital indicia. Only those systems specifically approved in writing by the manager of Postage Technology Management, USPS Headquarters, may be used outside the customs territory of the United States.

e. Potential users must submit all data required for a license to lease and use postage evidencing systems to the provider. The provider will annotate the registration to state that it is for the foreign use of a U.S. postage evidencing

system and show where the system is to be located. The provider must submit the registration to the manager of Postage Technology Management, USPS Headquarters, for review and approval. Once a registration is approved and the license authorized, Postage Technology Management will designate the licensing post office and notify the provider and the licensee. A foreign license can be used for multiple postage evidencing systems as long as they all belong to the same licensed user and are licensed at the same licensing post office. Mailers who currently have a USPS license to lease and use postage evidencing systems must apply for a separate foreign license to participate in this program.

f. The provider selected by the licensee must agree in writing to all terms and conditions established by the USPS pertaining to the distribution of U.S. postage evidencing systems outside of the United States. Once the postage evidencing system is installed, the provider must provide the information on system placement directly to the manager of Postage Technology Management, USPS Headquarters.

g. Mail to be metered must be metered with U.S. postage and must be entered at the licensing post office.

h. Postage evidencing systems located outside the United States must be remotely reset at least once every 3 months. A reset for zero postage satisfies this requirement. In addition, the provider must physically inspect all postage evidencing systems located outside the United States every 6 months, unless the system is security level 4 or higher on the Postage Evidencing Systems Inspection and Examination Schedule (3.7). The provider must physically inspect systems that are security level 4 or higher every 12 months. Failure to make the postage evidencing system available for inspection may result in the revocation of the foreign use license.

i. Postage evidencing systems must be physically brought to the licensing post office for examination once every 12 months on a day and time set by the licensing post office. The licensing post office has the option of calling for more frequent examinations. The provider will notify the user of the post office to which the system must be brought for inspection. Failure to present the postage evidencing system at the appointed time and place may result in the revocation of the foreign use license.

3.16 Address Management System CD–ROM

For postage evidencing systems designed to access the USPS Address Management System (AMS) CD–ROM, the licensed user must maintain address quality by ensuring the CD–ROM is updated at least once every 6 months.

4.0 MANUALLY RESET POSTAGE METERS

4.1 Initial Setting, Check In, and Installation

A manually reset meter may be installed only as a replacement to complete the current lease term for an existing meter of the same make and model. Before delivering a manually reset postage meter to the licensee, the provider must present the meter and a completed PS Form 3601–C, Postage Meter Activity Report, to the licensing post office to have the meter set, sealed (if applicable), and checked into service by the post office where it is to be regularly set or examined, unless the meter is serviced through the on-site meter service program described in 4.5. The installation process for manually reset meters is completed when the data from PS Form 3601–C is transmitted to the appropriate postal information systems.

4.2 Check Out and Withdrawal

When a manually reset meter is withdrawn from a user, the provider must present the meter and a completed PS Form 3601–C to the licensing post office to have the meter checked out of service by the post office where it was regularly set or examined, unless the meter was serviced through the on-site meter service program described in 4.5. The withdrawal process for manually reset meters is completed when the data from PS Form 3601–C is transmitted to the appropriate postal information systems.

4.3 Location of Setting

Except under 4.5, a manually reset meter must be set at the licensing post office. Alternative meter setting locations are no longer allowed. A meter may not be set at a contract postal unit.

4.4 Payment for Postage Settings

Payment must be made for postage at the time of resetting. Payment may be in cash or by check, USPS-approved debit card, or money order. Payment is subject to USPS standards and procedures.

4.5 On-Site Meter Service Program

The on-site meter service program, where available, allows qualified USPS employees to set or examine manually reset meters and check them into or out of service at a licensee's place of business within the area served by the licensing post office, or at a provider's branch office. Only the licensee's meters participating in the on-site meter service program may be serviced at that location. A fee is charged for each meter set, examined, or checked into or out of service at a licensee's place of business, unless a USPS employee qualified to service meters is regularly assigned to that licensee's location for other postal administrative duties. The licensee must pay applicable postage and on-site meter service fees in R900 by check at the time of the meter service for manually reset meters. A fee is charged for each meter examined or checked into or out of service at a provider's facility. The provider must pay applicable postage and on-site meter service fees in R900 by check at the time of the meter service. Fees are charged in accordance with R900.14.

4.6 Postage Transfer or Refund

After USPS verification, unused postage in a manually reset meter checked out of service may be transferred to another of the licensee's meters licensed at the same post office, or the licensee may request a refund. Refunds are granted in accordance with P014.

4.7 Postage Adjustment for a Faulty Meter

To request a postage adjustment for a faulty or misregistering manually reset meter, the licensee must present to the provider the meter and the licensee's transaction records, if any. After examining a meter to be checked out of service for apparent faulty operation affecting registration, the provider must notify the USPS with a report of the malfunction. The report must contain all applicable meter documentation (including the setting history and transaction records, if any) and a recommendation about the appropriate postage adjustment, if any. When the electronic redundant memory data, as examined by the provider, is inconclusive with respect to the appropriate postage adjustment, the provider must include an analysis of the licensee's recent mailing history supporting the recommended postage adjustment. At the same time the report is made to the USPS, the provider must notify the licensee of the proposed postage adjustment. A licensee may appeal a postage adjustment to the manager of Postage Technology Management, USPS Headquarters (see G043), within 60 calendar days of the date that the provider submitted the postage adjustment recommendation to the USPS and notified the user.

5.0 REMOTE RESET GENERATION 1 POSTAGE METERS

5.1 Initial Setting, Check in, and Installation

A remote reset Generation 1 postage meter is checked into service in the presence of a postal employee qualified to check in postage evidencing systems. The provider must furnish the postal employee with the meter and a completed PS Form 3601–C. The check in process for a remote reset Generation 1 postage meter is completed when the required data is transmitted to the appropriate postal information systems, and may be completed concurrently with or prior to installation of the meter at the licensee's location. The manager of Postage Technology Management, USPS Headquarters, may allow the provider to check in a specifically designated meter model without USPS participation when the provider uses a USPS-approved process in which the information to complete the check in process is captured directly from the postage evidencing system. The installation process for these meters is completed when the provider transmits required data to the appropriate postal information systems.

5.2 Check Out and Withdrawal

A remote reset Generation 1 postage meter is checked out of service in the presence of a postal employee qualified to check out postage evidencing systems. The provider must furnish the postal employee with the meter and a completed PS Form 3601–C. The check out process for a remote reset Generation 1 postage meter is completed when the required data is transmitted to the appropriate postal information systems. The manager of Postage Technology Management, USPS Headquarters, may allow the provider to check out a specifically designated meter model from service without USPS participation when the provider uses a USPS-approved process in which the information to complete the check out process is captured directly from the postage evidencing system. In this instance, the provider must examine the meter before a refund can be issued for the postage remaining in the meter. The withdrawal process for remote reset meters is completed when the provider transmits required data to the appropriate postal information systems.

5.3 Location of Setting

A remote reset Generation 1 postage meter is reset electronically at the location of the meter.

5.4 Payment for Postage Settings

For a remote reset Generation 1 postage meter the licensee may deposit funds only by check, electronic funds, or automated clearing house transfer, in accordance with USPS standards and procedures.

5.5 Resetting

To reset a remote reset Generation 1 postage meter, the following conditions must be met:

a. The licensee's account must have sufficient funds to cover the desired postage increment, or the provider must have agreed to advance funds to the licensee.

b. The licensee must give the provider identifying information and system audit data as required by the USPS and in accordance with the provider's resetting specifications. Before completing the resetting, the provider must verify the identifying data, authenticate the user's license, conduct the postage evidencing system audit, and ascertain whether the user's account contains sufficient funds to cover the desired postage increment.

c. After the resetting transaction is completed, the provider must document the transaction for the licensee, including the balance remaining in the licensee's account, unless the provider gives the user a monthly statement documenting all transactions for the period and the balance after each transaction.

5.6 On-Site Meter Service Program

The on-site meter service program, where available, allows qualified USPS employees to check remote reset Generation 1 meters into or out of service at the provider's branch offices. Meters to be serviced are accompanied by PS Form 3601–C. A fee is charged for each meter examined or checked into or out of service at a provider's facility. The provider must pay applicable postage and on-site meter service fees in R900 by check at the time of the meter service for remote reset Generation 1 meters. Fees are charged in accordance with R900.14.

5.7 Postage Transfer or Refund

After USPS verification, unused postage in a remote reset Generation 1 postage meter checked out of service may be transferred by the USPS to another of the licensee's postage evidencing systems licensed at the same post office, or the licensee may request a refund. Refunds for unused postage in the meter and for any unused balance in the licensee's account are granted in accordance with P014.

5.8 Postage Adjustment for Faulty Meters

To request a postage adjustment for a faulty or misregistering remote reset Generation 1 postage meter, the licensee must present to the provider the meter and the licensee's transaction records, if any. After examining a meter checked out of service for apparent faulty operation affecting registration, the provider must notify the USPS with a report of the malfunction. The report must contain all applicable meter documentation and a recommendation regarding the appropriate postage adjustment, if any. When the electronic redundant memory data, as examined by the provider, is inconclusive as to the need for a postage adjustment, the provider must include an analysis of the licensee's recent mailing history supporting the recommended postage adjustment. At the same time the report is made to the USPS, the provider must notify the licensee of the proposed postage adjustment. A licensee may appeal a postage adjustment to the manager of Postage Technology Management, USPS Headquarters (see G043), within 60 calendar days of the date that the provider submitted the postage adjustment recommendation to the USPS and notified the user.

6.0 PSD METERS AND IBI METERS

6.1 Initialization, Authorization, and Installation

All PSD Meters and IBI Meters use a PSD to maintain postal registers and authorize the printing of evidence of postage. Before the licensee can print evidence of postage, these postage evidencing systems must be initialized and authorized by the provider. The initialization process installs PSD-specific information that does not change over the life cycle of the PSD. The authorization process sets user-specific information. The provider reauthorizes the PSD when certain user-specific information changes. PSD Meters and IBI Meters are checked into service by the provider. The check in process is automated. The information necessary to complete the check in process is captured directly from the postage evidencing system. The installation process for these meters is completed when the required data is transmitted to the appropriate postal information systems.

6.2 Check Out and Withdrawal

When a PSD Meter or IBI Meter is no longer used, the licensee notifies the provider and arranges to return the meter to the provider. The provider checks the meter out of service. The

provider must examine the meter before a refund can be issued for any postage remaining on the meter. The check out process is automated. The information to complete the check out process is captured directly from the postage evidencing system. The withdrawal process for a PSD Meter or IBI Meter is completed when the required data is transmitted to the appropriate postal information systems.

6.3 Location of Setting

A PSD Meter or IBI Meter is reset remotely at the location of the meter by means of a connection between the provider's resetting system and the postal registers in the PSD.

6.4 Payment for Postage Settings

For PSD Meters and IBI Meters the licensee may deposit funds only by check, electronic funds transfer, or automated clearing house transfer, in accordance with USPS standards and procedures.

6.5 Resetting

To reset a PSD Meter or IBI Meter the following conditions must be met:

a. The licensee's account must have sufficient funds to cover the desired postage increment, or the provider must have agreed to advance funds to the licensee.

b. The licensee must provide identifying information and system audit data as required by the USPS and in accordance with the provider's resetting specifications. Before completing the resetting, the provider must verify the identifying data, authenticate the user's license, conduct a remote postage evidencing system audit, and ascertain whether the user's account contains sufficient funds to cover the desired postage increment.

c. After the resetting transaction is completed, the provider must document the transaction for the licensee, including the balance remaining in the licensee's account, unless the provider gives the user a monthly statement documenting all transactions for the period and the balance after each transaction.

6.6 Postage Refund

Unused postage in a PSD Meter or IBI Meter will be refunded to the licensed user along with any unused balance in their account under P014.

6.7 Postage Adjustment for Faulty or Misregistering PSD Meters and IBI Meters

When the licensee requests a postage adjustment for a faulty or misregistering PSD Meter or IBI Meter, the meter must first be withdrawn from service and physically examined by the provider. The provider will compare the data in the PSD registers with the data from the system transaction records. After examining a PSD Meter or IBI Meter withdrawn from service for apparent faulty operation affecting the ascending or descending registers, the provider must notify the licensee of the proposed postage adjustment, if any. At the same time the user is notified, the provider must report the malfunction to the manager of Postage Technology Management, USPS Headquarters. The report must contain all applicable documentation (including a copy of the transaction records) and a recommendation for any appropriate postage adjustment. The licensee may appeal a postage adjustment to the manager of Postage Technology Management, USPS Headquarters (see G043), within 60 calendar days of the date that the user is notified of the proposed postage adjustment recommendation.

7.0 PC POSTAGE SYSTEMS

7.1 Initialization, Authorization, and Installation

All PC Postage systems use a PSD to maintain postal registers and perform postal functions. Before the licensee can print evidence of postage using a PC Postage system, the system's PSD must be initialized and authorized by the provider. The initialization process installs PSD-specific information that does not change over the life cycle of the PSD. The authorization process sets user-specific information. The provider reauthorizes the PC Postage system PSD when certain user-specific information changes. The installation process for a PC Postage system is completed when the data required by the USPS is transmitted to the appropriate postal information systems.

7.2 Check Out and Withdrawal

When a PC Postage system is no longer used, the licensee notifies the provider. The provider withdraws the system from service and transmits the required data to the appropriate postal information systems. A PSD in the custody of the licensee must be returned to the provider for examination before a refund can be issued for any postage remaining on the PSD.

7.3 Location of Setting

A PC Postage system is reset remotely using a personal computer with a connection between the provider's resetting system and the postal registers in the PSD.

7.4 Payment for Postage Settings

For a PC Postage system, the USPS will accept payment only in the form of credit card or automated clearing house (ACH) debit, in accordance with USPS standards and procedures.

7.5 Resetting

To reset a PC Postage system the following conditions must be met:

a. The licensee must initiate payment to the USPS sufficient to cover the desired postage increment before requesting a postage value download to reset the system.

b. The licensee must provide identifying information and system audit data as required by the USPS and in accordance with the provider's resetting specifications. Before completing the resetting, the provider must verify the identifying data, authenticate the user's license, conduct a postage evidencing system audit, and ascertain whether payment to the USPS sufficient to cover the requested postage value download was initiated by the licensee.

c. The provider will supply the licensee with documentation of the reset transaction and the balance in the descending register, if any.

7.6 Postage Refunds

The USPS provides refunds for the entire postage value balance remaining on the PSD of a PC Postage system that is withdrawn from service and is in the possession of the provider. Refunds are requested and paid through the provider in accordance with P014.

7.7 Postage Adjustment for Faulty or Misregistering PSD

When the licensee requests a postage adjustment for a faulty or misregistering PSD of a PC Postage system, the PSD must first be withdrawn from service and physically examined by the provider. The provider will compare the data in the PSD registers with the data from the system transaction records. After examining a PSD withdrawn from service for apparent faulty operation affecting the ascending or descending registers, the provider must notify the licensee of the proposed postage adjustment, if any. At the same time the user is notified, the provider must report the malfunction to the manager of the Postage Technology Management, USPS Headquarters. The report must contain all applicable documentation (including a copy of the transaction records) and a recommendation for any appropriate postage adjustment. The licensee may appeal a postage adjustment to the manager of the Postage Technology Management, USPS

Headquarters (see G043), within 60 calendar days of the date that the user is notified of the proposed postage adjustment recommendation.

8.0 INDICIA—GENERAL INFORMATION

8.1 Amount of Postage

The value of the indicia affixed to each mailpiece must be either the exact amount due or another amount permitted by standard. Refunds for overpayment must meet the standards in P014.

8.2 Refunds for Unused Indicia

Refunds for indicia amounts already printed on an envelope or label but not mailed are made in accordance with P014.

8.3 Mixed Forms of Postage Evidencing

Different forms of evidence of prepayment of postage may not be mixed on a mailpiece. In particular, postage stamps and indicia generated by a postage evidencing system may not be used on the same mailpiece; indicia generated by a postage evidencing system that uses a facing identification mark (FIM) to face the mail may not be used on the same mailpiece as indicia printed with fluorescent ink; and IBI may not be used on the same mailpiece as letterpress indicia or non-IBI digital indicia.

8.4 Use of Indicia

Valid indicia produced by a postage evidencing system can be used only to show evidence of payment for postage or other services provided by the USPS. Indicia for zero postage must not be affixed to any item delivered by another carrier. In any illustration of information-based indicia (IBI) produced by an IBI Meter or a PC Postage system, and not intended to be used as postage, the two-dimensional barcode must be rendered unreadable.

9.0 INDICIA

9.1 Approved Designs

The manager of Postage Technology Management, USPS Headquarters, must approve the design (type, format, and content) of all indicia that will be produced by a postage evidencing system. This approval shall include all elements in the indicium required by USPS regulations and the postage evidencing system performance criteria and applies to the entire area within the indicium boundary (9.4). The approved indicia are illustrated in Exhibit 9.1. [Exhibit 9.1, which shows all approved indicia designs, will be included when these regulations are published in the Domestic Mail Manual.]

9.2 Legibility

Indicia must be legible. Illegible indicia are not acceptable as payment of postage. Should there be a need to place multiple indicia on an envelope (*e.g.*, for redate or postage correction) the indicia must not overlap each other. Overlapping indicia are not acceptable as payment of postage. Reflectance measurements of the indicia and the background material must meet the standards in C840.5.

9.3 Position

Indicia must be printed or applied in the upper right corner of the envelope or address label. Indicia must be at least ¼ inch from the right edge of the mailpiece and ¼ inch from the top edge of the mailpiece, and must not infringe on the areas reserved for the FIM, POSTNET barcode, or optical character reader (OCR) clear zone. Indicia must be oriented with the longest dimension parallel to the address. When a FIM is printed with the indicia, the position of the FIM must meet the requirements in C100.5.0.

9.4 Boundaries

The USPS controls what is printed within the boundaries of indicia. The boundaries are defined as follows:

a. For letterpress indicia, the boundaries are determined by the dimensions of the printing die used by the postage evidencing system to print postal information. Licensees may obtain an additional printing die from the provider, often called the ''ad plate,'' for additional text to be included when printing indicia. The ad plate may contain postal markings (9.7) or other printed matter (9.8).

b. For digital indicia, including IBI, the boundaries are defined by the right edge of the envelope, the top edge of the envelope, and the bottom edge and the left edge of any USPS-required indicium element printed by the postage evidencing system. A 1/2-inch clear zone, within which nothing shall be printed by the postage evidencing system, must surround the indicium boundaries to the left of and below all elements of the indicium.

9.5 Contents

Unless otherwise approved by the manager of Postage Technology Management, USPS Headquarters, the following information must be included in indicia:

a. The city, state, and 5-digit ZIP Code of the licensing post office; the postage evidencing system serial number or PSD identification number; the date of mailing; the words ''US Postage,'' and the postage amount.

b. As an alternative to the city, state, and 5-digit ZIP Code of the licensing post office, just the ZIP Code of the licensing post office; in this case, the words ''Mailed from ZIP Code'' may be added to the indicia.

c. For multiple indicia on a given mailpiece, information showing the licensing post office in each indicium.

d. For digital indicia, including IBI, the class of mail and presort level.

e. For IBI, the required data elements of the two-dimensional barcode in accordance with the performance criteria for the given postage evidencing system.

f. For special indicia, including the date correction or redate indicia, the postage correction indicia, indicia for APO/FPO, and the indicia for prepaid reply mail, information as required by 10.0.

9.6 Format

Arial font must be used for all postal information in the indicia. The postage amount must be at least 10-point type size. For all other required information, the type size must be at least 8 points. The mail class or endorsement, the postage amount, and the words ''US Postage'' must be in bold type and all letters must be capital letters. The words ''US Postage'' must be the most prominent and conspicuous printed matter in the indicia other than the postage amount. The remaining required information (city, state, and 5-digit ZIP Code; the date; and the Postal Security Device ID) need not be capitalized or bold. The type size used for all other text printed in the indicia must be no greater than 8 points and must not be in bold type.

9.7 Postal Markings

The postal marking that may be included in indicia vary by indicia type, as follows:

a. Letterpress indicia may include postal markings related to the class of mail and presort level, or ancillary service endorsement, in accordance with postal regulations. When placed in the ad plate area, only the postal marking may be printed, and it must fill the ad plate area as much as possible. All words must be in bold capital letters at least 1/4 inch high or 18-point type, and legible. Exceptions are not made for small ad plates that cannot accommodate a permissible marking.

b. Digital indicia may include ancillary service endorsements.

9.8 Other Matter Printed by Postage Evidencing Systems

Other printed matter must not infringe on the areas reserved for the FIM, POSTNET barcode, or optical character reader (OCR) clear zone. The matter that may be printed is based on indicia type, as follows:

a. For letterpress indicia only, advertising matter, slogans, and return addresses may be printed with the indicia within space limitations. Licensed users must obtain the ad plates for printing this matter from the authorized provider. Ad plate messages must be distinguished by the inclusion of the name of the mailer or words such as ''Mailer's Message.'' The ad plate must not be obscene, defamatory of any person or group, or deceptive, nor may it advocate unlawful action.

b. For postage evidencing systems that print digital indicia, including IBI, an approved indicium shall include within its boundaries only postal markings and text required or recommended by USPS regulation, except that the indicium may identify the provider. Other matter may be printed only outside the boundaries of the clear zone (9.4) surrounding the indicium. Such printed matter may not be obscene, defamatory of any person or group, or deceptive, and it must not advocate any unlawful action.

9.9 Ink

All indicia printed by Generation 1 postage evidencing systems must be printed with fluorescent ink. Failure to use fluorescent ink may lead to the revocation of the user's license. Generation 2 postage evidencing systems must use fluorescence to ensure that the mail is faced during processing, unless otherwise approved by the manager of Postage Technology Management (G043). Generation 2 postage evidencing systems that do not print with fluorescent ink must use an alternative USPS-approved method to ensure that the mail is faced during processing. Approved methods include use of a facing identification mark (FIM) for indicia printed directly on letter-size First-Class Mail (9.10) or printing indicia on USPS-approved labels (9.11). The ink or alternative facing method used is specified in the indicia approval granted by the manager of Postage Technology Management, USPS Headquarters.

9.10 Facing Identification Mark

The facing identification mark (FIM) serves to orient and separate certain types of First-Class Mail during the facing and canceling process. Letter-size First-Class Mail with IBI printed with nonfluorescent ink directly on the envelope by an IBI Meter or a PC Postage system must bear a USPS-approved FIM D unless it is courtesy reply mail. The FIM must meet the format, dimensions, print quality, and placement specified in C100.5.

9.11 Adhesive Label or Tape

When indicia are printed on adhesive tape or on a label for application to the mailpiece, the tape or label used, including the label stock itself as well as the use of fluorescent ink to print indicia and the format and placement of any fluorescence on the label stock, must be approved by the manager of Postage Technology Management, USPS Headquarters. Failure to use the label approved by the USPS may result in revocation of the postage evidencing system license. The label must meet the following requirements:

a. The label must be a pressure-sensitive, permanent label. The label is subject to the corresponding standards in C810.6.2 for minimum peel adhesion. The applied label must adhere well enough that it cannot be removed in one piece. A face stock/liner label (also called a ''sandwich'' label) must not be used for printing indicia for postage evidencing.

b. The label must meet the reflectance requirements in C840.5.0.

c. The label must be large enough to contain the entire indicia.

d. Indicia printed on a label must be the same as the indicia approved by the manager of Postage Technology Management for printing directly on an envelope. The label must not include any image or text other than those allowed by USPS regulation, unless approved by the manager of Postage Technology Management.

e. For labels or tapes applied to standard letter-size envelopes and postcards sent as First-Class Mail, the indicia must be printed with fluorescent ink (9.9), or the label must have fluorescent tagging that is sufficient to enable the USPS to face and process the mail, as verified by postal testing of each label design. The fluorescent tagging must meet a minimum fluorescent emission intensity of at least 20 phosphor meter units (PMUs), with a maximum of 70 PMUs. The visible color of the fluorescent tagging may be any color that meets the fluorescence requirements. The fluorescent tagging shall exhibit no noticeable change (i.e., no more than 10%) in its emission when exposed to elevated temperature and high humidity conditions.

f. The label must be placed on the envelope so that the position of the indicium meets the requirements in 9.3.

g. When a label is applied to an envelope that already has a FIM, the label must not cover the existing FIM.

9.12 Complete Date

Indicia must include the month, day, and year for all First-Class Mail, registered, certified, insured, COD, and special handling mail, whether the indicia is printed directly onto the mailpiece or onto a separate label or tape. For prepaid reply postage see 10.4. The date format must be in accordance with 9.6. The year must be represented by four digits. The date (day, month, or year) may be shown in indicia for Standard Mail and Package Services, except that labels for use with a PC Postage system must include the month, day, and year in all uses.

9.13 Date Accuracy

The date of mailing in the indicium must be the actual date of deposit, except that mail entered after the day's last scheduled collection from the licensing post office or collection box may bear the actual date of entry or the date of the next scheduled collection from the licensing post office or collection box. Authorized dispatch-prepared presort mail accepted after midnight may bear the previous day's date. When the licensee knows the mail will not be tendered to the USPS on the date of mailing shown in the indicium, the user should use a date correction indicium (10.1).

10.0 SPECIAL INDICIA

10.1 Date Correction or Redate

A date correction or redate indicium is required for any mailpiece not deposited by the date of mailing in the indicium as required by 9.13. Only one date correction indicium is permitted on a mailpiece. The date correction or redate indicium may be printed on a USPS-approved label instead of directly on the mailpiece. Formats are as follows:

a. For all postage evidencing systems except PC Postage systems, a date correction must show the actual date of deposit and zero postage value (''0.00''). The date correction is placed on the nonaddress side in the upper right corner or on the address side in the lower left corner of letter-size mail. On flats or parcels, it must be placed next to the original indicium. The mailer may use an ink jet printer to correct the date in the indicia on pieces in barcoded mailings if the text, preceded by two asterisks and showing the actual

date of deposit, city, state, and 3-digit ZIP Code of the mailing office, is placed above the address block and below the indicia.

b. For PC Postage systems, a date correction or redate indicium includes only the actual date of deposit and the word ''REDATE,'' instead of a postage value. On letter-size mail, redate indicia must be placed on the nonaddress side at least 3/4 inch from the bottom edge of the mailpiece and not on an envelope flap. On flats or parcels, it must be placed next to the original indicium. The redate or date correction must not include the FIM or the two-dimensional barcode.

10.2 Postage Correction

Indicia for additional postage must be placed on a shortpaid mailpiece to correct postage. The postage correction may be printed on a USPS-approved label instead of directly on the mailpiece and must contain all of the elements required for indicia in 9.5. Formats are as follows:

a. For all postage evidencing systems except for PC Postage systems, the postage correction indicium is placed on the nonaddress side in the upper right corner or on the address side in the lower left corner of letter-size mail. On flats or parcels, it must be placed next to the indicium.

b. For a PC Postage system, the word ''CORRECTION'' must be printed in the postage correction and it must not include a FIM. On letter-size mail, the PC Postage correction indicium must be printed on the nonaddress side at least 3/4 inch from the bottom edge of the mailpiece and not on an envelope flap. On flats or parcels, it must be placed next to the original indicium. The postage correction indicium may be printed on a USPS-approved label instead of directly on the mailpiece.

10.3 APO/FPO Meters

Postage evidencing systems used by military (APO/FPO) post offices must show the military branch and address format for each location (e.g., ''ARMY APO AE 09102''). Exceptions are made only for postage evidencing systems used in fleet post offices on board U.S. naval vessels that may show the name of the ship instead of the standard wording for Navy meters (e.g., ''USS SARATOGA (CV–60) 34078–2740'').

10.4 Reply Postage

Indicia generated by any postage evidencing system may be used to prepay reply postage on Express Mail; on Priority Mail when the rate is the same for all zones; on First-Class Mail cards, letters, and flats up to a maximum of 13 ounces; and on single-piece-rate Media Mail and Library Mail, under the following conditions:

a. The postage amount must be enough to prepay the postage in full.

b. Indicia may be printed directly on the mailpiece or on a label and must be positioned in accordance with 9.3. An applied label must meet the standards in 9.11 and must adhere well enough that it cannot be removed in one piece.

c. Indicia used to prepay reply postage, except for IBI generated by a PC Postage system, must not show the date.

d. IBI generated by a PC Postage system to prepay reply postage must show the date the licensee printed the indicium and must include the words ''REPLY POSTAGE.''

e. The mailpiece must be pre-addressed for return to the licensee. Prepaid reply mail is delivered only to the address of the licensee. When the address is altered, the mail is held for postage.

f. Except for those PC Postage systems with the capability to print an address for the given class or size of mailpiece, the address side of reply mail may be prepared by any photographic, mechanical, or electronic process or combination of such processes (other than handwriting, typewriting, or handstamping). For those PC Postage systems with the capability to print destination addresses for the given size and class of mailpiece, the address must be prepared using the PC Postage system.

g. The words ''NO POSTAGE STAMP NECESSARY POSTAGE HAS BEEN PREPAID BY'' must be printed above the address.

h. For barcoded letter-size First-Class Mail reply mail for all postage evidencing systems except PC Postage, FIM C is used (C100.5). For PC Postage, FIM D is required for prepaid reply mail when the indicium is printed directly on the mailpiece.

i. The address side must follow the style and content as described in this section and shown in the example below. Nothing may be added except a return address, FIM, or barcode.

11.0 MAILINGS

11.1 Preparation of Metered Mail

Metered mail is subject to the preparation standards that apply to the class of mail and rate claimed.

11.2 Notification of Metered Mailings Presented in Bulk

Mailers who present presorted First-Class Mail, Standard Mail, Parcel Post in bulk quantities, Presorted Bound Printed Matter, Carrier Route Bound Printed Matter, or Presorted Media Mail using metered postage must complete Form 3615. Completion of this form is for record keeping only. If an applicant has a completed Form 3615 on file for other services, notification to present metered mail in bulk is annotated on the existing application. There is no fee for this service.

11.3 Combination

Metered mail may be combined in the same mailing with mail paid by other methods only if authorized by the USPS.

11.4 Where To Deposit

Except as noted below, the licensee must deposit metered mail at a post office acceptance unit, retail unit, or other location designated by the postmaster of the licensing post office (i.e., the post office shown in the indicia) and may not give it to a delivery employee or deposit it in a street collection box, mailchute, receiving box, cooperative mailing rack, or other mail collection receptacle. The USPS allows the following exceptions to this general standard:

a. Express Mail, Priority Mail (in a weight category for which rates do not vary by zone), and single-piece-rate First-Class Mail may be deposited in any street collection box or other such place where mail is accepted, except that certain special services require that the mail be presented directly to a USPS employee (see S900).

b. If facilities for acceptance are not available locally, customer-metered Express Mail may be mailed at an Express Mail acceptance facility under the jurisdiction of another office.

c. Metered mail may be deposited at other than the licensing post office under D072.

d. International mail weighing less than 16 ounces may be deposited in any street collection box in accordance with the regulations for domestic mail.

e. International mail that requires a customs declaration, or that weighs 16 ounces or more, must be given directly to a USPS employee at the licensing post office or other location designated by the postmaster. Otherwise, the mail will be returned to the sender for proper entry and acceptance. See the International Mail Manual (IMM) for additional information.

f. A licensed user authorized to use an APO or FPO as the licensing post office can deposit mail only at the licensing APO or FPO.

g. All other licensee's who have USPS approval to use a postage evidencing system outside the country can deposit mail only at their domestic licensing post office.

11.5 Irregularities

The USPS examines metered mail to detect irregularities in preparation and dating.

12.0 AUTHORIZATION TO PRODUCE AND DISTRIBUTE METERS (POSTAGE EVIDENCING SYSTEMS)

Title 39, Code of Federal Regulations, part 501, contains information concerning authorization to produce and distribute postage meters (postage evidencing systems); the suspension and revocation of such authorization; performance standards, test plans, testing, and approval; required production security measures; and standards for distribution and maintenance. Further information may be obtained from the manager of Postage Technology Management, USPS Headquarters (see G043 for address).

An appropriate amendment to 39 CFR part 111 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–20558 Filed 8–14–01; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 147/177–4126b; FRL–7032–4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revision was submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for four major sources of nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revision 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 14, 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.

FOR FURTHER INFORMATION CONTACT: Michael Ioff at (215) 814–2166, the EPA Region III address above or by e-mail at Ioff.mike@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. 01–20497 Filed 8–14–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 697

[I.D. 080601B]

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Application for Exempted Fishing Permit (EFP)

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

ACTION: Notification of a request for EFPs to harvest horseshoe crabs; request for comments.

SUMMARY: NMFS announces that the Assistant Administrator for Fisheries is considering issuing an EFP to Limuli Laboratories to conduct experimental fishing operations otherwise restricted by the regulations prohibiting the harvest of horseshoe crabs in the Carl N. Schuster Jr. Horseshoe Crab Reserve (Reserve) located 3 nautical miles (nm) seaward of the mouth of Delaware Bay. NMFS is considering issuing EFPs for the harvest of 10,000 horseshoe crabs total for biomedical purposes and requiring as a condition of each EFP the collection of data on the status of Delaware Bay Horseshoe Crabs within the Reserve. Therefore, this document invites comments on the issuance of an EFP to Limuli Laboratories and establishes a cut-off date for receipt of complete applications for the harvest of horseshoe crabs from the Reserve for biomedical and data collection purposes.

DATES: Comments on this notice and applications for an EFP for biomedical and data collection purposes must be received on or before August 30, 2001.

ADDRESSES: Written comments and complete applications should be sent to and copies of a draft environmental assessment may be requested from Richard H. Schaefer, Chief, Staff Office for Intergovernmental and Recreational Fisheries, NMFS, 8484 Georgia Avenue, Suite 425, Silver Spring, MD 20910. Mark the outside of the envelope ''Comments on Horseshoe Crab EFP Proposal'' or ''Application for Horseshoe Crab EFP.'' Comments or applications may also be sent via facsimile (fax) to (301) 427–2313. Neither comments nor applications will be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Paul Perra, Fishery Biologist (Management), (301) 427–2014.

SUPPLEMENTARY INFORMATION:

Background

The regulations that govern exempted experimental fishing, at 50 CFR 600.745(b) and 697.22 allow the Regional Administrator or Assistant Administrator for Fisheries to authorize for limited testing, public display, data collection, exploration, health and safety, environmental clean-up and/or hazardous removal purposes, and the targeting or incidental harvest of managed species that would otherwise be prohibited. An EFP to authorize such activity may be issued, provided there is adequate opportunity for the public to comment on the EFP application, the conservation goals and objectives of the Fishery Management Plan are not compromised, and issuance of the EFP is beneficial to the management of the species.

The Reserve was established on February 5, 2001 (66 FR 8906) to provide protection for the Atlantic coast stock of horseshoe crab, and to promote the effectiveness of the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan (ISFMP) for horseshoe crab. The final rule prohibited fishing for horseshoe crabs in the Reserve and the possession of horseshoe crabs on a vessel with a trawl or dredge aboard while in the Reserve. The rule did not allow for any biomedical harvest or the collection of fishery dependent data, unless an EFP is issued. However, in the comments and responses section, NMFS stated that it would consider issuing EFPs for the biomedical harvest of horseshoe crabs from the Reserve.

The biomedical industry collects horseshoe crabs, removes approximately 30 percent of their blood, and returns them alive to the water. Approximately 10 percent do not survive the bleeding process. The blood contains a reagent called Limulus Amebocyte Lysate (LAL) that is used to test injectable drugs and medical devices for bacteria and bacterial by-products. Presently, there is no alternative to LAL derived from the horseshoe crab.

NMFS manages horseshoe crabs in the exclusive economic zone in close cooperation with the Commission. The Commission's Horseshoe Crab Management Board met on April 21, 2000, and recommended that biomedical companies with a history of collecting horseshoe crabs in the Reserve be given an exemption to continue their historic levels of collection not to exceed a combined harvest total of 10,000 crabs annually. The Commission's Horseshoe Crab Plan Review Team has reported that biomedical harvest of up to 10,000 horseshoe crabs should be allowed to continue in the Reserve because the resulting mortality should be about 1,000 horseshoe crabs (10 percent mortality during bleeding process). Also, the Commission's Horseshoe Crab Stock Assessment Committee Chairman recommended that, in order to protect the Delaware Bay horseshoe crab population from over-harvest or excessive collection mortality, no more than a maximum of 20,000 horseshoe crabs should be collected for biomedical purposes from the Reserve. In addition to the direct mortality of horseshoe crabs that are bled, it can be expected that more than 20,000 horseshoe crabs will be trawled up and examined for LAL processing. This is because horseshoe crab trawl catches usually have varied sizes of horseshoe crabs and the large female horseshoe crabs are the ones selected for LAL processing. The unharvested horseshoe crabs are released at sea with some unknown amount of mortality due to the trawling operation.

Collection of horseshoe crabs for biomedical purposes from the Reserve is necessary because of the low numbers of horseshoe crabs found along the New Jersey Coast from August through October and in light of the critical role horseshoe crab blood plays in proper health care. In conjunction with the biomedical harvest, NMFS is considering requiring significant scientific data gathered from the horseshoe crabs collected in the Reserve as a condition of receiving an EFP. Since the Reserve was established on February 5, 2001, no fishery data has been collected from this area. This data is needed to improve the understanding of horseshoe crabs in the Delaware Bay area and to better manage the horseshoe crab resource under the cooperative state/Federal management program. The information collected through the EFP will be provided to NMFS, the State of New Jersey, and the Commission.

Proposed EFP

The proposed EFP would exempt one commercial vessel from regulations at 50 CFR 697.7(e), which prohibits fishing for horseshoe crabs in the Reserve described in § 697.23(f)(1) and prohibits possession of horseshoe crabs on a vessel with a trawl or dredge aboard in the same Reserve.

The Limuli Laboratories of Cape May Court House, in cooperation with Dr. Carl N. Schuster, Jr., and the State of

New Jersey's Division of Fish and Wildlife, submitted an application for an EFP on April 11, 2001. NMFS has made a preliminary determination that the subject EFP contains all the required information and warrants further consideration. NMFS has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Federal horseshoe crab regulations and the Commission's Horseshoe Crab ISFMP.

The regulations at 50 CFR 600.745(b)(3)(v) authorize NMFS to attach terms and conditions to the EFP's consistent with the purpose of the exempted fishery, the objectives of the horseshoe regulations and fisheries management plan, and other applicable law. NMFS is considering terms and conditions such as:

(1) Allowing up to five vessels to collect horseshoe crabs from the Reserve. Five vessels are considered the maximum number because of the difficulty in enforcing the terms and conditions of the EFPs and the Reserve's regulations if more vessels are allowed to harvest horseshoe crabs from the Reserve;

(2) Requiring collection under an EFP to take place over approximately 20 days during the months of August, September, and October. Horseshoe crabs are readily available in harvestable concentrations nearshore earlier in the year, and offshore in the Reserve later in the year;

(3) Requiring a 5 and ½ inch flounder net to be used by these vessels to collect the horseshoe crabs. This condition would allow for continuation of traditional harvest gear and adds to the consistency in the way horseshoe crabs are harvested for data collection;

(4) Limiting trawl tow times to 30 minutes as a conservation measure to protect sea turtles, which are expected to be migrating through the area during the collection period, and are vulnerable to bottom trawling;

(5) Limiting the number of horseshoe crabs collected by any one vessel to 500 per day and limiting the total number of horseshoe crabs to be taken out of the Reserve to no more than 10,000 per year;

(6) Restricting the hours of fishing to daylight hours only, approximately from 7:30 a.m. to 5:00 p.m. will aid law enforcement. NMFS also is considering a requirement that the State of New Jersey Law Enforcement be notified daily when and where the collection will take place; and

(7) Requiring that the collected horseshoe crabs be picked up from the fishing vessels at docks in the Cape May Area and transported to local laboratories, bled for LAL, and released the following morning alive back to Lower Delaware Bay.

Also as part of the terms and conditions of the EFP, for all horseshoe crabs bled for LAL, NMFS is considering a requirement that EFP holders provide information on sex ratio, daily numbers, and tag 10 percent of the horseshoe crabs harvested. Also, EFP holders may be required to provide photographic documentation of physical appearance and to examine at least 200 horseshoe crabs for:

a. Morphometric data, by sex- e.g. interocular (I/O) distance and weight, and

b. Level of activity, as measured by a response or by distance traveled after release on a beach.

Based on the results of this EFP, this action may lead to future rulemaking.

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

Dated: August 8, 2001.

Dean Swanson,

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

[FR Doc. 01–20437 Filed 8–14–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 080201E]

RIN 0648–AM40

Fisheries of the Exclusive Economic Zone Off Alaska; License Limitation Program for Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of availability; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 67 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI). Amendment 67 is necessary to stabilize the fully utilized fixed gear Pacific cod fishery in the BSAI. This will be accomplished by issuing endorsements for exclusive access to longtime participants. The intended effect of Amendment 67 is to conserve and manage the Pacific cod resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS is requesting comments from the public on Amendment 67, copies of which may be obtained from the Council (see **ADDRESSES**).

DATES: Comments on Amendment 67 must be submitted by October 15, 2001.

ADDRESSES: Comments on proposed Amendment 67 should be submitted to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn: Lori Gravel, or delivered to room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments will not be accepted if submitted via e-mail or Internet. Copies of Amendment 67 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared for Amendment 67 are available from the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501; telephone 907–271–2809.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907–586–7228 or e-mail at john.lepore@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each Regional Fishery Management Council submit any fishery management plan or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, after receiving a fishery management plan or plan amendment, immediately publish a notice in the **Federal Register** that the fishery management plan or plan amendment is available for public review and comment. This action constitutes such notice for Amendment 67 to the BSAI FMP. NMFS will consider the public comments received during the comment period in determining whether to approve Amendment 67.

Background

The Council recommended, and NMFS approved, the License Limitation Program (LLP) to address concerns of excess capital and capacity in the groundfish and crab fisheries off Alaska. Fishing under the LLP began on January 1, 2000. More information on the specifics of the LLP and the problems it was designed to resolve can be found in the final rule implementing the LLP (63 FR 52642, October 1, 1998).

The LLP, as implemented on January 1, 2000, was always considered by the Council and NMFS as an initial stage in a multi-staged process designed to reduce capacity and capital in the

affected fisheries. The LLP requires that a person hold a license to participate in the groundfish fishery. Under the original provisions of the LLP, a groundfish license was specific as to the area in which a person could participate, but not as to the gear or species. The Council anticipated that specific fisheries within the LLP complex of fisheries would need further management controls to respond to concerns of overutilization. One such example is the fixed gear Pacific cod fisheries in the BSAI.

In 1996, the Council recommended Amendment 46 to the BSAI FMP. Amendment 46 allocated the total allowable catch (TAC) for BSAI Pacific cod among participants who used jig gear (2 percent), trawl gear (47 percent), and fixed gear (51 percent). Amendment 46 further split the trawl gear allocation equally between catcher vessels and catcher/processor vessels. Amendment 46 was approved by NMFS, and implemented in January 1997 (61 FR 59029, November 20, 1996).

Although Amendment 46 initiated a process to address issues regarding the allocation of BSAI Pacific cod fisheries among various participants, it did not address all issues. Issues that were not increased included prices for Pacific cod, reduced crab guideline harvest levels, shortened or cancelled crab seasons due to low resource abundance, and intensified use of Pacific cod resources by participants using pot gear.

In response to these issues, the Council recommended Amendment 64. Amendment 64, approved by NMFS and implemented by final rule in September 2000 (65 FR 51553, August 24, 2000), further divided the 51 percent of the TAC for BSAI Pacific cod allocated to fixed gear as follows: Hook-and-line catcher/processor vessels, 80 percent; hook-and-line catcher vessels, 0.3 percent; pot gear vessel, 18.3 percent; and hook-and-line or pot catcher vessels less than 60 ft (18.3 meters (m))(length overall (LOA), 1.4 percent. Amendment 64 also contained specific provisions for the accounting of directed fishing allowances and the transfer of unharvested amounts of these allowances.

Both Amendments 46 and 64 established allocations for different gear sectors of the BSAI Pacific cod fisheries. However, neither amendment prevented movement among those sectors or the entrance of new participants who held a groundfish license for the BSAI into BSAI Pacific cod fisheries.

In April 1999, the Council initiated an analysis to add Pacific cod endorsements to BSAI groundfish licenses to address the concern of new participants and movement among fixed gear sectors. This analysis reviewed the status of Pacific cod stocks and catch, the history of Pacific cod allocations, and the economic, social, and environmental impacts of various limited access alternatives. A copy of this analysis can be obtained for further review (see **ADDRESSES**).

In April 2000, the Council recommended its preferred alternative for the BSAI Pacific cod fixed gear fisheries (Amendment 67). Amendment 67 is currently being reviewed by NMFS for approval.

Amendment 67

As explained, the BSAI fixed gear Pacific cod fisheries are fully utilized; therefore, any new participant increases the competition for an already fully utilized resource. Although new participants are often discouraged from entering a fishery that is already fully utilized, the current economics of the Pacific cod fishery and the downturn in the crab fisheries have provided incentives for new participants to enter the BSAI Pacific cod fixed gear fishery.

The Council reviewed various alternatives to limit entry into the BSAI Pacific cod fixed gear fisheries. These alternatives were designed to prevent a person who holds a groundfish license, but who has not participated in the BSAI fixed gear Pacific cod fisheries in the past, or who has not participated at a level that could constitute significant dependence on those fisheries, from participating in those fisheries in the future.

After receiving public testimony concerning this action, the Council recommended requiring a Pacific cod endorsement to harvest Pacific cod in the BSAI directed fishery with fixed gear. A Pacific cod endorsement would also be required to harvest Pacific cod in the commercial bait fishery. Eligibility for a Pacific cod endorsement would be based on past participation in the fishery. Four different endorsements would be available, depending on the fixed gear used to harvest the Pacific cod (longline or pot), and whether or not the Pacific cod was processed on board the harvesting vessel (catcher vessel or catcher/processor vessel).

The Council recommended that the years 1995 through 1999 be used as past participation for Pacific cod endorsements, except for hook-and-line catcher processors for which the qualifying years would be 1996, 1997, 1998, or 1999. The Council also recommended minimum landing amounts that had to be achieved in those years to qualify for a specific Pacific cod endorsement. Properly documented harvests of Pacific cod, including commercial bait landings, would count toward the landing requirements for a Pacific cod endorsement. A Pacific cod endorsement would not be required to harvest Pacific cod for personal use bait.

The Council recommended several exemptions to the Pacific cod endorsement requirement. A license holder deploying a catcher vessel less than 60 ft (18.3 m) LOA to conduct directed fishing for BSAI Pacific cod with fixed gear does not need a Pacific cod endorsement on his or her groundfish license. The Council decided to exempt this class of vessels because of concern over the ability of small entities to compete under the current fishery management regime. Also, exemptions to the LLP apply to the Pacific cod endorsement. That means that a vessel that is exempt from the LLP does not need a groundfish license with a Pacific cod endorsement aboard to conduct directed fishing for BSAI Pacific cod with fixed gear. These exemptions include: (1) less than 32 ft (9.75 m)LOA general exemption to the LLP; and (2) the less than 60 ft (18.3 m)LOA jig vessel exemption to the LLP. Specific information concerning these exemptions can be found at 50 CFR 679.4 (k)(2).

The Council recommended that a person be allowed to combine catch histories only when the vessel that was used as the basis of eligibility for the original groundfish license sank and was replaced with another vessel. The Council decided not to allow any other combining of catch histories because of the potential of increasing participation in an already fully utilized resource. The Council determined that allowing for the combining of catch histories in the limited circumstances of sunken vessels would not greatly increase the number of participants. However, it would provide equitable consideration to those persons who would have participated if their vessels had not sunk.

Another provision recommended by the Council concerns unavoidable circumstances. This hardship provision is similar to one provided for general LLP eligibility and would enable a person to receive a Pacific cod endorsement even though that person would not qualify for an endorsement based on landings. Please refer to proposed Amendment 67 and the analysis for Amendment 67 for further details concerning eligibility requirements, exemptions, and other provisions (see **ADDRESSES**).

Public comments are being solicited on Amendment 67 through the end of

the comment period specified in this notice. A proposed rule that would implement Amendment 67 may be published in the **Federal Register** for public comment following evaluation by NMFS under Magnuson-Stevens Act procedures. All comments received by the end of the comment period specified in this notice, whether specifically directed to Amendment 67 or to the proposed rule, will be considered in the decision to approve, disapprove, or partially approve Amendment 67.

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

Dated: August 8, 2001.

Richard W. Surdi,

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

[FR Doc. 01–20436 Filed 8–14–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 66, No. 158

Wednesday, August 15, 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

National Agricultural Statistics Service

Notice of Intent To Request an Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the intent of the National Agricultural Statistics Service (NASS) to request an extension of a currently approved information collection, Livestock Surveys, that expires December 31, 2001.

DATES: Comments on this notice must be received by October 19, 2001 to be assured of consideration.

ADDRESSES: Comments may be sent to Ginny McBride, NASS OMB Clearance Officer, U.S. Department of Agriculture, Room 5330B South Building, 1400 Independence Avenue, SW., Washington, DC 20250–2024 or gmcbride@nass.usda.gov.

FOR FURTHER INFORMATION CONTACT: Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Livestock Surveys.

OMB Control Number: 0535–0005.

Approval Expires: December 31, 2001.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue state and national estimates of crop and livestock production. The Livestock survey program collects information on livestock numbers and livestock slaughter. Livestock inventory numbers for breeding and marketing animals provide producers and the rest of the industry with current and future information on market supplies. This information facilitates more orderly production, marketing and processing of livestock and livestock products. Slaughter totals are used to estimate U.S. red meat production and reconcile inventory estimates. The Livestock program was approved by OMB for a 3-year period in 1998. NASS intends to request that the survey be approved for another 3 years.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 11 minutes per response.

Respondents: Farmers and Meat Inspectors.

Estimated Number of Respondents: 117,000.

Estimated Total Annual Burden on Respondents: 21,450 hours.

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.

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 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.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, D.C., August 9, 2001.

Ron Bosecker,

Administrator.

[FR Doc. 01–20502 Filed 8–14–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Local Dial-Up Internet Grants

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of funds availability.

SUMMARY: The Rural Utilities Service (RUS) announces a new grant program and the availability of grant funds under this program to finance the acquisition, construction and installation of equipment, facilities and systems to provide dial-up Internet access services in rural America. The President of the United States and the United States Congress have made $2 million in grant funds available, through a Pilot Program, to encourage eligible entities to provide Internet service to rural consumers where such service does not currently exist. This program will provide grant funds, on a competitive basis, to entities serving communities up to 20,000 inhabitants to ensure rural consumers enjoy the same quality and range of telecommunications services that are available in urban and suburban communities. Applications for grant funds will be accepted through November 13, 2001.

DATES: Applications for grants will be accepted as of the date of this notice through November 13, 2001. All applications must be delivered to RUS or bear postmark no later than November 13, 2001. Comments regarding the information collection requirements under the Paperwork Reduction Act must be received on or before October 15, 2001, to be assured of consideration.

ADDRESSES: Applications are to be submitted to the Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 1590, Room 40 South Building, Washington, DC 20250–1590. Comments regarding the information collection requirements may be sent to F. Lamont Heppe, Jr., Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400

Independence Ave., SW., Stop 1522, Room 4034 South Building, Washington, DC 20250–1522.

FOR FURTHER INFORMATION CONTACT: Roberta D. Purcell, Assistant Administrator, Telecommunications Program, Rural Utilities Service, 1400 Independence Avenue, SW., Stop 1590, Washington, DC 20250–1590, Telephone (202) 720–9554, Facsimile (202) 720–0810.

SUPPLEMENTARY INFORMATION:

Information Collection and Recordkeeping Requirements

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), RUS invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB). These requirements have been approved by emergency clearance under OMB Control Number 0572–0125.

Comments on this notice must be received by October 15, 2001.

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 will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumption 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 F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Stop 1522, Room 4034 South Building, Washington, DC 20250–1522.

Title: Local Dial-Up Internet Grant Program.

Type of Request: New collection.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 33.5 hours per response.

Respondents: Public bodies, commercial companies, cooperatives, nonprofits, and limited dividend or mutual associations and must be incorporated or a limited liability company.

Estimated Number of Respondents: 25.

Estimated Number of Responses per Respondent: 20.

Estimated Total Annual Burden on Respondents: 1,005 hours.

Copies of this information collection can be obtained from Michele Brooks, Program Development and Regulatory Analysis, at (202) 690–1078.

All responses to this information collection and recordkeeping notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

General Information

For FY 2001, $2 million in grants will be made available for the construction and installation of facilities and for other costs as RUS deems necessary to provide dial-up Internet services in rural areas. This program is authorized by 7 U.S.C. 950aaa.

Applications

Applications will be accepted as discussed previously in the **DATES** section of this notice. All interested parties are strongly encouraged to contact the Rural Utilities Service official listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice to discuss its financial needs and eligibility, prior to sending an application to the address listed in the **ADDRESSES** section of this notice. Applications will be scored and processed on a competitive basis.

Use of Grant Funds

Grant funds may be used to finance the acquisition, construction, and installation of equipment, facilities, and systems to provide dial-up Internet service in rural areas. Grant funds may also be used to fund lease costs for transmission equipment, facilities, and systems for up to two years.

Size of Grants

The maximum amount of a grant award to an applicant under this program is $400,000. The minimum amount to be considered is $10,000.

Definition of Internet

As used in this notice, the term *Internet* means a world wide collection of interconnected computer networks and users that share a compatible means of interacting with one another for the purpose of exchanging electronic data.

Definition of Dial-Up Internet Services

As used in this notice, the term *dial-up Internet services* means providing Internet access via local dial tone access with no toll or long distance charges.

Definition of Rural Area

As used in this notice, *rural area* means any area of the United States not included within the boundaries of any incorporated or unincorporated city, village, or borough having a population in excess of 20,000 inhabitants.

Grant Terms

For FY 2001, $2 million in grants will be made available to eligible applicants. Grants will be awarded to eligible applicants based on their score (starting with the highest scoring application) in comparison to other applications until the $2 million appropriation is utilized in its entirety. The grants will be awarded on a competitive basis, based on the scoring criteria outlined below.

Eligible Applicants

Grants may be made to legally organized entities providing, or proposing to provide, dial-up Internet services in rural areas. Eligible entities may be public bodies, commercial companies including limited liability companies, cooperatives, nonprofits, and limited dividend or mutual associations.

Matching Funding

No match funding is required.

RUS Findings

Project Sustainability. An applicant shall provide RUS with satisfactory evidence to enable the Administrator to determine that the project utilizing grant funds will be sustainable for a minimum of five years. Factors used in making this determination include, but are not limited to:

(1) Evidence of sufficient revenues from the system in excess of operating expenditures (including maintenance and replacement); and

(2) Reasonable assurance of achieving market penetration projections upon which the grant is based.

Grant Application

Application should be prepared in conformance with the provisions of this notice and applicable USDA regulations including 7 CFR parts 3015, 3016, and 3019. Applicants must submit a completed Standard Form 424, ''Application for Federal Assistance,'' a narrative grant proposal, and all required supporting information and documents. An application must include a project description that contains plant designs, a subscriber forecast, and the basis for that forecast. The narrative must also specifically and clearly address the scoring criteria set out below. Other items include:

(1) Certified financial statements, if available;

(2) 5 years of pro-forma financial information, evidencing the sustainability of the project;

(3) An environmental report, satisfactory to RUS;

(4) Depreciation rates, based on current industry standards, for the equipment being financed (acceptance of such rates will be subject to RUS approval);

(5) A sketch or map showing existing and proposed service areas;

(6) A description of the current level of service available;

(7) Information on the owners and principal employees' relevant work experience that would ensure the success of the project; and

(8) All other required forms for Federal assistance and compliance with other applicable Federal statutes.

Review of Grant Applications

All applications for grants must be delivered to RUS at the address listed above or postmarked no later than November 13, 2001 to be considered eligible for FY 2001 grant funding. RUS will review each application for conformance with the provisions of this Notice. RUS may contact the applicant for additional information or clarification. Incomplete applications will not be considered. Applications conforming with this Notice will then be evaluated competitively by a panel of RUS employees selected by the Administrator and points awarded as described in the Scoring Criteria section below. The applications will be ranked and grants awarded in rank order until all grant funds are expended.

Scoring Criteria

Grant awards will be made based on the following scoring criteria as determined by RUS:

(1) *The need for services and benefits derived from services (up to 40 points).* This criterion will be used by RUS to score applications based on the documentation in support of the need for services, benefits derived from the services proposed by the project, and local community involvement in planning, implementing, and financial assistance of the project. RUS will consider the extent of the applicant's documentation explaining the challenges facing the community; the applicant's proposed plan to address these challenges; how the grant can help; and why the applicant cannot complete the project without a grant.

(2) *The economic need of the applicant's service area as determined by per capita personal income by County, as determined by the Bureau of Economic Analysis, U.S. Department of Commerce, at www.bea.doc.gov/bea/regional/reis/ (up to 40 points).* Applicants will be awarded points as outlined below for service provided in each county where the per capita personal income (PCI) is less than 70 percent of the national average per capita personal income (NAPCI):

(i) PCI is 70 percent or greater of NAPCI; 0 points;

(ii) PCI is less than 70 percent and greater than 60 percent of NAPCI; 10 points;

(iii) PCI is less than 60 percent and greater than 50 percent of NAPCI; 20 points;

(iv) PCI is less than 50 percent and greater than 40 percent of NAPCI; 30 points;

(v) PCPI is less than 40 percent of NAPCPI; 40 points;

If an applicant proposes significant service in more than one county, an average score will be calculated based on each counties' individual scores.

(3) *Project services USDA designated EZ/ECs (Empowerment Zone and Enterprise Communities) (10 points) or USDA designated Champion Communities (5 points).*

Dated: August 9, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

[FR Doc. 01–20560 Filed 8–14–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Bureau: International Trade Administration.

Title: Information on Articles for Physically or Mentally Handicapped Persons Imported Free of Duty.

Agency Form Number: ITA–362P.

OMB Number: 0625–0118.

Type of Request: Revision-Regular Submission.

Burden: 304 hours.

Number of Respondents: 380.

Avg. Hours Per Response: 4 minutes.

Needs and Uses: Congress, when it enacted legislation to implement the Nairobi Protocol to the Florence Agreement, included a provision for the Departments of Commerce and Treasury to collect information on the import of articles for the handicapped. Form ITA–362P, Information on Articles for Physically or Mentally Handicapped Persons Imported Free of Duty, is the vehicle by which statistical information is obtained to assess whether the duty-free treatment of articles for the handicapped has had a significant adverse impact on a domestic industry (or portion thereof) manufacturing or producing a like or directly competitive article. Without the collection of data, it would be almost impossible for a sound determination to be made and for the President to appropriately redress the situation.

Affected Public: Businesses or other for-profit, not-for-profit institutions, state, local or tribal governments, federal government, individuals or households.

Frequency: On Occasion.

Respondent's Obligation: Required to obtain or retain a benefit, voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution, NW., Washington, DC 20230 or via internet at MClayton@doc.gov.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503 within 30 days of the publication of this notice in the **Federal Register**.

Dated: August 9, 2001.

Madeleine Clayton,

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

[FR Doc. 01–20452 Filed 8–14–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Export Administration (BXA), Commerce.

Title: Foreign Availability Procedures and Criteria.

Agency Form Number: None.

OMB Approval Number: 0694–0004.

Type of Request: Extension of a currently approved collection of information.

Burden: 510 hours.

Average Time Per Response: 105 to 120 hours per response.

Number of Respondents: 2 respondents.

Needs and Uses: The office identifies foreign goods and technology analogous to American equipment subject to export controls. The foreign equipment must be available in sufficient quantities to controlled destinations. Continued restrictions on exports when comparable items are available from uncontrollable sources decreases U.S. competitiveness in high-technology industries and undermines U.S. national security interests. Without this information from the exporting community, the U.S. could easily lose its competitiveness in foreign markets.

Affected Public: Businesses or other for-profit institutions.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: August 10, 2001.

Madeleine Clayton,

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

[FR Doc. 01–20561 Filed 8–14–01; 8:45 am]

BILLING CODE 3570–JT–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Export Administration (BXA), Commerce.

Title: Approval of Triangular Involving Commodities Covered By A U.S. Import Certificate.

Agency Form Number: None.

OMB Approval Number: 0694–0009.

Type of Request: Extension of a currently approved collection of information.

Burden: 1 hour.

Average Time Per Response: 30 minutes per response.

Number of Respondents: 1 respondent.

Needs and Uses: The triangular symbol will be stamped on the certificate as notification that the importer does not intend to import or retain the items in the country issuing the certificate, but that, in any case, the items will not be delivered to any other destination except in accordance with the EAR. If this procedure were not followed, strategic commodities could be delivered to unauthorized destinations.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Paul Bugg, (202) 395–3093.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230, or via internet at MClayton@doc.com.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Dave Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: August 10, 2001.

Madeleine Clayton,

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

[FR Doc. 01–20562 Filed 8–14–01; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis (BEA), Commerce.

Title: Annual Survey of Foreign Direct Investment in the United States.

Form Number(s): BE–15 (Long Form), BE–15 (Short Form), and BE–15 Supplement C.

Agency Approval Number: 0608–0034.

Type of Request: Extension of a currently approved collection without any change in the substance or in the method of collection.

Burden: 128,000 hours.

Number of Respondents: 4,975.

Avg Hours Per Response: 26 hours.

Needs and Uses: The U.S. Government requires data from the BE–15 survey to provide reliable, useful, and timely measures of foreign direct investment in the United States, assess its impact on the U.S. economy, and based upon this assessment, make informed policy decisions regarding foreign direct investment in the United States. The data are used to derive annual estimates of the operations of nonbank U.S. affiliates of foreign investors, including their balance sheets; income statements; property, plant, and equipment; external financing; employment and employee compensation; merchandise trade; sales of goods and services; taxes; and research and development (R&D) activity. The data are also used to update similar data for the universe of U.S. affiliates collected once every five years in the BE–12 benchmark survey of foreign direct investment in the United States.

The data from the BE–15 survey complement data from BEA's other ongoing surveys of foreign direct investment in the United States, namely the BE–605 and BE–605 Bank quarterly surveys of transactions and positions between U.S. affiliates and their foreign parents, and the BE–13, Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of the Operating Assets of a U.S. Business Enterprise, Including Real Estate.

Affected Public: U.S. businesses or other for-profit institutions.

Frequency: Annual.

Respondent's Obligation: Mandatory.

Legal Authority: Title 22 U.S.C., Sections 3101–3108, as amended.

OMB Desk Officer: Paul Bugg, (202) 395–3093.

You may obtain copies of the above information collection proposal by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, Office of the Chief Information Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th Street and Constitution Avenue, NW, Washington, DC 20230, or via internet at MClayton@doc.com.

Send comments on the proposed information collection within 30 days of publication of this notice to Paul Bugg, OMB Desk Officer, Room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 10, 2001.

Madeleine Clayton,

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

[FR Doc. 01–20563 Filed 8–14–01; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Census Bureau

Survey of Building and Zoning Permit Systems

ACTION: Proposed collection; comment request

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before October 15, 2001.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to G. Daniel Sansbury, Census Bureau, Room 2105, FOB 4, Washington, DC 20233–6900, (301) 457–1321 (or via the Internet at g.daniel.sansbury@census.gov).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau produces statistics used to monitor activity in the large and dynamic construction industry. These statistics help state and local governments and the Federal Government, as well as private industry, to analyze this important sector of the economy. The accuracy of the Census Bureau statistics regarding the amount of construction authorized depends on data supplied by building and zoning officials throughout the country.

The Census Bureau uses Form C–411 to obtain information from state and local building permit officials needed for updating the universe of permit-issuing places. The questions pertain to the legal requirements for issuing building or zoning permits in the local jurisdictions. Information is obtained on such items as geographic coverage and types of construction for which permits are issued.

The universe of permit-issuing places is the sampling frame for the Building Permits Survey (BPS) and the Survey of Construction. These two sample surveys provide widely used measures of construction activity, including the economic indicators, Housing Units Authorized by Building Permits and Housing Starts.

We plan to make the following changes to the form:

a. Delete two questions:

(1) ''What kind of permits does your office issue?'' and

(2) ''When did your government first begin issuing permits?''

The first question asked for the same information as another question. We no longer need the information requested in the second question.

Add two questions:

(1) ''If the jurisdiction listed in Section A.1 is a county, does your office issue permits for portions of jurisdictions located in other counties?'' and

(2) ''If the jurisdiction listed in Section A.1 is a city, town, village, borough or township, is it in more than one county?''

We plan to request information about permits issued for new residential additions and alterations of buildings.

We need the above information to ensure that we update our universe of permit-issuing places correctly for these types of places.

II. Method of Collection

The form is sent to a jurisdiction when the Census Bureau has reason to believe that a new permit system has been established or an existing one has changed, based on information from a variety of sources including survey respondents, regional councils and Census' Geography Division which keeps abreast of changes in corporate status. Responses typically approach 100 percent.

III. Data

OMB Number: 0607–0350.

Form Number: C–411.

Type of Review: Regular submission.

Affected Public: State and Local Governments.

Estimated Number of Respondents: 2,000 per year.

Estimated Time Per Response: 15 minutes.

Estimated Total Annual Burden Hours: 500 hours.

Estimated Total Annual Cost: The cost to the respondents is estimated to be $8,255.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: August 10, 2001.

Madeleine Clayton,

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

[FR Doc. 01–20564 Filed 8–14–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–502]

Notice of Extension of Time Limit for Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipes and Tubes From Thailand

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

EFFECTIVE DATE: August 15, 2001.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the 1999–2000 antidumping duty administrative review of the antidumping order on certain welded carbon steel pipes and tubes from Thailand until no later than October 9, 2001. This review covers the period March 1, 1999, through February 29, 2000. The extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, ''the Act'').

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, Office of AD/CVD Enforcement 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW.,

Washington, DC 20230, telephone (202) 482–2243.

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).

SUPPLEMENTARY INFORMATION:

Background

On March 11, 1986, the Department published, in the **Federal Register**, an antidumping duty order on circular welded carbon steel pipes and tubes from Thailand (51 FR 8341). On March 16, 2000, the Department published a notice of opportunity to request an administrative review of this order covering the period March 1, 1999, through February 29, 2000 (65 FR 14242). Timely requests for an administrative review of the antidumping duty order with respect to sales by Saha Thai Steel Company, Ltd. (Saha Thai) during the POR were filed by Saha Thai; two importers, Ferro Union Inc. and ASOMA Corp.; and three domestic producers, Allied Tube and Conduit Corporation, Sawhill Tubular Division—AK Steel Inc., and Wheatland Tube Company (collectively, the petitioners). The Department published a notice of initiation of this antidumping duty administrative review on May 1, 2000 (65 FR 25303).

Because the Department determined that it was not practicable to complete this review within the statutory time limits, on November 20, 2000, we published, in the **Federal Register**, a notice of extension of the time limit for the preliminary results of this review (65 FR 69734). As a result, we extended the deadline for the preliminary results to March 31, 2001; however, because this date fell on a non-business day, the preliminary results were issued on April 2, 2001. On April 12, 2001, the preliminary results of review were published in the **Federal Register** (66 FR 18901). From June 4 through 13, 2001, the Department verified the sales and cost questionnaire responses of Saha Thai in Thailand.

Extension of Time Limits for Final Results

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. In the instant case, the Department has determined that it is not practicable to complete the review within the statutory time limit due to the need for analysis of certain complex issues, including the date of sale.

Because it is not practicable to complete this review within the time limits mandated by the Act (245 days from the last day of the anniversary month for preliminary results, 120 additional days for final results), in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the final results an additional 60 days to no later than October 9, 2001.

This notice is issued and published in accordance with section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations.

Dated: August 7, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–20553 Filed 8–14–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–828]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe From Mexico

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

EFFECTIVE DATE: August 15, 2001.

FOR FURTHER INFORMATION CONTACT: Mesbah Motamed or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1382 (Motamed) and (202) 482–3818 (Johnson).

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 of Commerce (''Department'') regulations are to the regulations at 19 CFR part 351 (April 2000).

Preliminary Determination

We preliminarily determine that welded large diameter line pipe (''LDLP'') from Mexico is being sold, or is likely to be sold, in the United States at less than fair value (''LTFV''), as provided in section 733(b) of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

On January 10, 2001, the Department received a petition on LDLP from Mexico in proper form by American Steel Pipe Division of American Cast Iron Pipe Company, Berg Steel Pipe Corporation, and Stupp Corporation (collectively ''petitioners''). The Department received information from the petitioners supplementing the petition on January 22, January 24, January 26, and January 29, 2001.

On January 30, 2001, the Department initiated an antidumping investigation of LDLP from Mexico. *See Notice of Initiation of Antidumping Duty Investigations: Welded Large Diameter Line Pipe from Mexico and Japan,* 66 FR 11266 (February 23, 2001) (*''Notice of Initiation''*). Since the initiation of this investigation the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage. *See Notice of Initiation* at 11267. On February 20, 2001 an interested party, Tubesa, S.A. de C.V., submitted comments on product scope. *See Memorandum from John Drury to Joseph Spetrini: Antidumping Duty Investigations on Certain Welded LDLP Japan and Mexico; Scope Issues,* dated June 19, 2001. On July 18, 2001, the Department received comments from petitioners requesting the exclusion of certain products from the scope. *See Memorandum from Mesbah Motamed to Joseph Spetrini: Antidumping Duty Investigations on Certain Welded LDLP Japan and Mexico; Scope Issues,* dated August 8, 2001.

In response to comments by interested parties the Department has determined that certain welded large diameter line pipe products are excluded from the scope of this investigation. These excluded products are described below (*see* ''Scope of Investigation''). *See also Memorandum from Richard Weible and Edward Yang to Joseph Spetrini, Scope Issues for Welded Large Diameter Line Pipe,* June 19, 2001.

On February 26, 2001, the United States International Trade Commission (''ITC'') informed the Department of its preliminarily determination that there is

a reasonable indication that imports of the products subject to this investigation are materially injuring an industry in the United States producing the domestic like product. *See Certain Welded Large Diameter Line Pipe from Japan and Mexico,* 66 FR 13568 (March 6, 2001).

On February 26, 2001, the Department issued a letter seeking volume and value of sales information to Procarsa S.A. de C.V. (''Procarsa''), Productora Mexicana de Tuberia S.A. de C.V. (''PMT''), Tubacero S.A. de C.V. (''Tubacero''), Tuberia Laguna S.A. de C.V. (''Tuberia''), and Tubesa S.A. de C.V. (''Tubesa''). On March 8, Tubesa submitted its response. On March 9, Tubacero submitted its response. On March 12, 2001, Procarsa and PMT submitted their responses. Tuberia did not respond to the Department's request for information regarding volume and value of sales. On March 20, 2001, the Department limited the respondents in the investigation to Productora Mexicana de Tuberia S.A. de C.V. (''PMT''). *See* ''Selection of Respondents'' discussion below; *see also Respondent Selection Memorandum from Edward Yang to Joseph A. Spetrini, March 20, 2001.*

PMT filed its complete Section A response on March 29, 2001. PMT filed its Sections B and C responses on May 7, 2001. On May 22, 2001, Tubacero, an affiliated producer of subject merchandise, submitted its Section A response, and PMT submitted its supplemental Section A response. On June 12, 2001 Tubacero submitted a supplemental response to Section A. Additionally on June 12, 2001, PMT filed its supplemental response to Sections B and C. On June 15, 2001, Tubacero submitted its Sections B and C response. On June 15, 2001, a U.S. affiliate submitted a Section A response and, on June 18, 2001, submitted a Section C response. On June 20, 2001, the Department collapsed respondent PMT with its affiliate, Tubacero (hereinafter referred to as ''PMT-Tubacero'') (*see* ''Collapsing PMT and Tubacero'' discussion below). PMT-Tubacero submitted additional supplemental Sections A, B, and C responses on July 23, 2001.

On May 22, 2001, petitioners alleged that PMT made home market sales of LDLP at prices below the cost of production (''COP'') during the period of investigation and supplemented their allegation on May 25, May 29, and June 19, 2001. On June 22, 2001, the Department found that petitioners' COP allegation was company-specific, made use of respondent's data, employs a reasonable methodology, provides evidence of below-cost sales, and covers merchandise representative of the LDLP sold by PMT-Tubacero in the United States. Therefore, the Department determined that petitioners' COP allegation provided a reasonable basis to initiate a COP investigation. *See Memorandum from Rick Johnson to Edward Yang: Analysis of Petitioners' Allegation of Sales Below the Cost of Production for Productora Mexicana de Tuberia, S.A. de C.V.* PMT-Tubacero submitted a Section D response on July 23, 2001. On July 24, the Department sent a letter to PMT-Tubacero stating that its July 23, 2001 response was grossly deficient and unusable and instructed it to resubmit the response by July 31, 2001.

On June 11, 2001, the Department published in the **Federal Register** a notice postponing the preliminary determination until August 8, 2001. *See Welded Large Diameter Line Pipe From Mexico: Postponement of Preliminary Determination of Antidumping Duty Investigation,* 66 FR 31211 (June 11, 2001).

Period of Investigation

The period of investigation (''POI'') is January 1, 2000 through December 31, 2000.

Scope of Investigation

The product covered by this investigation is certain welded carbon and alloy line pipe, of circular cross section and with an outside diameter greater than 16 inches, but less than 64 inches, in diameter, whether or not stenciled. This product is normally produced according to American Petroleum Institute (API) specifications, including Grades A25, A, B, and X grades ranging from X42 to X80, but can also be produced to other specifications.

Specifically not included within the scope of this investigation is American Water Works Association (AWWA) specification water and sewage pipe and the following size/grade combinations of line pipe:

- Having an outside diameter greater than or equal to 18 inches and less than or equal to 22 inches, with a wall thickness measuring 0.750 inch or greater, regardless of grade.
- Having an outside diameter greater than or equal to 24 inches and less than 30 inches, with wall thickness measuring greater than 0.875 inches in grades A, B, and X42, with wall thickness measuring greater than 0.750 inches in grades X52 through X56, and with wall thickness measuring greater than 0.688 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 30 inches and less than 36 inches, with wall thickness measuring greater than 1.250 inches in grades A, B, and X42, with wall thickness measuring greater than 1.000 inches in grades X52 through X56, and with wall thickness measuring greater than 0.875 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 36 inches and less than 42 inches, with wall thickness measuring greater than 1.375 inches in grades A, B, and X42, with wall thickness measuring greater than 1.250 inches in grades X52 through X56, and with wall thickness measuring greater than 1.125 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 42 inches and less than 64 inches, with a wall thickness measuring greater than 1.500 inches in grades A, B, and X42, with wall thickness measuring greater than 1.375 inches in grades X52 through X56, and with wall thickness measuring greater than 1.250 inches in grades X60 or greater.
- Having an outside diameter equal to 48 inches, with a wall thickness measuring 1.0 inch or greater, in grades X–80 or greater.

The product currently is classified under U.S. Harmonized Tariff Schedule (''HTSUS'') item numbers 7305.11.10.30, 7305.11.10.60, 7305.11.50.00, 7305.12.10.30, 7305.12.10.60, 7305.12.50.00, 7305.19.10.30, 7305.19.10.60, and 7305.19.50.00. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the

subject merchandise that can be reasonably examined.

We examined producer-specific data accounting for total POI exports of LDLP from Mexico. We identified five companies which exported LDLP to the United States during the POI. Due to constraints on our time and resources, we found it impracticable to examine all five companies. Therefore, because its export volume accounted for a significant portion of all exports from Mexico, we selected PMT as the mandatory respondent. For a more detailed discussion of respondent selection in this investigation, *see Respondent Selection Memorandum from Edward Yang and Rich Weible to Joseph A. Spetrini,* March 20, 2001.

Collapsing PMT and Tubacero

Through PMT's March 29, 2001 Section A response and its response to subsequent questionnaires, the Department determined that PMT is affiliated with another Mexican producer of subject merchandise, Tubacero, under section 771(33)(E) of the Act. *See, Letter from Rick Johnson to PMT* dated May 18, 2001. Based on the evidence on the record, the Department also found that both producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities. The Department conducted an analysis of the potential for the manipulation of price or production under the criteria set out in section 351.401(f)(2) of the Department's regulations. We concluded that a significant potential for the manipulation of price or production exists. Therefore, the Department has collapsed PMT and Tubacero for the purposes of determining whether dumping has occurred. *See Memorandum from Edward Yang to Joseph A. Spetrini: Whether to Collapse Affiliated Parties Productora Mexicana de Tuberia, S.A. de C.V. and Tubacero, S.A. de C.V. (''Collapsing Memo'')* dated June 20, 2001.

Facts Available

Section 776(a)(2)(B) of the Act provides that if necessary information is not available on the record, or an interested party or any other person fails to provide such information by the deadlines for submission of the information or in the form and manner requested, the administering authority shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination.

Under section 782(d) of the Act, if the Department:

> determines that a response to a request for information under this title does not comply with the request, the administering authority * * * shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of investigations or reviews under this title.

On July 23, 2001, the PMT-Tubacero submitted a Section D response which was deficient and unusable. In short, respondents failed to provide complete, combined cost information for both companies, did not supply adequate narrative responses, and provided unreliable cost data. The Department therefore determines that, due to the deficient nature of the July 23, 2001 Section D response, no comparison of cost of production to normal value can be properly made, nor can we rely upon the underlying variable and total cost of manufacturing data reported in the home market and United States sales databases. This consequently prohibits the Department from accurately selecting HM sales to compare to U.S. sales. Therefore, in light of PMT-Tubacero's failure to provide requested information necessary to calculate dumping margins in this case, in accordance with section 776(a) of the Act, we are forced to resort to total facts available for this preliminary determination. *See Total Facts Available and Corroboration Memorandum for PMT-Tubacero.*

On July 24, 2001, the Department afforded PMT-Tubacero another opportunity to remedy its Section D response by July 31, 2001. *See Letter from Edward Yang to PMT-Tubacero,* dated July 24, 2001. However, because the time limit for this preliminary determination makes it impracticable for the Department to analyze and incorporate the data submitted on July 31, and because the information in the July 23 response was not in the form and manner requested by the Department, the Department has applied the facts otherwise available to determine the preliminary dumping margin. As facts available, we used the rate from initiation of 49.86 percent. This rate was based on information provided in the petition to calculate normal value and publicly available U.S. Customs import statistics to calculate export price. *See Notice of Initiation.*

Section 776(c) of the Act provides that, when the Department relies on secondary information in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. 870 (1994) (''SAA'') clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value (*see SAA* at 870). Secondary information is described in the SAA, as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See SAA* at 870.

The Department finds that the estimated margin set forth in the notice of initiation has probative value. In this proceeding, we considered the initiation margin as the most appropriate information on the record upon which to base the dumping calculation. In accordance with section 776(c) of the Act, we sought to corroborate the data contained in the initiation. We reviewed the adequacy and accuracy of the information in the initiation, to the extent appropriate information was available for this purpose. For purposes of the preliminary determination, we attempted to further corroboate the information in the initiation. To the extent practicable, we reexamined the export price and home market price provided in the margin calculations in the initiation in light of information obtained during the investigation and found that it has probative value. *See Preliminary Determination in the Antidumping Investigation of Welded Large Diameter Line Pipe from Mexico: Total Facts Available Corroboration Memorandum for PMT-Tubacero,* dated August 8, 2001.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

All-Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or de minimis margins, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated ''all-others'' rate for exporters and producers not individually investigated. This provision contemplates that we weight-average margins other than facts available margins to establish the ''all others'' rate. Where the data do not permit

weight-averaging such rates, the SAA, at 873, provides that we may use other reasonable methods. Because the petition contained only an estimated price-to-price dumping margin, which the Department adjusted for purposes of initiation, there are no additional estimated margins available with which to create the ''all others'' rate. Therefore, we applied the published margin of 49.86 percent as the ''all others'' rate.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing Customs to suspend liquidation of all entries of welded large diameter line pipe from Mexico that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct Customs to require a cash deposit or the posting of a bond equal to the amount by which the NV exceeds the EP, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The dumping margins are as follows:

Producer/exporter	Margin (percent)
PMT-Tubacero	49.86
All Others	49.86

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination, or 45 days after our final determination, whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs must be submitted no later than 50 days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Public versions of all comments and rebuttals should be provided to the Department and made available on diskette. Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be scheduled for two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one large diameter line pipe case, the Department may schedule a single hearing to encompass all cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If this investigation proceeds normally, we will make our final determination in this investigation no later than 75 days after the date of this preliminary determination.

This determination is published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: August 8, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–20552 Filed 8–14–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On August 9, 2001, Tubos de Acero de Mexico, S.A. (''TAMSA'') filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the full sunset review of the antidumping duty order, respecting Oil Country Tubular Goods from Mexico. This determination was published in the **Federal Register** (66 FR 35997) on July 10, 2001. The NAFTA Secretariat has assigned Case Number USA–MEX–2001–1904–06 to this request.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on August 9, 2001, requesting panel review of the five-year sunset review of the antidumping duty order described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is September 10, 2001);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is September 24, 2001); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: August 10, 2001.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. 01–20550 Filed 8–14–01; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081001C]

Receipt of an Application for an Incidental Take Permit (1348).

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

ACTION: Notice of availability.

SUMMARY: NMFS has received an application for an incidental take permit (Permit) from the North Carolina Division of Marine Fisheries (NCDMF) pursuant to the Endangered Species Act of 1973, as amended (ESA). As required by the ESA, NCDMF's application includes a conservation plan designed to minimize and mitigate any such take of endangered or threatened species. The Permit application is for the incidental take of ESA-listed adult and juvenile sea turtles associated with otherwise lawful commercial fall gillnet fisheries for flounder in the southeastern portion of Pamlico Sound in the state of North Carolina. The duration of the proposed Permit is for 1 year. NMFS is furnishing this notice in order to allow other agencies and the public an opportunity to review and comment on this document. All comments received will become part of the public record and will be available for review pursuant to the ESA.

DATES: Written comments from interested parties on the Permit application and Plan must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 pm Eastern daylight time on September 14, 2001.

ADDRESSES: Written comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to 301-713-0376. The application is available for download and review at http://www.nmfs.noaa.gov/ prot—res/ PR3/Permits/ESAPermit.html. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: David Bernhart (ph. 727–570–5312, fax 727–570–5517, e-mail David.Bernhart@noaa.gov). Comments received will also be available for public inspection, by appointment, during normal business hours by calling 301–713–1401.

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the ''taking'' of a species listed as endangered or threatened. The term ''take'' is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Species Covered in this Notice

The following species are included in the Plan and Permit application: Loggerhead (*Caretta caretta*), green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*), hawksbill *(Eretmochelys imbricata*), and Kemp's ridley (*Lepidochelys kempii*) sea turtles.

Background

On August 8, 2001, NCDMF submitted an application to NMFS for an ESA section 10 (a)(1)(B) permit for an incidental take of ESA-listed sea turtles associated with commercial fall gillnet fisheries for flounder in the southeastern portion of Pamlico Sound. This application includes endangered Kemp's ridley, leatherback, and hawksbill sea turtles and the threatened green and loggerhead sea turtles. This fishery targets flounder. The proposed implementation of this fishery will allow for the continued commercial harvest of this species. This fishery is estimated to have a value of over one million dollars per year. This fishery supports fishermen and the local economy.

Conservation Plan

The Conservation Plan prepared by NCDMF describes measures designed to monitor, minimize, and mitigate the incidental takes of ESA-listed sea turtles, focusing on the following fishery:

Fall Gillnet Flounder Fishery

This fishery is scheduled to occur from September 15 through December 15, 2001. The fall flounder gillnet fishery in Pamlico Sound occurs predominantly in an area lying south of a line running westerly from a point on Hatteras Island, Dare County (35″ 23′ 00″ N - 75″ 30′ 00″ W) through the Avon Channel Entrance Beacon No. 1 (35″ 23′ 00″ N - 75″ 33′ 38″ W) thence westerly to Bensons Point (3″ 23′ 00″ N - 76″ 03′ 42″ W) at Wysocking Bay, Hyde County and east of a line running southerly from Bensons Point along the eastern edge of Bluff Shoal to the west side of Ocracoke Inlet, Carteret County (35″ 03′ 42″ N - 76″ 02′ 12″ W) thence running easterly and northerly along the shoreline of the Pamlico Sound back to the point of beginning. This area is referred to as the Gillnet Restricted Area (GRA). Flounder gillnets are set in the GRA from mid-September through mid-December in waters ranging between 10 and 20 feet (3.1 m to 6.2 m) deep to target flounder migrating from the estuaries to offshore spawning grounds. Pamlico Sound flounder gillnets are normally hung with 5 and one-half to 6 and one-half inch (14 cm to 16.5 cm) mesh monofilament webbing, and fisherman routinely set from 2,000 to 10,000 (1,828 m to 9,140 m) yards of net at a time. Telephone interviews by NCDMF staff with flounder gillnet fishermen (n=31) indicate that in 1999 the average amount of 5 inch and larger mesh gillnet set per fishing operation was 4,750 yards (4,342 m). Many of the flounder gillnet fishermen use net reels to set and retrieve their gear. The nets are approximately 10 feet (3.1 m) deep, however many fishermen use tiedowns which restrict the nets to the bottom three to four feet (of the water column. The nets are constructed of small diameter webbing that is hung loosely to create excess bag in the net which improves the catch of flounder. Flounder gillnets are normally fished every day or every other day depending on recent catches and weather conditions. Soak times generally range between 12 and 48 hours. It is estimated that in the fall of 1999, between 90 and 95 vessels participated in the large mesh and small mesh gillnet fisheries in the Pamlico Sound. Approximately one-half of these vessels are believed to have fished large mesh gillnets. NCDMF Trip Ticket Program information for 1999 indicates that 45 vessels greater than 25 feet (7.6 m) in length and nine vessels less than 25 feet (7.6 m) in length landed more than 1,000 pounds (453.1 kg) of flounder per month from September through December.

Incidental mortalities of ESA-listed sea turtles associated with the commercial fall gillnet fishery for flounder in Pamlico Sound, North Carolina are requested at levels specified in the Permit application. NCDMF is proposing to limit the commercial fall gillnet fishery for flounder such that the incidental

impacts on ESA-listed sea turtles will be minimized. NCDMF would use a variety of adaptive fishery management measures and restrictions through their state proclamation authority to reduce sea turtle mortality in the fall gillnet fishery by 50 percent, compared to the mortality level indicated by strandings in 1999. NCDMF considered and rejected one other alternative, not applying for a permit and closing the fishery, when developing their plan.

This notice is provided pursuant to section 10(c) of the ESA and the NEPA regulations (40 CFR 1506.6). NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the NEPA regulations and section 10 (a) of the ESA. If it is determined that the requirements are met, a permit will be issued for incidental takes of ESA-listed sea turtles under the jurisdiction of NMFS. The final NEPA and permit determinations will not be completed until after the end of the 30–day comment period and will fully consider all public comments received during the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: August 10, 2001.

Therese Conant,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–20544 Filed 8–10–01; 3:41 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080601D]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee and Groundfish Oversight Committee in August and September, 2001 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held on August 30, 2001 and September 4, 2001. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Peabody, MA and Portland, ME. See **SUPPLEMENTARY INFORMATION** for specific locations.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950;

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Thursday, August 30, 2001, 9:30 a.m.– Research Steering Committee Meeting.

Location: Holiday Inn, One Newbury Street, Route 1, Peabody, MA 01960; telephone: (978) 535–4600.

The Council's Research Steering Committee will meet to review a final report submitted to NMFS by Dr. Chris Glass of the Manomet Center for Conservation Sciences concerning a series of workshops held to solicit fishermen's views on bycatch/discard/conservation engineering issues.

Tuesday, September 4, 2001, 9:30 a.m.– Groundfish Oversight Committee Meeting.

Location: Holiday Inn by the Bay, 88 Spring Street, Portland, ME 04101; telephone: (207) 775–2311.

The Groundfish committee will meet to finalize options for Framework 36 to the Northeast Multispecies Fishery Management Plan (FMP).

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: August 8, 2001.

Richard W. Surdi,

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

[FR Doc. 01–20568 Filed 8–14–01; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0022, Rules Pertaining to Contract Markets and Their Members

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on Commission rules pertaining to contract markets and their members.

DATES: Comments must be submitted on or before October 15, 2001.

ADDRESSES: Comments may be mailed to Barbara W. Black, Office of the Executive Director, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Barbara W. Black at (202) 418–5130; FAX: (202) 418–5541; email: bblack@cftc.gov

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB

for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

Rules Pertaining to Contract Markets and Their Members, OMB Control Number 3038–0022—Extension

Rule 40.4 establishes a procedure for designated contract markets to submit certain rules concerning agricultural contracts to the Commission for prior approval. Rule 40.5 establishes a procedure for any registered entity (designated contract markets, registered derivatives transaction execution facilities and registered derivatives clearing organizations) to request that the Commission approve any rule or proposed rule or rule amendment. Rule 40.6 establishes a procedure for designated contract markets and registered derivatives clearing organization to self-certify rules.

The commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

17 CFR	Annual number of respondents	Frequency of response	Total annual responses	Hours per response	Total hours
	15,894	On occasion	434,039	2.0	185,347

There are no capital costs or operating and maintenance costs associated with this collection.

This estimate is based on the Commission's experience over the last three years.

Dated: August 9, 2001.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–20448 Filed 8–14–01; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Record of Decision for Site Preparation Activities at the Missile Defense System (MDS) Test Bed at Fort Greely, AK

AGENCY: Ballistic Missile Defense Organization.

ACTION: Record of decision.

SUMMARY: The Ballistic Missile Defense Organization is issuing this Record of Decision (ROD) to conduct initial site preparation activities for the Fort Greely, Alaska portion of a Missile Defense System (MDS) Test Bed. Fort Greely is a potential deployment location in Alaska for Ground-Based Interceptor (GBI) silos, Battle Management Command and Control (BMC2) facilities, and other support facilities for the Ground Based Midcourse Element (GBME), formerly called the National Missile Defense (NMD) system, of the MDS. This is a ROD to implement limited site preparation activities that could support construction of the MDS Test Bed facilities at Fort Greely. The Test Bed is a subset of the preferred alternative defined in the NMD Deployment Final Environmental Impact Statement (EIS). The environmental impacts of the MDS Test Bed site preparation work will be of the same type, but reduced in scope, as the impacts of the preferred alternative in the NMD EIS.

This decision is based on the determination of National Command Authorities that there is a ballistic missile threat to the United States, and that developing an effective Missile Defense System is dependent upon operationally realistic testing of the MDS elements. Although the decision on GBME deployment has not been made and construction of MDS test facilities is dependent on Congressional appropriations and also has not been made, the Department of Defense has determined that it is prudent to proceed with site preparation activities for MDS test bed facilities at Fort Greely to preserve the near term option to develop an MDS test bed. These site preparation activities would support proposed test bed facilities that would consist of a small number of the GBI silos, BMC2 and other support facilities that were analyzed in the EIS. Specifically, the site preparation work planned includes installing and developing two water wells; clearing trees and debris; preparing sites for test bed facilities including a single missile field; and installation of the Main Access Road. The site preparation includes cut, fill, grading and earthwork operations to the top of sub-base for all vehicle traffic areas and top of finish grade for all other areas excluding the building footprints, which will be graded to drain. The test bed would allow BMDO to prove out the design and siting of a GBI field that would be required to fire in a salvo without having the GBIs interfere with each other, to test the communication between all component parts, and to test for fuels degradation in the arctic environment, as well as to develop and rehearse maintenance and upkeep processes and procedures. There is no present intent to test fire interceptor missiles from Fort Greely. Any potential future decision to test fire at Fort Greely would only occur after a thorough environmental and safety analysis was performed. In the event of a missile attack on the United States, the test bed at Fort Greely could potentially be used for ballistic missile defense. Initiation of the site preparation activities is dependent on obtaining required permits and implementation of the attached Mitigation Monitoring Plan. Site preparation activities are not of sufficient magnitude to limit any later selection of alternatives analyzed in the EIS. Other factors considered in reaching this decision include cost and technical maturity of the GBME of the MDS.

FOR FURTHER INFORMATION CONTACT: For further information on the NMD (now GBME) Deployment Final EIS or Record of Decision, contact Ms. Julia Hudson-Elliott, U.S. Army Space and Missile Defense Command, Attn: SMDC–EN–V, P.O. Box 1500, Huntsville, Alabama 35807–3801, (256) 955–4822. Public

reading copies of the Final EIS and the Record of Decision are available for review at the public libraries within the communities near proposed activities and at the BMDO Internet site at www.acq.osd.mil/bmdo/bmdolink/html/nmd.html.

SUPPLEMENTARY INFORMATION:

Background

This Record of Decision has been prepared pursuant to the Council on Environmental Quality regulations implementing the National Environmental Policy Act (NEPA) (40 CFR Parts 1500–1508), Department of Defense (DoD) Instruction 4715.9, and the applicable service environmental regulations that implement these laws and regulations. The U.S. Air Force, U.S. Army, U.S. Navy, and the Federal Aviation Administration participated as cooperating agencies in preparing the NMD Deployment EIS. The Proposed Action described in the EIS is to deploy a National Missile Defense System at several locations. The Fort Greely portion of the MDS Test Bed is essentially a down-scoped version of the preferred alternative for GBI analyzed in the NMD EIS. Alternative site locations for identified GBME, formerly called NMD, components (i.e., GBI, BMC2, and X-Band Radar (XBR)) were considered.

NEPA Process

The Notice of Intent to prepare an EIS for the deployment of the NMD program was published in the **Federal Register** on November 17, 1998, initiating the public scoping process. Public scoping meetings were held in December 1998 in communities perceived to be affected by the NMD. Notice of the availability of the NMD Deployment Draft EIS was published in the **Federal Register** on October 1, 1999. This initiated a period of public review and comment on the Draft EIS. Seven public hearings were held from October 26 through November 9, 1999, in the same locations as the public scoping meetings. Subsequently, a supplement to the Draft EIS was prepared to evaluate the potential impacts of upgrading existing Early Warning Radars for use by the NMD. A public hearing was held in Bourne, Massachusetts, on the Supplement. Comments on the Draft EIS and Supplement to the Draft EIS were considered in the preparation of the Final EIS. The Notice of Availability for the Final EIS was published in the **Federal Register** on December 15, 2000, initiating an additional 30-day review period.

Comments received on the Final EIS have been considered in the decision process, culminating in this Record of Decision.

Alternatives Considered

No-Action Alternative

As required by the CEQ regulations, the EIS evaluated a No-action Alternative. Under this alternative, the NMD deployment decision would be deferred, while development of the NMD, technologies and architectures would continue. Non-NMD activities currently occurring or planned at potential deployment sites would continue.

Proposed Action

The proposed action analyzed in the EIS was to deploy a fixed, land-based, non-nuclear missile defense system with a land and space-based detection system capable of responding to limited strategic ballistic missile threats to the United States. The NMD system consisted of five elements: Battle Management, Command, Control, and Communications (BMC3), which includes the BMC2, the communication lines, and the In-Flight Interceptor Communications System (IFICS) Data Terminals (IDTs) as subelements; GBI; XBR; Upgraded EWR (UEWR); and a space-based detection system. The initial space-based detection capability would be the existing Defense Support Program early-warning satellites to be replaced by Space-Based Infrared System (SBIRS) satellites currently being developed by the Air Force. Since the NMD EIS was completed, the Ballistic Missile Defense architecture has evolved into a multi-layered approach that does not distinguish between national and theater threats. The GBME is the successor to the NMD system in the revised Ballistic Missile Defense architecture. The GBME consists of the same elements, at the same preferred locations, as the NMD system analyzed in the NMD EIS. The Fort Greely portion of the MDS Test Bed consists of a down-scoped version of the preferred alternative for GBI analyzed in the NMD EIS. By locating MDS Test Bed components at potential future GBME deployment locations, the Ballistic Missile Defense Organization can conduct operationally realistic testing of the GBME components being developed.

Decision

The Ballistic Missile Defense Organization will proceed with initial site preparation activities at Fort Greely, Alaska that could support the construction of the MDS Test Bed (GBI silos, BMC2, and other support) facilities. Initial site preparation activities will include site layout, clearing of vegetation, initial earthwork related to site and road grading, and preparation for facility construction activities. Specific planned actions include installing and developing two water wells; site preparation work for test bed buildings, the main access road up to the Alaska Oil Pipeline crossing, and a single missile field. This decision does not include construction and operation of MDS Test Bed facilities at Fort Greely. Any decisions to construct and operate MDS Test Bed facilities will require preparation of a subsequent decision document or documents.

Environmental Impacts of Alternatives

The EIS analyzed the environment in terms of 15 resource areas: air quality, airspace, biological resources, cultural resources, geology and soils, hazardous materials and wastes, health and safety, land use and aesthetics, noise, socioeconomics, transportation, utilities, water resources, environmental justice, and subsistence. Each resource area with a foreseeable impact at the respective alternative sites was addressed in the EIS. The analysis in the EIS was commensurate with the importance of the potential impacts. Where it was determined through initial evaluation that no impacts would occur to resources at certain sites, these resources were not analyzed in the EIS. The potential for cumulative impacts was also evaluated in the EIS.

Since this ROD affects only the EIS preferred alternative for siting of the GBI, BMC2 and test support facilities at Fort Greely, only the environmental effects relating to Fort Greely are described for the no action alternative and initial site preparation activities.

No-Action Alternative—Environmental Impacts

This section discusses the environmental effects that would result from a decision not to initiate initial site preparation activities. Under this No-action Alternative, only the locations and environmental resources discussed below were anticipated to have environmental impacts from continued ongoing operations.

Fort Greely, Alaska. There would be impacts to geology and soils, socioeconomics, and water resources from continued activities at Fort Greely. These impacts could include some soil damage from vehicles, weapons, and fires. Some soil erosion with net soil loss and water quality impacts would occur near training activities. Localized long-term damage to permafrost could occur as a result of ground training and fire damage from training. The Army

has developed mitigation measures to minimize these impacts. The loss of jobs associated with realignment of Fort Greely would likely result in a decline in local population and a commensurate fiscal loss for the community. Training maneuvers, if conducted repeatedly in the same area, could result in cumulative impacts to water resources. The Army has implemented measures to minimize impacts to water resources.

Initial Site Preparation—Environmental Impacts

This section discusses the potential environmental effects of the initial site preparation activities.

Fort Greely, Alaska. This was the preferred alternative for the GBI element in the EIS and is the selected site for initial site preparation activities for GBME test bed facilities. The site preparation activities would involve the same type of impacts as those assessed in the EIS, but at a reduced scope, due to the reduced size of the Test Bed as compared with the deployment site analyzed. It is anticipated that initial site preparation activities for GBME test bed facilities at Fort Greely could result in a minor short-term increase in erosion and sediment in surface water. Appropriate permits and storm water plans would be implemented to minimize impacts to soils and water resources. Initial site preparation activities would also provide an economic benefit to the surrounding regions, partially offsetting the loss of jobs at the base as a result of its realignment.

Alternatives Not Selected—Environmental Impacts

Several alternative locations in the NMD Deployment Final EIS are not selected at this time. A discussion of the environmental impacts at those locations would be included in a future Record of Decision related to MDS Test Bed construction or a GBME deployment decision.

Mitigation Measures and Monitoring

The mitigation measures specified for the site selected for initial site preparation activities at Fort Greely, Alaska as described above and contained in the attached Mitigation Monitoring Plan will be implemented and all the required permits will be obtained as part of this decision. The Mitigation Monitoring Plan has been developed to assist in tracking and implementing these mitigation measures. With the implementation of the mitigation measures, all practicable means have been adopted to avoid or minimize environmental harm for initial site preparation activities at Fort Greely.

Environmentally Preferred Alternative

The environmentally preferred alternative is the No-action Alternative (no site preparation activities). Continuation of current site operations at the location would result in few additional environmental impacts.

Conclusion

In accordance with NEPA, the Department of Defense has considered the information contained within the NMD Deployment Final EIS in deciding to initiate site preparation activities at Fort Greely, Alaska. The site preparation activities are limited to those that would support the MDS Test Bed facilities (a limited number of GBI silos, BMC2 facilities, and other support facilities) at Fort Greely, Alaska, if they were approved for construction at a later date.

Dated: August 10, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–20575 Filed 8–10–01; 3:54 pm]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Invention

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. U.S. Patent No. 5,077,210 entitled ''Immobilization of Active Agents on Substrates with a Silane and Heterobifunctional Crosslinking Agent,'' Navy Case No. 71,415.

ADDRESSES: Requests for copies of the patent cited should be directed to the Naval Research Laboratory, Code 1008.2, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Catherine M. Cotell, Ph.D., Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone (202) 767–7230.

(Authority: 35 U.S.C. 207, 37 CFR Part 404)

Dated: August 3, 2001.

T.J. Welsh,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 01–20524 Filed 8–14–01; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–504–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 9, 2001.

Take notice that on August 6, 2001 National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Fourth Revised Sheet No. 2, Original Sheet No. 479 and Sheet Nos. 480—674 (Reserved for Future Use) with a proposed effective date of September 5, 2001.

National Fuel states that the purpose of the instant filing is to modify its tariff to provide for a general waiver of the ''shipper must have title'' rule in the event that National Fuel is transporting gas or storing gas for others on acquired offsystem capacity and to include a general statement that National Fuel will only transport or store gas for others using offsystem capacity pursuant to its existing tariff.

National Fuel states that copies of this filing were served upon its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–20457 Filed 8–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–503–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

August 9, 2001.

Take notice that on August 6, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Second Revised Sheet No. 343 and Original Sheet No. 343A, to be effective September 6, 2001.

Natural states that these sheets were filed to revise the General Terms and Conditions of Natural's Tariff (GT&C) by establishing a procedure under which Natural posts by location and anticipated duration any operational limits on the dewpoint and/or Btu content for gas received into its system.

Natural states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–20458 Filed 8–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–407–000]

Ozark Gas Transmission, L.L.C.; Notice of Application

August 9, 2001.

Take notice that on July 18, 2001, Ozark Gas Transmission, L.L.C. (Ozark) filed an abbreviated application pursuant to Section 7(c) of the Natural Gas Act (NGA) for issuance to Ozark of a certificate of public convenience and necessity authorizing Ozark to offer new storage and no-notice services to be supported by pipeline capacity leased, and storage services purchased, from Transok, LLC (Transok). Ozark further seeks Commission approval to charge market-based rates for the new firm storage service it proposes to offer and incorporate into its proposed no-notice service, and for the new interruptible storage services it proposes to offer.

Ozark is an interstate pipeline providing service in Oklahoma, Arkansas, and Missouri. Transok is an intrastate pipeline that provides natural gas transportation and storage service under Section 311 of the Natural Gas Policy Act of 1978.

Ozark requests a certificate of public convenience and necessity pursuant to Section 7(c) of the NGA authorizing it to lease capacity on portions of Transok's pipeline system for transportation of natural gas between the Greasy Creek Storage Facility in Hughes County, Oklahoma, and the interconnection between Transok's and Ozark's pipeline systems in Latimer County, Oklahoma. Ozark proposes to use the leased pipeline capacity and firm storage service Ozark proposes to acquire from Transok to offer new Firm Storage Service and No-Notice Service, as well as a new Interruptible Storage Service. Ozark also is filing for authorization to charge market-based rates for the proposed Firm Storage Service, the storage service component of its proposed No-Notice Service, and for Interruptible Storage Service, based on Transok's existing authorization to charge market-based rates for firm and interruptible storage services it offers under Section 311.

Ozark submits that the lease of pipeline capacity is necessary for the new No-Notice, Firm Storage and Interruptible Storage Services that it plans to offer. It further states that its proposal does not require the construction of new facilities, and will not impose any adverse rate impacts on any existing customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 30, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 C.F.R. 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Ozark to appear or to be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–20455 Filed 8–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1821–000]

Power Dynamics, Inc.; Notice of Issuance of Order

August 8, 2001.

Power Dynamics, Inc. (Power Dynamics) submitted for filing a rate schedule under which Power Dynamics will engage in wholesale electric power and energy transactions at market-based rates. Power Dynamics also requested waiver of various Commission regulations. In particular, Power Dynamics requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Power Dynamics.

On June 12, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Power Dynamics should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Power Dynamics is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Power Dynamics and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Power Dynamics' issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 7, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–20453 Filed 8–14–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–24–003]

Sabine Pipe Line LLC, Notice of Compliance Filing

August 9, 2001.

Take notice that on July 30, 2001, Sabine Pipe Line LLC (Sabine) tendered for filing a cost and revenue study as required by the Commission's February 24, 2000, Order Issuing Certificate and Authorizing Abandonment, issued in Docket Nos. CP00–24–000 and CP00–25–000. Sabine's cost and revenue study provides operational information for the twelve-month period ending April 30, 2001. Sabine does not propose any changes to its currently effective rates.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 and § 384.214 of the Commission's Rules of Practices and Procedures. All such motions and comments 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 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 in the Public Reference Room. This filing may 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.

Applicant's designated contact person is L. Wade Hopper, 1111 Bagby Street, Houston, Texas 77002. His phone number is 713–752–7188.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–20456 Filed 8–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–406–000]

Transok, L.L.C.; Notice of Application

August 9, 2001

Take notice that on July 18, 2001, Transok, L.L.C. (Transok) filed an abbreviated application pursuant to Section 7(c) of the Natural Gas Act (NGA) for issuance to Transok of a limited-jurisdiction certificate of public convenience and necessity authorizing Transok to lease capacity on its intrastate pipeline system for use by Ozark Gas Transmission, L.L.C. to provide interstate storage and no-notice transportation services.

Transok is an intrastate pipeline that provides natural gas transportation and storage service under Section 311 of the Natural Gas Policy Act of 1978. Ozark is an interstate pipeline providing service in Oklahoma, Arkansas and Missouri.

Transok seeks issuance of a limited jurisdiction certificate of public convenience and necessity under NGA Section 7(c) to the extent required to enable Transok to lease pipeline capacity to Ozark which Ozark will use in the transportation of gas in interstate commerce. Transok submits that the lease of pipeline capacity is necessary to enable Ozark to offer its proposed new No-Notice, Firm Storage and Interruptible Storage Services. Transok states that it will not be in a position to enter into and perform the proposed pipeline capacity lease unless it is granted a limited jurisdiction certificate that will permit the leased capacity to be used in the transportation of natural gas in interstate commerce without generally subjecting Transok to NGA jurisdiction.

Questions concerning this filing may be directed to counsel for Ozark, James F. Bowe, Jr., Dewey Ballantine LLP, at (202) 429–1444, fax (202) 429–1579, or *jbowe@deweyballantine.com.*

Any person desiring to be heard or to make any protest with reference to said application should on or before August 30, 2001, file with the Federal Energy

Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transok to appear or to be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–20461 Filed 8–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–45–003, et al.]

Consolidated Edison Company of New York, Inc., et al.; Electric Rate and Corporate Regulation Filings

August 8, 2001.

Take notice that the following filings have been made with the Commission:

1. Consolidated Edison Company of New York, Inc.

[Docket Nos. EL01–45–003 ER01–1385–004]

Take notice that on July 30, 2001, pursuant to the Commission's order of July 20, 2001 in these proceedings, Consolidated Edison Company of New York, Inc. submitted revised tariff sheets which reflect the effective dates of its revised localized market-power mitigation measures.

Comment date: August 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. American Transmission Systems, Inc.

[Docket No. ER01–2768–000]

Take notice that on August 1, 2001, American Transmission Systems, Inc. filed a Service Agreement to provide Non-Firm Point-to-Point Transmission Service for Exelon Generation Company, LLC, the Transmission Customer. Services are being provided under the American Transmission Systems, Inc. Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER99–2647–000. The proposed effective date under the Service Agreement is July 31, 2001 for the above mentioned Service Agreement in this filing.

Comment date: August 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. American Transmission Systems, Inc.

[Docket No. ER01–2769–000]

Take notice that on August 1, 2001, American Transmission Systems, Inc. filed a Service Agreement to provide Firm Point-to-Point Transmission Service for Exelon Generation Company, LLC, the Transmission Customer. Services are being provided under the American Transmission Systems, Inc. Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER99–2647–000. The proposed effective date under the Service Agreement is July 31, 2001 for the above mentioned Service Agreement in this filing.

Comment date: August 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Northern Maine Independent System Operator

[Docket No. ER01–2770–000]

Take notice that on August 1, 2001, the Northern Maine Independent System Administrator (NMISA) tendered for filing with the Federal Energy Regulatory Commission (FERC) Service Agreement No. 8 between NMISA and Constellation Power Source, Inc., under its FERC Electric Tariff Original Volume No. 1. NMISA requests waiver of the Commission's notice requirements for an effective date of July 6, 2001.

Comment date: August 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Northen Maine Independent System Operator

[Docket No. ER01–2771–000]

Take notice that on August 1, 2001, the Northern Maine Independent System Administrator (NMISA) tendered for filing with the Federal Energy Regulatory Commission (FERC) Service Agreement No. 9 between NMISA and Constellation Power Source, Inc., under its FERC Electric Tariff Original Volume No. 1. NMISA requests waiver of the Commission's notice requirements for an effective date of July 7, 2001.

Comment date: August 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Portland General Electric Company

[Docket No. ER01–2772–000]

Take notice that on August 1, 2001, Portland General Electric Company (PGE) tendered for filing under PGE's FERC Electric Tariff Original Volume No. 12, executed Service Agreements for Sale, Assignment, or Transfer of Transmission Rights with Eugene Water and Electric Board, Dynegy Power Marketing Inc., and Powerex Corp.

Pursuant to 18 CFR Section 35.11, and the Commission's Order in Docket No. PL93–2–002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR Section 35.3 to allow the Service Agreements to become effective July 2, 2001, July 9, 2001 and July 17, 2001.

A copy of this filing was caused to be served on Eugene Water and Electric Board, Dynegy Power Marketing Inc., Powerex Corp., and Public Utility Commission of Oregon, as noted in the filing letter.

Comment date: August 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Naniwa Energy LLC

[Docket No. ER01–2773–000]

Take notice that on August 1, 2001, Naniwa Energy LLC tendered for filing a Power Purchase and Sale Agreement with Morgan Stanley Capital Group Inc.

Comment date: August 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Naniwa Energy LLC

[Docket No. ER01–2774–000]

Take notice that on August 1, 2001, Naniwa Energy LLC tendered for filing a Power Purchase and Sale Agreement with KPIC North America Corporation.

Comment date: August 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–20454 Filed 8–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

August 9, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Minor License.

b. *Project No.:* 3516–008.

c. *Date Filed:* October 3, 2000.

d. *Applicant:* City of Hart, Michigan.

e. *Name of Project:* Hart Hydroelectric Project.

f. *Location:* On the South Branch of the Pentwater River, in Oceana County, near Hart, Michigan. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Reid S. Charles II, City Manager, City of Hart, 407 State Street, Hart, Michigan 49420, (231) 873–2488.

i. *FERC Contact:* Steve Kartalia, (202) 219–2942 or stephen.kartalia@FERC.fed.us.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 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 require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, recommendations, terms and conditions, and prescriptions 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. This application has been accepted, and is ready for environmental analysis at this time.

l. *The existing Hart Hydroelectric Project consists of:* (1) A 580-foot-long earthen dam; (2) a 40-foot-long concrete-lined spillway; (3) a 240-acre reservoir; (4) a powerhouse containing 2 S. Morgan Smith vertical shaft turbines and 2 generators, with a total hydraulic capacity of 135 cubic feet per second and an installed generating capacity of 320 kilowatts; (5) a 1-mile-long transmission line that connects the project with the Hart Diesel Plant; and (5) appurtenant facilities. The applicant estimates that the total average annual generation is between 350,000 and 400,000 kilowatthours. The project operates in a run-of-river mode and all generated power is distributed to customers of the City of Hart Electric Department via the City's transmission and distribution system.

m. A copy of the application is on file with the Commission and is 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). A copy is also available for inspection and reproduction at the address in item h above.

n. The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–20459 Filed 8–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice Soliciting Written Scoping Comments

August 9, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Subsequent License for Minor Project.

b. *Project No.:* 719–007.

c. *Date filed:* October 31, 2000.

d. *Applicant:* Trinity Conservancy, Inc.

e. *Name of Project:* Trinity Power Project.

f. *Location:* On Phelps Creek and James Creek in the Columbia River Basin in Chelan County, near Leavenworth, Washington. The project occupies 47.9 acres of federal lands in Wenatchee National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)-825(r).

h. *Applicant Contact:* Reid L. Brown, President, Trinity Conservancy, Inc., 3139 E. Lake Sammamish SE, Sammamish, WA 98075–9608, (425) 392–9214.

i. *FERC Contact:* Charles Hall, (202) 219–2853 or Charles.Hall@FERC.fed.us.

j. *Deadline for scoping comments:* September 14, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 and should clearly show the following on the first page: Trinity Power Project, FERC No. 719. Scoping comments may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov,* under the ''e-Filing'' link.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person 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 that resource agency.

k. This application has been accepted, but is not ready for environmental analysis at this time.

l. *The Trinity Project consists of:* (1) A deteriorated wooden diversion dam, 70-foot-long flume and settling tank on James Creek, and a 3,350-foot-long, partially destroyed steel penstock, all of which is proposed for decommissioning with this license application; (2) a 45-foot-long, 10-foot-high timber crib diversion dam and screened intake on Phelps Creek; (3) a 24-inch-diameter, 6,000-foot-long, gravity-flow, steel pipe aqueduct; (4) a 20-foot-long, 14-foot-wide, 9-foot-deep, reinforced concrete settling tank; (5) a 42-inch-to 12-inch-diameter, 2,750-foot-long, riveted spiral-wound penstock; (6) a 145-foot-long, 34-foot-wide, wood-frame powerhouse building containing a single Pelton impulse turbine and 240-kilowatt synchronous generator; (7) a tailrace; and (8) appurtenant facilities. The generator supplies the electricity needs of four residences, a cabin and shed; the project is not connected to the electric transmission grid. The licensee proposes to remove the inoperable James Creek diversion facilities from the project boundary accordingly.

m. A copy of the application is on file with the Commission and is available for inspection. This filing may also be viewed on the web at *http://ferc.gov* using the ''RIMS'' link—select ''Docket #'' and follow the instructions (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. *Scoping Process:* The Commission intends to prepare an Environmental Assessment (EA) on the project in accordance with the National Environmental Policy Act. We are asking agencies, Native American tribes, non-governmental organizations, and individuals to help us identify the scope of environmental issues that should be analyzed in the EA, and to provide us with information that may be useful in preparing the EA. To help focus comments on the environmental issues, a scoping document outlining subject areas to be addressed in the EA will soon be mailed to those on the mailing list for the project.

Those not on the mailing list may request a copy of the scoping document from the FERC Contact, whose telephone number is listed above.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–20460 Filed 8–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RTO1–88–000, RTO1–88–001and RTO1–88–003]

Alliance Regional Transmission Organization Stakeholder Advisory Process; Notice of Conference Regarding Stakeholder Advisory Process

August 9, 2001.

On July 30, 2001, the Michigan Public Service Commission, Indiana Utility Regulatory Commission, Illinois Commerce Commission, Public Utilities Commission of Ohio, Kentucky Public Service Commission, Pennsylvania Public Utility Commission, and West Virginia Public Service Commission requested the assistance of the Commission's Dispute Resolution Service in developing an acceptable stakeholder advisory committee structure and process for the Alliance RTO. On July 31, the Virginia State Corporation Commission file a letter joining the request for a conference. On August 2, 2001, ten stakeholders supported the state commissions' request. On August 6, 2001, the representatives for the Alliance Companies requested the assistance of the Dispute Resolution Service in the development of the Alliance stakeholder process.

Accordingly, the Commission's Dispute Resolution Service will facilitate a conference to develop an Alliance stakeholders' advisory process. The conference will be held on August 14, 2001, at 10:00 a.m., at the location of the Marriot Hotel located at the Cleveland, Ohio Airport, 4277 West 150th Street.

All interested parties in the above-dockets are requested to attend the conference. If a party has any questions respecting the conference, please call Richard Miles, the Director of the Dispute Resolution Service. His telephone number is 1 877 FERC ADR (337–2237) or 202–208–0702 and his e-mail address is *richard.miles@ferc.fed.us.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–20494 Filed 8–14–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66291; FRL–6796–4]

Oxadixyl; Receipt of Request For Registration Cancellations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by Syngenta Crop Protection, Inc., and Gustafson LLC to cancel the registrations for all of their products containing [2-methoxy-*N*-(2-oxo-1,3-oxazolidin-3-yl)-acet-2',6'-xylidide] (oxadixyl). No other registrants hold registrations for oxadixyl. EPA will decide whether to approve the requests after consideration of public comment.

DATES: Comments on the requested cancellation of product and use

registrations must be submitted to the address provided below by September 14, 2001.

FOR FURTHER INFORMATION CONTACT: John W. Pates, Jr., Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8195; fax number: (703) 308–7042; e-mail address: pates.john@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–66291. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–66291 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–66291. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking

This notice announces receipt by the Agency of requests from Syngenta Crop Protection, Inc., and Gustafson LLC to cancel three pesticide products registered under section 3 of FIFRA. These registrations are listed in Table 1.

A. Background Information

Oxadixyl is a systemic fungicide for seed treatment, which is registered for use on alfalfa, barley, beans, beets (garden), broccoli, Brussels sprouts, buckwheat, cabbage, carrot (including tops), cauliflower, celery, clover, collards, corn (field corn, pop corn, sweet corn), cotton, cucumber, eggplant, gourds, grass forage/fodder/hay, kale, kohlrabi, lespedeza, lettuce, lupine, melons (water melons, cantaloupe), millet (proso- broomcorn), mustard, oats, parsley, parsnip, peas, pepper (chili type), pimento, pumpkin, radish, rape, rhubarb, rutabaga, rye, sorghum, soybeans, spinach, squash (summer, winter), sugar beet, sunflower, tomato, trefoil, triticale, turnip, vetch, golf course turf, and residential lawns.

On April 23, 2001, and on May 11, 2001, the Agency received letters from

Gustafson LLC (end-use product registrant) and Syngenta Crop Protection, Inc. (technical and end-use product registrant), respectively, requesting voluntary cancellation of all their products containing oxadixyl. Over the years, the market for these products has declined.

In their June 1, 2001 letter, Syngenta stated that the last known production of oxadixyl was prior to January 1, 1997, from which time no sales of the products have occurred. Syngenta is not aware of any stocks of the products in the channels of trade. Likewise, in their June 1, 2001, letter, Gustafson noted that the last date of manufacture was January 6, 1993, and the last remaining product which they had on hand was disposed of on April 4, 2001.

B. Requests for Voluntary Cancellation

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be canceled or amended to terminate one or more pesticide uses. Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary termination of any minor agricultural use before granting the request, unless: (1) The registrants request a waiver of the comment period, or (2) the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. The registrants have requested that EPA waive the 180–day comment period. EPA is granting the registrants' request to waive the 180–day comment period. EPA anticipates granting the cancellation request shortly after the end of the 30–day comment period for this notice. Therefore, EPA will provide a 30–day comment period on the proposed requests. The registrations for which cancellations were requested are identified (below) in Table 1.

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Company	Registration No.	Product
Syngenta Crop Protection, Inc.	100-857	Oxadixyl Technical Fungicide

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Company	Registration No.	Product
Syngenta Crop Protection, Inc.	100-858	Sandofan 31F Fungicide
Gustafson LLC	7501-97	Anchor Flowable Fungicide

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA section 6(f)(1) further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**, make reasonable efforts to inform persons who rely on the pesticide for minor agricultural uses, and provide a 30–day period in which the public may comment. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4). Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a Special Review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

VI. Future Tolerance Revocations.

EPA anticipates drafting a future **Federal Register** notice proposing revocation of tolerances on commodities, which no longer have registered uses of oxadixyl. With this present proposal, EPA seeks comment as to whether any individuals or groups want to support continuation of these tolerances.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 2, 2001.

Robert McNally,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–20219 Filed 8–14–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7032–8]

Summary Report for the Workshop on Issues Associated With Dermal Exposure and Uptake

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of a final report.

SUMMARY: The Environmental Protection Agency's (EPA) Risk Assessment Forum

(RAF) announces the availability of a final report, *Summary Report for the Workshop on Issues Associated with Dermal Exposure and Uptake* (EPA/630/R–00/003, December 2000). The EPA Risk Assessment Forum (Forum) held a workshop on December 10 and 11, 1998, to address generic technical issues related to dermal exposure and risk assessment that were raised during the February 1998 peer review of the Superfund Dermal Guidance (SDG). Eastern Research Group, Inc., an EPA contractor, organized and convened the workshop on behalf of the Forum. The issues were organized into four categories: (1) dermal exposure to contaminants in water, (2) dermal exposure to contaminants in soil, (3) adjustment of toxicity factors to reflect absorbed dose, and (4) risk characterization and uncertainty analysis for dermal assessments. Questions within each category were presented to help structure and guide the workshop discussion. In addressing these questions, workshop participants were asked to consider: what do we know today that can be applied to answering the question or providing additional guidance on the topic; what short-term studies could be conducted to answer the question or provide additional guidance; and what longer-term research may be needed to answer the question or provide additional guidance. This report summarizes the discussions at the workshop.

ADDRESSES: The document will be made available electronically through the Risk Assessment Forum's web site (www.epa.gov/ncea/raf/rafpub.htm). A limited number of paper copies will be available from the EPA's National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242; telephone: 1–800–490–9198 or 513–489–8190; facsimile: 513–489–8695. Please provide your name and mailing address and the title and EPA number of the requested publication.

FOR FURTHER INFORMATION CONTACT: Steven Knott, Risk Assessment Forum (8601D), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington DC 20460; telephone: 202–564–3359; facsimile: 202–565–0062; email: knott.steven@epa.gov.

Dated: July 19, 2001.

Art Payne,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 01–20506 Filed 8–14–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7032–9]

Summary Report of the Technical Workshop on Issues Associated With Considering Developmental Changes in Behavior and Anatomy When Assessing Exposure to Children

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of a final report.

SUMMARY: The Environmental Protection Agency's (EPA) Risk Assessment Forum (RAF) announces the availability of a final report, Summary Report of the Technical Workshop on Issues Associated with Considering Developmental Changes in Behavior and Anatomy when Assessing Exposure to Children (EPA/630/R–00/005, December 2000). The report presents information and materials from a peer involvement workshop held by the RAF. Eastern Research Group, Inc., an EPA contractor, organized and convened the meeting on behalf of the RAF in Washington, DC on July 26 and 27, 2000. The meeting discussions focused on how to consider age-related changes in behavior and physical development when assessing childhood exposures to environmental contaminants. These discussions are part of EPA's ongoing efforts to improve the assessment of risk to children.

ADDRESSES: The document will be made available electronically through the Risk Assessment Forum's web site (www.epa.gov/ncea/raf/rafpub.htm). A limited number of paper copies will be available from the EPA's National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242; telephone: 1–800–490–9198 or 513–489–8190; facsimile: 513–489–8695. Please provide your name and mailing address and the title and EPA number of the requested publication.

FOR FURTHER INFORMATION CONTACT: Steven Knott, Risk Assessment Forum (8601D), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington DC 20460; telephone: 202–564–3359; facsimile: 202–565–0062; email: knott.steven@epa.gov.

SUPPLEMENTARY INFORMATION: An Agency workgroup convened under the auspices of the RAF has been exploring children's exposure assessment issues. This workgroup has concluded that a major issue facing Agency assessors is how to consider age-related changes in behavior and physiology when preparing exposure assessments for children. Children's behavior changes over time in ways that can have an important impact on exposure. Further, children's physiology changes over time in ways that can impact both their exposures and their susceptibility to certain health effects. There are two aspects to these physiological changes. First, there are anatomical changes resulting from physical growth. Second, there are changes in pharmacokinetics and pharmacodynamics that affect the absorption, distribution, excretion and effects of environmental contaminants. The Agency is examining the pharmacokinetic/pharmacodynamic changes in children through other efforts and future meetings on this topic are anticipated. The July 2000 workshop focused on incorporating age-related changes in behavior and anatomy into Agency exposure assessments.

Dated: July 19, 2001.

Art Payne,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 01–20507 Filed 8–14–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7025–5]

Proposed Past Cost Administrative Settlement Under Section 122(h)(1) of the Comprehensive Environmental Response Compensation and Liability Act; In the Matter of M Metal Site, Indianapolis, Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the M Metal site in Indianapolis, Indiana, with Indianapolis Power & Light Company ''IPL''). The settlement requires IPL to pay $73,412.80 to the Hazardous Substance Superfund.

Under the terms of the settlement, IPL agrees to pay the settlement amount. In exchange for its payment, the United States covenants not to sue or take administrative action pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), to recovery costs that the

United States paid in connection with the Site through April 20, 2001. In addition, IPL is entitled to protection from contribution actions or claims as provided by sections 113(f) and 122(h)(4) of CERCLA, 42 U.S.C. 9613(f) and 9622(h)(4), for response costs incurred by any person in the Site through April 20, 2001.

For thirty (30) days after the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at EPA's Region 5 Office at 77 West Jackson Boulevard, Chicago, Illinois 60604, and at the Indianapolis Public Library in Indianapolis, Indiana.

DATES: Comments must be submitted on or before September 14, 2001.

ADDRESSES: The proposed settlement is available for public inspection at EPA's Record Center, 7th floor, 77 W. Jackson Blvd., Chicago, Illinois 60604. A copy of the proposed settlement may be obtained from Mark Geall, Associate Regional Counsel, U.S. EPA, Mail Code C–14J, 77 W. Jackson Blvd., Chicago, Illinois 60604, telephone (312) 353–9538. Comments should reference the M Metal site, Indianapolis, Indiana, and EPA Docket No. V–W–01–C–649, and should be addressed to Mark Geall, Associate Regional Counsel, U.S. EPA, Mail code C–14J, 77 W. Jackson Blvd., Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark Geall, Associate Regional Counsel, U.S. EPA, Mail Code C–14J, 77 W. Jackson Blvd., Chicago, Illinois 60604, telephone (312) 353–9538.

Authority: The Comprehensive environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601, *et seq.*

Dated: July 19, 2001.

Douglas E. Ballotti,

Acting Director, Superfund Division.

[FR Doc. 01–20505 Filed 8–14–01; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 98–67; DA 01–1706]

Common Carrier Bureau Seeks Comment on Requests for Waiver of Video Relay Service Requirements

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On July 16, 2001 the Commission released a document seeking comment on waiver requests filed by Hamilton Telephone Company (Hamilton) and Sprint Communications (Sprint). Both Hamilton and Sprint requested temporary waiver of certain mandatory minimum requirements for providing Video Relay Services (VRS).

DATES: Comments due September 14, 2001. Reply comments due October 1, 2001.

ADDRESSES: Federal Communications Commission, The Portals II, 445 12th Street, SW., Suite 6A207, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Pam Slipakoff of the Common Carrier Bureau, Network Services Division: by phone at (202) 418–7705; by fax at (202) 418–2345; by TTY at (202) 418–0484 or; by email at *pslipako@fcc.gov.*

SUPPLEMENTARY INFORMATION: In the March 6, 2000 *Improved TRS Order*, 65 FR 38432 (June 21, 2000), the Federal Communications Commission (Commission) amended the TRS rules to expand the kinds of relay services available to consumers and to improve the quality of TRS. The order changed many of the definitions and standards for traditional TRS and added speech-to-speech (STS) and Spanish relay requirements. It also permitted recovery of the costs of both intrastate and interstate VRS through the interstate TRS fund but did not require the provision of VRS. In addition, the *Improved TRS Order* required that all relay service, whether mandatory or voluntary, funded by intrastate and interstate TRS funds must comply with the minimum service quality standards; it also modified the rules to accommodate STS and VRS services.

Hamilton's filing includes a request for clarification of the scope of the VRS rules and for a two year waiver of certain provisions contained in the *Improved TRS Order*. Specifically, Hamilton seeks clarification that VRS need not include STS or Spanish relay service under our current rules. This request will be addressed in a separate Commission level proceeding.

Hamilton's request for a temporary waiver seeks exemption of portions of section 64.604 of the Commission's rules as they apply to VRS providers. Specifically, Hamilton seeks temporary waiver of the following requirements: (1) The types of calls that must be handled; (2) emergency call handling; (3) speed of answer; (4) equal access to interexchange carriers; and (5) pay-per-call services. On June 4, 2001, Sprint filed a similar request for waiver. Sprint seeks a temporary two year waiver of the same sections identified in Hamilton's waiver request, except for section 64.604(a)(3) which pertains to the types of calls that must be handled. Sprint also seeks waiver of any Commission rules that ''may require providers of VRS to ensure that users are able to utilize American Sign Language to communicate with Spanish speaking individuals.''

Hamilton and Sprint's waiver requests will be available for review and copying during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC 20554, (202) 418–0270. They may also be viewed at *https://haifoss.fcc.gov/cgi-bin/ws.exe/prod/ecfs/comsrch_v2.hts*, by typing 98–67 in the proceeding box and 4/06/2001 and 6/04/2001, respectively in the date box. Copies of these documents may also be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS), 1231 20th Street, NW., Washington, DC 20036, telephone 202–857–3800, facsimile 202–857–3805, TTY 202–293–8810.

Federal Communications Commission.

Dorothy Attwood,

Chief, Common Carrier Bureau.

[FR Doc. 01–20487 Filed 8–14–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011741–002.

Title: U.S. Pacific Coast-Oceania Agreement.

Parties:
P&O Nedlloyd Limited/P&O Nedlloyd B.V.
Australia-New Zealand Direct Line
Hamburg-Sud KG
Fesco Ocean Management Limited (''Fesco'')
Synopsis: The proposed amendment authorizes all of the parties except Fesco to share and distribute certain cost savings realized under the agreement.

Agreement No.: 201126.
Title: Oakland/Hanjin/Total Terminals Agreement.
Parties:
Port of Oakland
Hanjin Shipping Company, Ltd.
Total Terminals International, LLC
Synopsis: The proposed agreement provides for the assumption of certain of Hanjin's financial responsibilities at Berths 55–56 (Oakland). The agreement runs through December 31, 2004.

Dated: August 10, 2001.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–20557 Filed 8–14–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 96–20]

Port Restrictions and Requirements in the United States/Japan Trade

AGENCY: Federal Maritime Commission.

ACTION: Requirement for reporting revised.

SUMMARY: The Federal Maritime Commission is revising its requirement that certain ocean common carriers in the U.S.-Japan trade report on the status of efforts to reform conditions unfavorable to shipping in the U.S.-Japan trade. Areas for reporting include effects of recent changes in Japanese laws and ordinances; continued application of the ''prior consultation'' system for pre-approving carriers' service changes in Japan; and entry of new entities into Japan's harbor services market.

DATES: Reports due by November 7, 2001, 90 days from the date of service of this Order and every 180 days thereafter.

ADDRESSES: Reports and requests for publicly available information should be addressed to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573; (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: David R. Miles, Acting General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573; (202) 523–5740.

SUPPLEMENTARY INFORMATION:

Background

1997 Final Rule

Following an extensive investigation, the Commission on February 26, 1997 issued a final rule in this docket finding unfavorable conditions facing U.S. ocean shipping interests in Japanese ports and imposed sanctions in the form of $100,000 per voyage fees on three Japanese ocean common carriers entering United States ports. The rule took effect on September 4, 1997, but was suspended by the Commission on November 13, 1997, after the signing of comprehensive government-to-government and industry-government accords to substantially reform Japanese port practices. At that time, accrued fees of $1.5 million were paid by the Japanese carriers.

The February 1997 final rule identified a number of conditions unfavorable to shipping warranting action under section 19 of the Merchant Marine Act, 1920, 46 U.S.C. app. sec. 876:

- Ocean common carriers in the Japan-U.S. trades could not make operational changes, major or minor, without the permission of the Japan Harbor Transportation Association (''JHTA''), an association of Japanese waterfront employers operating with the permission of, and under the regulatory authority and ministerial guidance of, the Japanese Ministry of Transportation (''MOT'').[1]
- JHTA had absolute and unappealable discretion to withhold permission for proposed operational changes by refusing to accept such proposals for ''prior consultation,'' a mandatory process of negotiations and pre-approvals involving carriers, JHTA, and waterfront unions.
- There were no written criteria for JHTA's decisions whether to permit or disallow carrier requests for operational changes under prior consultation, nor were there written explanations given for the decisions.
- JHTA threatened to use, and did use, its prior consultation authority to punish its detractors and to disrupt their business operations.
- JHTA used its prior consultation authority to extract fees and impose operational restrictions, such as limits on Sunday work.
- JHTA used its prior consultation authority to allocate work among its members, by barring carriers and consortia from freely choosing stevedores and terminal operators and by compelling carriers to hire additional, unneeded stevedores or contractors.
- MOT administered a licensing standard which blocked new entrants from the stevedoring industry in Japan, protected JHTA's dominant position, and ensured that the stevedoring market remained entirely Japanese.
- Because of the restrictive licensing requirements, U.S. carriers could not perform stevedoring or terminal operating services for themselves or for third parties in Japan, as Japanese carriers do in the United States.

On November 10, 1997, U.S. and Japanese officials and relevant industry groups (*i.e.*, JHTA, the Japan Shipowners' Port Council (''JSPC'') and the Japan Foreign Steamship Association (''JFSA'')) came to terms on a number of points for remedying conditions in Japanese ports, including:

- A reaffirmation by the Government of Japan (''GOJ'') that it would approve foreign shipping companies' applications for licenses for port transportation business operations;
- An agreement to simplify the prior consultation system, increase its transparency, and provide for dispute settlement procedures which would include a role for MOT or an MOT-chaired committee;
- A commitment by the GOJ and carrier groups to establish and implement an alternative to the prior consultation system under which carriers intending to implement operational changes would confer with their terminal operators (who, in turn, would consult with labor unions, directly or through a collective bargaining agent as may be required by applicable collective bargaining agreements);
- Commitments that prior consultation would not be used as a means to approve carriers' business plans and strategies, allocate business among port transportation business operators, restrict competition or infringe on carriers' freedom to select port transport business operators; and
- A commitment by the GOJ that it would use its authority to prevent the unjustifiable denial of essential services, ensure the smooth operation of the port

[1] As part of a reorganization, the functions formerly performed by the Ministry of Transport were transferred to the new Ministry of Land, Infrastructure and Transport (''MLIT'') at the beginning of 2001.

transportation business and the improvement of port efficiency, and ensure that operation of the alternative prior consultation process would be free from outside interference, harassment, or retaliation.

The comprehensive settlement reached in this proceeding was reflected in an exchange of letters between the Japanese Ambassador and the U.S. Secretary of State. In those letters, the GOJ confirmed its ''commitment * * * to guide all the signatories to the attachments [the Three-Party and Four-Party Agreements] in securing their faithful, effective and timely implementation of these reforms.'' In addition to the undertakings concerning the approval and issuance of licenses for port transportation businesses, the GOJ committed to ''exert its maximum effort to prevent the unjustifiable denial of services essential to the conduct of any licensed activities.'' The letter also pledged that ''[p]rior consultation shall not be used as a means to approve carriers'' business plans or strategies, allocate business among port transportation business operators, restrict competition or infringe on the carriers' freedom to select port transport business operators.'' The GOJ also ''reiterate[d] its commitment to enforce the Labor Relations Adjustment Law, and further emphasize[d] that the parties concerned with labor disputes can use mediation, reconciliation and arbitration as provided for in that law to maintain order in the provision of port transportation services.''

1999 Withdrawal of Final Rule and Imposition of Reporting Requirements

The Commission noted in May, 1999 that the pace of progress and reform in Japan's port transportation sector had been slow, despite the commitments of the GOJ to market opening and increased accountability. *Port Restrictions and Requirements in the United States/Japan Trade*, 28 S.R.R. 822 (FMC, 1999), 64 FR 30245 (June 7, 1999). It was reported that no foreign carriers had applied for or received licenses to operate their own terminals; no carrier had invoked or tested the prior consultation dispute settlement procedures or other procedural safeguards that were agreed to; and no alternative to the prior consultation system had been developed. Among the reasons noted by the Commission for the lack of substantial change at that time was the strong opposition to change by Japanese labor unions. This opposition included threats of work stoppages communicated to foreign lines which hoped to establish their own terminal operations. The Commission also noted that GOJ regulatory requirements, including ''close ties'' (through equity exchange or long-term contracts) with subcontractors, made launching a terminal venture even more difficult. Furthermore, the Commission found that economic factors in Japan were negatively affecting the attractiveness of carrier investment in Japan's high-cost ports.

The Commission expressed dissatisfaction with the status of port conditions facing the Japan/U.S. trade, including the high costs inefficient Japanese waterfront practices imposed on U.S. trade and carriers, and suggested further steps that the GOJ appropriately could take to ensure that its market-opening commitments were fulfilled. With regard to licensing, these included the elimination or liberalization of regulatory requirements that make entry more difficult, such as the close-ties test and regulatory minimum manning requirements. In order to make the success of any new entrants possible, the Commission suggested that MLIT and other GOJ authorities must also ensure that there would be no illegal boycotts of new entrants to the market, and must act to prevent unlawful threats or harassment.

Finally, the Commission stated that it would monitor regulatory changes then under consideration by the GOJ. Those proposals, propounded in the December 1998 Interim Report of Japan's Transport Policy Council Harbor Transport Subcommittee, included the elimination of the supply/demand test for licensing port business operators (*i.e.*, the requirement that new entrants for a license demonstrate that the supply of port transportation services would not exceed current demand) and the regulatory approval of harbor companies' fees and charges. The Commission noted that these might be positive steps, but suggested that a plan limited to these measures was not likely to remedy current inefficiencies and obstacles in Japan's ports, or ensure an open and competitive market for terminal and stevedoring services. Drawbacks to the deregulatory plan included retaining the economically burdensome requirements that terminal operators: (1) Perform at least 70% of their services themselves; (2) maintain ''close-tie'' relationships with subcontractors; and (3) meet regulatory minimum manning standards.

Although it pointed out these negative developments, the Commission also suggested that the reasons for the lack of progress were unclear and determined that further information to update the record was necessary. In order to effectively evaluate whether the unfavorable conditions identified in the final rule continue to exist, and if they do exist, the extent to which their continued existence arises out of or results from laws, rules, or regulations of the GOJ, the Commission withdrew the final rule and required the U.S. and Japanese carriers to file periodic reports.

Port Transportation Business Law Amendments

The Commission has continued to follow with interest developments relating to these issues. The port deregulation measures resulting from the Transport Policy Council Harbor Transport Subcommittee's Final Report were embodied in amendments to the Port Transportation Business Law enacted on May 10, 2000. The amended law and related ordinances became effective in November, 2000.

The amendments replaced the licensing for a general port transportation business with ''permission'' (Article 22–2) and abolished the supply and demand requirement. The law as amended: (1) Requires that applicants for permission provide a ''business plan'' appropriate for executing business activities (including demonstrating adequate funding) (Article 5); (2) continues the requirements for ''close ties'' to subcontractors; and (3) increases the minimum manning standards to 150 percent of the old standard. The requirement that tariffs and fees for port transportation services be approved by MLIT was replaced with a filing requirement. However, MLIT may order changes in the tariffs and fees as filed within a specified period of time. The revised law also permits shipping lines to own their terminal operating equipment. Additional changes affecting carrier operations in Japanese ports have reportedly occurred in the availability of Sunday and extended working hours at Japanese ports as a result of labor agreements concluded earlier this year.

Discussion

The reports received from carriers following the withdrawal of the final rule in May, 1999 suggest that the situation with respect to the issues raised in this proceeding had not changed materially. The amendments appear to have done little to address the substantial obstacles to proprietary carrier terminal operations affecting carriers in Japan. For example, the revised law does not address ''close tie'' requirements, the role of JHTA, or the prior consultation system, and, in a move backwards, it actually increases

the minimum manning requirements for new business entrants.

These issues were raised by the Acting Maritime Administrator in a letter to MOT in September, 2000. In response, the Director-General of the Maritime Transport Bureau wrote that ''[w]e are actively making efforts to improve the prior consultation system.'' He also reported that detailed procedures for implementation of the amended Port Transportation Business Law had been published for public comments in a cabinet order issued in May, 2000 and a ministerial ordinance issued in July, 2000. These interpretive guidelines appear to have been the subject of some controversy, and were reportedly significantly revised before their issuance in response to Japanese labor unions' opposition to the possibility they raised of increased competition in port services.[2]

Press reports of recent events, as well as the reports in this proceeding, indicate that progress has been minimal and, with respect to some issues, negative. Reports published since the revised law became effective do not suggest that it has resulted in the entry of new competitors in the port transportation business. To the contrary, such reports suggest that the obstacles to firms contemplating new types of service or service to additional ports, including those created by labor opposition, remain formidable.[3]

The Commission is concerned that, despite the length of time which has passed, carriers' opportunities to perform port services for themselves or other carriers or to benefit from increased competition in port services have not materialized. As previously noted, in some respects, the laws and regulations affecting these issues appear to have become more, rather than less, onerous. Therefore, the Commission remains concerned that the amelioration of the unfavorable conditions found in this proceeding, which was anticipated as a result of the agreements reached in November 1997, has not occurred.

In light of the recent legislative and ministerial enactments, the Commission has concluded that once again it is necessary to gather further information and to update the record in this proceeding. The carriers named in the Commission's Order of May 28, 1999, have continued to file the reports required by that Order. The most recently filed responses were filed only three months after the revisions to the Port Transportation Business Law became effective. The next report is presently due to be filed on August 20, 2001. However, we find that the questions posed in the May 28, 1999 Order may no longer be as precise as we would wish in light of the current conditions, laws and ordinances affecting port practices in Japan.[4] Therefore, we hereby amend the reporting requirements established in the Commission's May 28, 1999 Order. In addition, while it appears that the GOJ has issued ministerial guidelines or ordinances implementing or interpreting the revised Port Transportation Business Act, the Commission has not had an opportunity to review these documents. We are therefore requiring the three Japanese carriers to provide such documents.

Therefore, It Is Ordered, That Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., and Nippon Yusen Kaisha, Ltd. file, collectively or individually, copies of any cabinet order or ministerial ordinances, notifications, notices, or regulations issued by the Japanese Ministry of Transportation (''MOT'') or the Ministry of Land, Infrastructure and Transport (''MLIT'') implementing or interpreting the revised Port Transportation Business Act with the Commission by November 7, 2001, 90 days from the date of service of this Order;[5] and

It Is Further Ordered, That the requirement for the submission of reports contained in the Commission's Order of May 28, 1999, *Port Restrictions and Requirements in the United States/Japan Trade,* 28 S.R.R. 822 (FMC, 1999), 64 FR 30245 (June 7, 1999), is rescinded;

It Is Further Ordered, That the following parties are ordered to file reports with the Commission by November 7, 2001, 90 days from the date of service of this Order, and every 180 days thereafter: American President Lines, Ltd.; A.P. Moller Maersk Sea-Land; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; and Nippon Yusen Kaisha. These reports should address the following:

1. (For initial reports due in 90 days only). Describe any new or further restrictions or requirements placed on your company regarding the use or operation of terminals or harbor services as a result of changes in laws, regulations or ordinances of the Government of Japan issued during 2000 or 2001.[6]

2. (For initial reports due in 90 days only). Describe in detail any effects not described in response to question number 1 of recent changes in the laws, ordinances or standards for the provision of marine terminal or stevedoring services in Japanese ports on your company's business operations, particularly with respect to minimum manning requirements, ''close-tie'' relationships, and the ''permission'' system affecting such services.

3. Describe any plans or legislative or regulatory proposals to improve the prior consultation system proposed by MOT, MLIT, JHTA, JSPC or JFSA during 2000 or 2001 (for initial reports due in 90 days) or within the last 180 days (for reports due thereafter) and provide copies of any such plans or proposals.

4. (For A.P. Moller Maersk Sea-Land and American President Lines, Ltd.

[2] ''Labor Reads Riot Act to Transport Ministry Over New Ordinances,'' *Shipping and Trade News,* September 27, 2000 at 1; ''Port Labor Prepared to Strike Over Anti-Dumping Ordinances,'' *Shipping and Trade News,* October 12, 2000 at 1; ''Labor Ready to Strike 12 Major Ports,'' *Shipping and Trade News,* October 18, 2000 at 1; ''MOT Amends Ordinances for Revised Port Law (October 24, 2000),'' *Cyber Shipping Guide;* and ''Agreement on Port Law Revision Averts Strikes,'' *Shipping and Trade News,* October 24, 2000 at 1. The provisions as originally proposed were reportedly objected to by JHTA as well as the Council of Japanese Dockworkers Unions (Zenkoku Kowan).

[3] For example, three companies which applied for licenses to serve the port of Shimizu reportedly withdrew their applications following the filing of a notice of opposition by Zenkoku Kowan. ''Japan's Ports Are Feeling the Deregulation Pressure,'' *International Transport Journal,* March 23, 2001. Plans by the port of Kitakyushu for private construction and operation of a major new container terminal (Hibiki Box Terminal) with the support of MLIT, and its stated goal to operate at low cost, 24 hours a day, 365 days a year, have faced similar opposition from established firms and labor organizations. ''Japanese Port Bids to Break Unions,'' *Fairplay International Shipping Weekly,* September 7, 2000; ''Terminal Operators Scramble to Build Private Container Port in Japan,'' *Journal of Commerce Online,* August 21, 2000; ''Seven Bid For Test-case Port,'' *Fairplay Daily News,* August 25, 2000; ''Kamigumi, Nittsu Withdraw From Hibiki Box Terminal Project,'' *Shipping and Trade News,* April 9, 2001 at 1; ''Future of Kitakyushu Terminal Remains Unclear,'' *Containerisation International,* May 2001 at 33.

[4] In addition, the Commission is concerned that limitation of the reporting requirements to the five originally-named carriers in this proceeding may not sufficiently reflect the impact of those conditions on shipping in the U.S./Japan trade generally. Therefore, by a separate order, the Commission is directing all of the carriers who have substantial operations in the U.S./Japan trade to respond to a limited number of questions concerning the conditions affecting their operations at major ports in Japan.

[5] Any document in a language other than English shall be accompanied by an English translation. For the purposes of this Order, the term ''document(s)'' refers to written, printed, typed, or visually or aurally reproduced material of any kind, including (but not limited to) all copies of any and all letters, correspondence, recommendations, contracts, agreements, orders, records, minutes, reports, press releases, plans, manuals, lists, memos, instructions, notes, notices, confirmations, inter-office or electronic mail, faxes, cables, notations, summaries, opinions, studies, surveys, or memoranda of any conversations, telephone calls, meetings, or other communications.

[6] References to ''your company'' include parent companies, subsidiaries, and corporate affiliates with whom common ownership is shared.

only). Has your company entered into or sought to enter into any joint venture with a Japanese company to perform stevedoring or marine terminal services in Japan during 2000 or 2001 (for initial reports due in 90 days) or during the last 180 days (for reports due thereafter)? If so, for each instance, describe in detail: the relationship sought; whether the venture sought or was required to seek a license or permit to perform such services; the procedures followed for obtaining such a license or permit; and whether the license or permit ultimately was issued as well as the length of time that elapsed from initial application to final issuance or denial.

5. Has your company altered or abandoned any planned or contemplated change in operations on matters subject to prior consultation due to opposition or threats of strikes or other withdrawal of labor by labor organizations or others during 2000 or 2001 (for initial reports due in 90 days) or within the past 180 days (for reports due thereafter)? If so, did your company make any attempt to bring these threats to the attention of Japanese authorities? If so, describe in detail any such consultations, provide copies of documents (including any correspondence, complaint, petition, report, or other application filed) and identify the agency of the Government of Japan contacted concerning the matter.

6. Has any dispute between your company and JHTA under the prior consultation system arisen within the past 180 days? If so, was MLIT notified or requested to serve as arbitrator? Describe in detail what actions, if any, have been taken by MLIT. (Responses may be limited to prior consultation regarding services in U.S.-Japan trades).

7. With respect to major matters (as defined in the ''Revised Prior Consultation System of 1997''), has your company had reason to submit a major matter to JHTA for prior consultation in the past 180 days, or is it likely to have reason to submit such a matter within the next 180 days? Please describe each request or likely request. If past, indicate specifically how the matter was handled and disposed of by JHTA and whether the procedures outlined in paragraph II of the ''Revised Prior Consultation System of 1997'' were adhered to by JHTA and your company.[7]

It Is Further Ordered, That each of the questions listed above calling for the submission of information (as opposed to documents) must be answered separately and fully, in writing and under oath, and signed by the corporate official providing the answer;

It Is Further Ordered, That every document provided pursuant to this Order must clearly identify the question in response to which it is supplied;

It Is Further Ordered, That documents provided pursuant to this Order must be accompanied by a certification, under oath, by a corporate official indicating that a thorough search has been made, and that the documents provided are the only documents responsive to this Order within his or her possession, custody, or control; and

It Is Further Ordered, That responses to this Order shall be protected from disclosure to the public to the fullest extent permitted by law; provided, however, that such treatment shall not foreclose use by the Commission of such information in any subsequent formal proceeding.

By the Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–20554 Filed 8–14–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR 515.

License No.	Name/address	Date reissued
4503F	Aimar USA, Inc. 7500 W. 18th Lane, Hialeah, FL 33014	May 24, 2001.
1752F	Amtonco Inc. dba Amton Shipping Company, 401 Broadway, Suite 508, New York, NY 10013.	June 15, 2001.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–20555 Filed 8–14–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

JTK International Trading, Inc., dba Coastline Trans, 3200 Wilshire Blvd., Suite 1750, Los Angeles, CA 90010; Officers: Jay Tak, Vice President (Qualifying Individuals), Yong Suk Kim, President

Transamerica Leasing Inc., 100 Manhattanville Road, Purchase, NY 10577; Officers: Stuart Downie, Vice President (Qualifying Individual), Brian Sondey, President

[7] Paragraph II.(1–3) of the ''Revised Prior Consultation System of 1997'' requires that:

1. The JHTA shall promptly process a request from a carriers [sic] for Prior [Consultation] without refusing to accept it nor suspending the processing of it.

2. The JHTA shall promptly inform the carrier in writing of the result of the labor-management consultation (with adequate explanation when the labor-management consultation is unsuccessful) or the request for further clarification of the carrier's request.

3. When a prior consultation is unsuccessful, both the carrier and the JHTA shall report it in writing to the MOT.

Xing Guo Int'l (USA) Inc., 1 Hi Mat Express, 5353 W. Imperial Hwy, Suite 900, Los Angeles, CA 90045; Officer: Tao Liu, President (Qualifying Individual)

Bulk Solutions, Inc., 3108 Central Drive, Plant City, FL 33567; Officers: Breck Reed, President (Qualifying Individual), Donald J. Armagost, Vice President

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Extra Logistics, LLC, 4847 Conquista Avenue, Lakewood, CA 90713; Officer: Petra Gruettner, CEO, Sole Proprietor

Kay O'Neill (USA) LLC, 2745 Armstrong Court, Suite 100, Des Plaines, IL 60018; Officers: Stewart Brown, Exec. Vice President (Qualifying Individual), Charles Kay, President

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicant

AM Express, Inc., 3340 B Greens Road, #400, Houston, TX 77032; Officer: Anthony Mello, President (Qualifying Individual), Juan Carlos Diaz, President

Dated: August 10, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–20556 Filed 8–14–01; 8:45 am]

BILLING CODE 6730–01–P

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 10, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. First Banks, Inc, St. Louis, Missouri; through First Banks America, Inc., St. Louis, Missouri, to indirectly acquire 100 percent of the voting shares of BYL Bancorp, Orange, California, and thereby indirectly acquire voting shares of BYL Bank Group, Orange, California.

Board of Governors of the Federal Reserve System, August 10, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–20551 Filed 8–14–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System

TIME AND DATE: 12:00 p.m., Monday, August 20, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551

STATUS: Closed

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: August 10, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–20576 Filed 8–10–01; 4:39 pm]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0163]

Submission for OMB Review and Extension Information Specific to a Contract or Contracting Action (Not Required by Regulation)

AGENCY: General Services Administration (GSA).

ACTION: Notice of request for public comments regarding extension of a currently approved reinstated collection (3090–0163).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration (GSA) has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Information Specific to a Contract or Contracting Action (Not Required By Regulation). A request for public comments was published at 66 FR 23256, May 8, 2001. No comments were received.

DATES: Comments may be submitted on or before September 14, 2001.

FOR FURTHER INFORMATION CONTACT: Beverly Cromer, Acquisition Policy Division, GSA (202) 208–6750.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Ed Springer, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration, Regulatory Secretariat, 1800 F Street, NW., Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration (GSA) has various mission responsibilities related to the acquisition and provision of supplies,

transportation, information technology, telecommunications, real property management, and disposal of real and personal property. These mission responsibilities generate requirements that are realized through the solicitation and award of public contracts. Individual solicitations and resulting contracts may impose unique information collection/reporting requirements on contractors, not required by regulation, but necessary to evaluate particular program accomplishments and measure success in meeting special program objectives.

B. Annual Reporting Burden

Respondents: 126,870.
Responses Per Respondent: 1.36.
Total Responses: 172,500.
Hours Per Response: .4.
Total Burden Hours: 68,900.
Obtaining Copies of Proposals: Requester may obtain a copy of the proposal from the General Services Administration, Regulatory Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4744. Please cite OMB Control No. 3090–0163, Information Specific to a Contract or Contracting Action (Not Required by Regulation), in all correspondence.

Dated: August 9, 2001.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 01–20484 Filed 8–14–01; 8:45 am]

BILLING CODE 6820–34–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0204]

Submission for OMB Review; Comment Request Entitled Commercial Delivery Schedule Clause and Notice of Shipment

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of an emergency reinstatement and request for extension of the reinstated collection (3090–0204).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration, Office of Acquisition Policy requested on June 25, 2001 that the Office of Management and Budget (OMB) reinstate an information collection requirement concerning the Commercial Delivery Schedule (Multiple Award Schedule) clause and the Notice of Shipment clause. OMB reinstated the collection on July 20, 2001. Information collected under this authority is not otherwise required by regulation. This notice indicates GSA's intent to request an extension by 3 years of OMB's emergency reinstatement of this collection and to request public review and comment on the collection.

DATES: Comment Due Date: October 15, 2001.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Ed Springer, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration, Acquisition Policy Division, 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Beverly Cromer, Office of GSA Acquisition Policy (202) 208–6750.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090–0204, concerning the Commercial Delivery Schedule (Multiple Award Schedule) clause. The Commercial Delivery Schedule (Multiple Award Schedule) clause required offerors to provide their commercial delivery terms and conditions. FSS awards contracts to commercial firms under terms and conditions that mirror commercial practices for the supplies and services. In order to ensure the Government obtains the supplies within the offeror's commercial delivery timeframe, the offeror must provide the information requested in the clause, Commercial Delivery Schedule (Multiple Award Schedule).

The GSA is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090–0204, concerning the Notice of Shipment clause. A Notice of Shipment clause is used when it is in the Government's interest to have a supply contractor furnish a notice of shipment. Such a notice is necessary when preparations need to be made for docking arrangements, storage, trans-shipment of materials handling equipment of supplies and equipment upon delivery, labor and inside delivery at destination.

B. Annual Reporting Burden

Number of Respondents: 4109.
Total Annual Responses: 10,305.
Total Burden Hours: 2669.
Obtaining Copies of Proposals: Requester may obtain a copy of the proposal from the General Services Administration, Regulatory Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 3090–0204, Commercial Delivery Schedule (Mulitple Award Schedule) clause and Notice of Shipment clause.

Dated: August 9, 2001.

David A. Drabkin,

Deputy Associate Administrator, Acquisition Policy Division.

[FR Doc. 01–20485 Filed 8–14–01; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Announcement of National Listening Session on Community-Based Alternatives for Individuals With Disabilities

The Department of Health and Human Services, in collaboration with the Departments of Housing and Urban Development, Labor, Education, Justice and the Social Security Administration, is hosting a National Listening Session on Community-Based Alternatives for People with Disabilities to provide an opportunity for public input into each agency's evaluation being conducted under President Bush's Executive Order 13217 on Community-Based Alternatives for People with Disabilities.

Executive Order 13217, signed June 18, 2001, calls upon the federal government to assist states and localities to swiftly implement the decision of the United States Supreme Court in *Olmstead* v. *L.C.* and directs the above-named federal agencies to review and evaluate their policies, programs, statutes and regulations to determine whether any should be revised or modified to improve the availability of community-based services for individuals with disabilities. The evaluations must focus on identifying affected populations, improving the flow of information about supports in the community, and removing barriers that impede community placement. The evaluations also must ensure the involvement of consumers, advocacy organizations, providers, and relevant agency representatives. The results of the evaluations must be reported, through the Department of Health and Human Services, to the President by October 16, 2001.

The National Listening Session on Community-Based Alternatives for People with Disabilities will be held on September 5, 2001 from 9:30 a.m. to

5:00 p.m. in the Atrium Ballroom of the Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue, N.W., Washington, D.C. Participants are encouraged to arrive early (no later than 9:15 am).

Information about registration and registration forms are available on line at *http://www.hrsnt.com/meeting/newfreedom* or call Martrell Kelly at (202) 828–5100. To request a scheduled time slot of up to three minutes to provide testimony during the listening session, register by August 22, 2001. Scheduled time slots will be allocated to ensure representation from a range of stakeholder groups and persons with disabilities and will be filled on a first come, first serve basis. Notification of scheduled time slots will be made approximately two weeks prior to the meeting. In addition to scheduled time slots for testimony, time has been allotted to take public testimony from open microphones at sessions throughout the day. If you are not requesting a scheduled time slot, please submit your registration by August 31, 2001. There are limited funds available to help consumers with travel expenses. To request travel assistance, contact Martrell Kelly at (202) 828–5100 by August 22, 2001.

Purpose: To provide an opportunity for consumers, advocacy organizations, providers and other relevant agency representatives to provide input into federal agency self-evaluations under Executive Order 13217.

Date and Time: September 5, 2001, 9:30 am–5 pm est.

Matters to be Discussed: The agenda will include opening remarks by federal officials, public testimony during scheduled time slots and opportunity for public comment at open microphones.

The public is invited to provide testimony and comment on issues relevant to agency self-evaluations under Executive Order 13217 such as: identification of barriers in federal law, policy and programs that limit the ability of people of any age who have a disability or chronic illness to live in the community; actions that each of the designated agencies can take to address those barriers, improve the flow of information about community supports or aid in fulfillment of the Americans with Disabilities Act; and how federal programs can work together in support of enabling an individual with a disability to participate fully in the social and economic life of the community (e.g., health coverage, mental health services, social services, affordable and accessible housing, employment, caregiver support, and other services).

Dated: August 10, 2001.

Claude A. Allen,

Deputy Secretary.

[FR Doc. 01–20510 Filed 8–10–01; 2:43 pm]

BILLING CODE 4153–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Privacy Act of 1974; Addition of New Routine Use to an Existing System of Records

AGENCY: Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC).

ACTION: Notification of the Addition of a New Routine Use.

SUMMARY: In accordance with the requirements of the Privacy Act, the Centers for Disease Control and Prevention (CDC) is publishing notice of a proposal to add a new routine use to an existing National Institute for Occupational Safety and Health (NIOSH) system of records, 09–20–0147, ''Occupational Health Epidemiological Studies. HHS/CDC/NIOSH.'' The purpose of the new routine use is to contribute dose reconstructions, and supporting information for cancer-related claimants to the Department of Labor (DOL), which will enable DOL to determine award of benefits under the Energy Employees Occupational Illness Compensation Program Act of 2000.

DATES: CDC invites interested parties to submit comments on the proposed routine use on or before September 14, 2001. The CDC will adopt the new routine use without further notice 30 days after the date of publication, unless CDC receives comments which would result in a contrary determination.

ADDRESSES: Comments should be addressed to the Centers for Disease Control and Prevention (CDC) Privacy Act Officer at the address listed below. Comments received will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday in the CDC Executive Park Facility, Building 22 Executive Park Drive, Room 2238, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Betsey S. Dunaway, Privacy Act Officer, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Executive Park Facility, Building 22, Room 2238, Mailstop E–11, Atlanta, Georgia 30333, (404) 498–1506. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: CDC proposes to add a new routine use to an existing system of records within its National Institute for Occupational Safety and Health (NIOSH): 09–20–0147, ''Occupational Health Epidemiological Studies. HHS/CDC/NIOSH.'' The new routine use, i.e., disclosure of epidemiologic and related data to the Department of Labor (DOL), is compatible with the NIOSH system purpose to evaluate the mortality, morbidity, and prevention of occupationally related diseases. This routine use is compatible in that it will permit NIOSH to participate with the DOL by contributing dose reconstructions, and supporting information for cancer-related claimants to DOL, which enable DOL to determine award of benefits under the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), hereinafter ''the Act'' or EEOICPA, Public Law 106–398.

In the EEOICPA, Congress recognized the fact that since World War II, Federal nuclear activities have been explicitly recognized under Federal law as activities that are ultra-hazardous. Nuclear weapons production and testing have involved unique dangers, including potential catastrophic nuclear accidents that private insurance carriers have not covered. It is further recognized that recurring exposures to radioactive substances and beryllium, even in small amounts, can cause medical harm. Since the inception of the nuclear weapons program and for several decades afterwards, a large number of nuclear weapons workers at sites of the Department of Energy and at sites of vendors who supplied the Cold War effort were put at risk.

Because of this, Congress established the ''Energy Employees Occupational Illness Compensation Program.'' The purpose of the program is to provide for timely, equitable, and adequate compensation of covered employees and, where applicable, survivors of such employees, who incurred illnesses during the performance of their duties for the Department of Energy and certain of its contractors and subcontractors. The Department of Labor is the federal agency with lead responsibility and is to administer the program. Within HHS, NIOSH's Office of Compensation Analysis and Support (OCAS) has responsibility under the Act to prepare individual dose reconstructions for specified cancer-related claims.

Providing the Department of Labor with dose reconstruction reports based on employment, work history, exposure monitoring, and medical-related

information about an EEOICPA claimant is consistent with the purpose(s) for which the records within this NIOSH Privacy Act system were collected. Pertinent information and records used to develop individual dose reconstruction from the NIOSH system of records are acquired from two NIOSH program efforts. NIOSH's Health-Related Energy Research Branch (HERB) has been given access to the Department of Energy's system of records to collect information, records, and data for the purpose(s) of evaluating the mortality and morbidity of occupationally related diseases to determine the cause and prevention of occupationally related diseases (Memorandum of Understanding with Department of Energy (DOE), 56 FR 9701, March 7, 1991 renewed 1995 as part of DOE's Radiation Research Program; routine use formalizing data exchange between DOE and HHS added to Privacy Act system of Records DOE–10, '' Worker Advocacy Records''). Additionally, through its research program, NIOSH acquires vital status information, death certificates, and records from the National Death Index and from State Vital Registrars. NIOSH (OCAS) will receive additional records and information during the dose reconstruction process for cancer-related claimants from DOE's existing system of records. This will include employment histories of claimants, production process and work history information, exposure and dosimetry monitoring data, safety and accident reports, and pertinent excerpts from employee medical records.

Claimants will also individually supply information to NIOSH, OCAS consisting of personal records, relevant information from claimants' physicians, affidavits, claimant interview summaries, and/or cancer type diagnosis from the DOL claims form. The claimant information will be augmented by that acquired from DOE and used by NIOSH or its contractors for the purpose of performing dose reconstructions for covered employees with cancer: (1) Who were not monitored for exposure to radiation at a Department of Energy facility or an atomic weapons employer facility, (2) who were monitored inadequately for exposure to radiation at such facility, or (3) whose records of exposure to radiation at such facility are missing or incomplete.

This routine use amendment will enable NIOSH to provide the Department of Labor the information needed to determine, with regard to each covered employee with cancer, whether the cancer was at least as likely as not related to employment at a facility specified in the EEOICPA. The disclosures will also supply the Department of Labor with supporting information needed to defend its determinations under the Act in administrative appeals by claimants. Provision of information from NIOSH's system of records to the Department of Labor is, therefore, consistent with the intent of Congress as represented in the Act.

Provision of this information to the Department of Labor will significantly decrease the administrative cost and effort required to implement the Act. Without this routine use and disclosure, the Department of Health and Human Services would be forced to require each claimant for whom it performs a dose reconstruction, to provide written consent for the Labor Department to obtain access to the claimant's employment, dosimetry, and medical-related information. The Department of Health and Human Services would spend resources and time unnecessarily in transmitting each written consent to the Department of Labor and following up on each request for data. A routine use permitting disclosure of such information to Labor Department personnel would be cost effective, eliminate these inefficiencies, and be claimant friendly.

Permitting the Department of Labor to receive and use the information /data would not result in the unauthorized release of private information contained in the records. Information received by the Department of Labor will be maintained in a secure manner in the Department of Labor system of records DOL/ESA–49 (Office of Workers'Compensation Programs, Energy Employees Occupational Illness Compensation Program Act File). Access will be limited to Labor

Department employees whose official duties require access to the records. Files and automated systems are maintained under supervision of DOL personnel during normal working hours. Only authorized personnel with the appropriate password may handle, retrieve, or disclose any information contained therein. Access to electronic records is controlled by password.

We have also made editorial changes throughout the system notice to enhance clarity and specificity and to accommodate normal updating changes.

Dated: August 9, 2001.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention.

[09–20–0147]

SYSTEM NAME:

Occupational Health Epidemiological Studies. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Surveillance, Hazard Evaluation, and Field Studies (DSHEFS), National Institute for Occupational Safety and Health (NIOSH), Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, OH 45226.

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 1095 Willowdale Road, Morgantown, WV 20505–2888.

Pittsburgh Research Laboratory, NIOSH, 626 Cochrans Mill Road, Pittsburgh, PA 15236.

Spokane Research Laboratory, NIOSH, 315 E. Montgomery Avenue, Spokane, WA 99207.

Office of Compensation Analysis and Support (OCAS), NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

and

Federal Records Center, 3150 Bertwynn Drive, Dayton, OH 45439.

Data are also occasionally located at contractor sites as studies are developed, data collected, and reports written. A list of contractor sites where individually identifiable data are currently located is available upon request to the system manager.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses are performed, data collected and reports written. A list of these facilities is available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Working population exposed to physical and/or chemical agents or other workplace hazards that may damage the human body in any way. Some examples are: (1) Organic carcinogens; (2) inorganic carcinogens; (3) mucosal or dermal irritants; (4)

fibrogenic materials; (5) acute toxic agents including sensitizing agents; (6) neurotoxic agents; (7) mutagenic (male and female) and teratogenic agents; (8) bio-accumulating non-carcinogen agents; and (9) chronic vascular disease-causing agents. Also included are those individuals in the general population who have been selected as control groups. Workers employed by the Department of Energy and its predecessor agencies and their contractors are also included.

CATEGORIES OF RECORDS IN THE SYSTEM:

Physical exams, sputum cytology results, questionnaires, urine test records, X-rays, medical history, pulmonary function test records, medical disability forms, blood test records, hearing test results, smoking history, occupational histories, previous and current employment records, union membership records, driver's license data, demographic information, exposure history information and test results are examples of the records in this system. The specific types of records collected and maintained are determined by the needs of the individual study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, section 301, ''Research and Investigation'' (42 U.S.C. 241); Occupational Safety and Health Act, section 20, ''Research and Related Activities'' (29 U.S.C. 669); the Federal Mine Safety and Health Act of 1977, section 501, ''Research'' (30 U.S.C. 951); and the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) (Pub. L. 106–398, 114 Stat. 1654, 1654A–1231, October 30, 2000).

PURPOSE(S):

Studies carried out under this system are to evaluate mortality and morbidity of occupationally related diseases and injuries, to determine their causes, and to lead toward prevention of occupationally related diseases and injuries in the future.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

Portions of records (name, Social Security number if known, date of birth, and last known address) may be disclosed to one or more of the sources selected from those listed in Appendix I, as applicable. This may be done for obtaining a determination regarding an individual's health status and last known address. If the sources determine that the individual is dead, NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State or local agency. If the individual is alive, NIOSH may obtain information on health status from disease registries or on last known address in order to contact the individual for a health study or to inform him or her of health findings. This information on health status enables NIOSH to evaluate whether excess occupationally related mortality or morbidity is occurring.

In the event of litigation where the defendant is: (a) The Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Department of Justice has agreed to represent such employee, for example, in defending a claim against the Public Health Service based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, disclosure may be made to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected. Records may also be disclosed when deemed desirable or necessary, to the Department of Justice, to enable that Department to effectively represent the Department of Health and Human Services and the Department of Labor in litigation involving the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA).

Records subject to the Privacy Act are disclosed to private firms for data entry, scientific support services, nosology coding, computer systems analysis and computer programming services. The contractors promptly return data entry records after the contracted work is completed. The contractors are required to maintain Privacy Act safeguards.

Certain diseases or exposures may be reported to State and/or local health departments where the State has a legally constituted reporting program for communicable diseases and which provides for the confidentiality of the information.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice and to the Department of Labor, Office of the Solicitor, where appropriate, to enable the Departments to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are: (1) Enforcement of a subpoena issued to an employer to provide relevant information; and (2) administrative search warrants to obtain access to places of employment and relevant information therein and related contempt citations against an employer for failure to comply with a warrant obtained by the Institute; and (3) injunctive relief against employers or mine operators to obtain access to relevant information.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, cooperative agreement holders, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

Disclosure of epidemiologic study records pertaining to uranium workers may be made to the Department of Justice to be used in determining eligibility for compensation payments to the uranium workers or their survivors.

Records may be disclosed by CDC in connection with public health activities to the Social Security Administration for sources of locating information to accomplish the research or program purposes for which the records were collected.

Disclosure of dose reconstructions, epidemiologic study records and employment and medical information pertaining to Department of Energy employees and other cancer-related claimants covered under the Energy Employees Occupational Illness Compensation Program Act may be made to the Department of Labor to be used in determining eligibility for compensation payments to such claimants and in defending its determinations under the Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manager files, card files, computer tapes/disks and printouts, microfilm, microfiche, and other files as appropriate.

RETRIEVABILITY:

Name, assigned number, plant name, and year tested are some of the indices used to retrieve records from these systems. Other retrieval methods are utilized as individual research dictates.

SAFEGUARDS:

1. *Authorized Users*: A database software security package is utilized to control unauthorized access to the system. Access is granted to only a limited number of physicians, scientists, statisticians, and designated support staff or contractors, as authorized by the system manager to accomplish the stated purposes for which the data in this system have been collected.

2. *Physical Safeguards*: Hard copy records are kept in locked cabinets in locked rooms. Guard service in buildings provides screening of visitors. The limited access, secured computer room contains fire extinguishers and an overhead sprinkler system. Computer terminals and automated records are located in secured areas. Electronic anti-intrusion devices are in operation at the Federal Records Center.

3. *Procedural Safeguards*: Data sets are password protected and/or encrypted. Protection for computerized records both on the mainframe and the CIO Local Area Network (LAN) includes programmed verification of valid user identification code and password prior to logging on to the system, mandatory password changes, limited log-ins, virus protection, and user rights/file attribute restrictions. Password protection imposes user name and password log-in requirements to prevent unauthorized access. Each user name is assigned limited access rights to files and directories at varying levels to control file sharing. There are routine daily backup procedures and Vault Management System for secure off-site storage is available for backup tapes. Additional safeguards may be built into the program by the system analyst as warranted by the sensitivity of the data.

Employees and contractor staff who maintain records are instructed to check with the system manager prior to making disclosures of data. When individually identified data are being used in a room, admittance at either government or contractor sites is restricted to specifically authorized personnel. Privacy Act provisions are included in contracts, and the Project Director, contract officers and project officers oversee compliance with these requirements. Upon completion of the contract, all data will be either returned to CDC or destroyed, as specified by the contract.

4. *Implementation Guidelines*: The safeguards outlined above are developed in accordance with Chapter 45–13, ''Safeguarding Records Contained in Systems of Records,'' of the HHS General Administration Manual; and Part 6, ''Automated Information System Security,'' of the HHS Information Resources Management Manual. FRC safeguards are in compliance with GSA Federal Property Management Regulations, Subchapter B—Archives and Records. Data maintained in CDC Atlanta's Processing Center are in compliance with OMB Circular A–130, Appendix III. Security is provided for information collection, processing, transmission, storage, and dissemination in general support systems and major applications. The CIO LANs operate under the current CDC approved version of Novell Netware, and are in compliance with ''CDC & ATSDR Security Standards for Novell File Servers.''

RETENTION AND DISPOSAL:

Records are maintained in agency for three years after the close of the study. Records transferred to the Federal Records Center when no longer needed for evaluation and analysis are destroyed 75 years for epidemiologic studies, unless needed for further study. Records from health hazard evaluations will be retained at least 20 years, and then disposed of in accordance with the CDC Records Control Schedule. Disposal methods include erasing computer tapes and burning or shredding paper materials.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer, Division of Surveillance, Hazard Evaluations, and Field Studies (DSHEFS), National Institute for Occupational Safety and Health (NIOSH), Robert A. Taft Laboratories, Rm. 40A, MS R12, 4676 Columbia Parkway, Cincinnati, OH 45226.

Director, Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), Bldg. ALOSH, Rm. H–2920, MS H2900, 1095 Willowdale Road, Morgantown, WV 26505.

Director, Pittsburgh Research Laboratory, NIOSH, 626 Cochrans Mill Road, Pittsburgh, PA 15236.

Director, Spokane Research Laboratory, NIOSH, 315 E. Montgomery Avenue, Spokane, WA 99207.

Director, Office of Compensation and Support (OCAS), NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, OH 45226.

Policy coordination is provided by: Director, National Institute for Occupational Safety and Health (NIOSH), Bldg. HHH, Rm. 715H, MS P–12, 200 Independence Avenue, SW, Washington, DC 20201.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about himself or herself by contacting the system manager at the above address. Requesters in person must provide driver's license or other positive identification. Individuals who do not appear in person must either: (1) Submit a notarized request to verify their identity; or (2) certify that they are the individuals they claim to be and that they understand that the knowing and willful request for or acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Privacy Act subject to a $5,000 fine.

An individual who requests notification of or access to medical records shall, at the time the request is made, designate in writing a responsible representative who is willing to review the record and inform the subject individual of its contents at the representative's discretion. A subject individual will be granted direct access to a medical record if the system manager determines direct access is not likely to have adverse effect on the subject individual.

The following information must be provided when requesting notification: (1) Full name; (2) the approximate date and place of the study, if known; and (3) nature of the questionnaire or study in which the requester participated.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. An accounting of disclosures that have been made of the record, if any, may be requested.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under System Manager above, reasonably identify the record and specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Vital status information is obtained from Federal, State and local governments and other available sources selected from those listed in Appendix I. Information is obtained directly from the individual and employer records, whenever possible.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I—Potential Sources for Determination of Health Status, Vital Status and/or Last Known Address

Military records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Driver's License Departments
Appropriate State Government Division of: Assistance Payments (Welfare), Social Services, Medical Services, Food Stamp Program, Child Support, Board of Corrections, Aging, Indian Affairs, Worker's Compensation, Disability Insurance
Retail Credit Association follow-up
Veterans Administration files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life insurance companies
Railroad Retirement Board
Area nursing homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service
National Death Index
Health Care Finance Administration
Pension Benefit Guarantee Corporation
State Disease Registries

[FR Doc. 01–20478 Filed 8–14–01; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0287]

EVSCO Pharmaceuticals, an Affiliate of IGI, Inc.; Withdrawal of Approval of NADAs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of two new animal drug applications (NADAs) held by EVSCO Pharmaceuticals, an Affiliate of IGI, Inc. In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the animal drug regulations to remove the portions reflecting approval of the NADAs because these products are no longer manufactured or marketed.

DATES: Withdrawal of approval is effective August 27, 2001.

FOR FURTHER INFORMATION CONTACT: Pamela K. Esposito, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5593.

SUPPLEMENTARY INFORMATION: EVSCO Pharmaceuticals, an Affiliate of IGI, Inc., Box 209, Harding Hwy., Buena, NJ 08310, has requested that FDA withdraw approval of NADA 32–984 for Cerumite (chloramphenicol, prednisolone, tetracaine, and squalane) topical suspension, and NADA 55–005 for Liquichlor with Cerumene (squalane, pyrethrins, and piperonyl butoxide) topical suspension because the products are no longer manufactured or marketed.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADAs 32–984 and 55–005 and all supplements and amendments are withdrawn effective August 27, 2001.

In a final rule published elsewhere in this issue of the **Federal Register**, the agency is amending the animal drug regulations to reflect the withdrawal of approval of these NADAs.

Dated: August 6, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–20574 Filed 8–14–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0316]

Guidance on Inspections of Firms Producing Food Products Susceptible to Contamination With Allergenic Ingredients; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of an inspection guidance entitled ''Guidance on Inspections of Firms Producing Food Products Susceptible to Contamination With Allergenic Ingredients.'' This guidance will assist FDA investigators and inspectors in evaluating conditions that may result in the introduction of undeclared allergens in foods.

DATES: Submit written or electronic comments on this guide at any time.

ADDRESSES: Submit written requests for single copies of the inspection guidance entitled ''Guidance on Inspections of Firms Producing Food Products Susceptible to Contamination With Allergenic Ingredients'' to the Director, Division of Emergency and Investigational Operations (HFC–130), Office of Regional Operations, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–6919. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guide.

Submit written comments concerning the guidance to the Dockets Management Branch (HFS–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:

Technical questions concerning food allergens: Kathy Gombas, Office of Field Programs (HFS–615), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4231, FAX 202–260–0136.

Questions concerning regulatory procedures: Barbara Marcelletti, Office of Regional Operations (HFC–130), Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5635, FAX 301–443–6919.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has developed an inspection guidance identifying the following problem areas in the manufacture of foods that may result in undeclared food allergens: (1) Products that contain one or more allergenic ingredients, but the label does not declare the ingredient in the ingredient label; (2) products that become contaminated with an allergenic ingredient due to the firm's failure to exercise adequate control procedures; (3) products that are contaminated with

an allergenic ingredient due to the nature of the product or the process; (4) products that contain a flavor ingredient that has an allergenic component, but the label of the product only declares the flavor; and (5) products that contain a processing aid that has an allergenic component, but the label does not declare it. FDA believes there is scientific consensus that the following foods can cause serious allergic reactions in some individuals and account for more than 90 percent of all food allergies: Peanuts, soybeans, milk, eggs, fish, crustacea, tree nuts, and wheat.

FDA is issuing this guidance as level 1 guidance consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance is reference material for investigators and other FDA personnel. The guidance does not bind FDA and does not confer any rights, privileges, benefits, or immunities for or on any person(s). An alternative approach may be used if such an approach satisfies the requirements of the applicable statutes, regulations, or both. The guidance will help ensure more effective inspections and further FDA's efforts to prevent potential serious allergic reactions in sensitive individuals resulting from undeclared allergens in food. FDA is making this guidance document effective immediately because public participation prior to its implementation is not appropriate in these circumstances (21 CFR 10.115). Although the guidance document announced in this notice is being implemented immediately, FDA is requesting comments on the guidance. FDA will review all comments received, revise the guidance in response to the comments as appropriate, and publish a notice of availability if the guidance is revised.

II. Comments

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written or electronic comments regarding the guide. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Copies of the guidance may also be downloaded to a personal computer with access to the Internet. The Office of Regulatory Affairs home page includes the guide and may be accessed at http://www.fda.gov/ora under ''Inspectional References.''

Dated: July 27, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–20481 Filed 8–10–01; 11:07 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0311]

Medical Devices: Draft Guidance on ''Class II Special Control Guidance Document: Endolymphatic Shunt Tube With Valve; Draft Guidance for Industry and FDA;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Class II Special Control Guidance Document: Endolymphatic Shunt Tube With Valve; Draft Guidance for Industry and FDA.'' This draft guidance document will serve as the special control for reclassification of the endolymphatic shunt tube with valve device from class III to class II. The draft guidance document outlines the technical areas to address in order to control the risks associated with the endolymphatic shunt tube with valve and to provide for a timely premarket notification (510(k)) review. This draft guidance is neither final nor is it in effect at this time.

DATES: Submit written or electronic comments on the draft guidance by November 13, 2001.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance entitled ''Class II Special Control Guidance Document: Endolymphatic Shunt Tube With Valve; Draft Guidance for Industry and FDA'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing you request, or fax your request to 301–443–8818. Submit written comments concerning this draft guidance 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. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: James K. Kane, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2080.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance entitled ''Class II Special Control Guidance Document: Endolymphatic Shunt Tube With Valve; Draft Guidance for Industry and FDA.'' The draft guidance document is the special control guidance for the endolymphatic shunt tube with valve. Elsewhere in this issue of the **Federal Register**, FDA is proposing to reclassify the device from class III to class II when it is intended to be implanted in the inner ear to relieve the symptoms of vertigo and hearing loss due to endolymphatic hydrops of Meniere's Disease. FDA intends that this draft guidance document, if finalized, will serve as the special control for the endolymphatic shunt tube with valve. If finalized, the guidance will supersede the guidance document entitled ''Guidance for the Technical Content of a Premarket Approval Application for an Endolymphatic Shunt Tube With Valve'' that FDA issued in April 1990.

II. Significance of Guidance

The draft guidance represents the agency's current thinking on the endolymphatic shunt tube with valve. 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 statutes 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). This draft guidance document is issued as a level 1 guidance in accordance with the GGP regulations.

III. Electronic Access

In order to receive ''Class II Special Control Guidance Document: Endolymphatic Shunt Tube With Valve; Draft Guidance for Industry and FDA'' 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 document number 791 followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with 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 Web 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 on the draft guidance by November 13, 2001. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen 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. 01–20572 Filed 8–14–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Evaluation of the Scholarships for Disadvantaged Students (SDS) Program—New

The Scholarships for Disadvantaged Students (SDS) program was established in 1990 to provide financial assistance to health professions and nursing students from disadvantaged backgrounds. A primary tenet of the SDS program is that students who come from disadvantaged backgrounds will be most likely to practice in Medically Underserved Communities (MUCs) after graduation. In this way, the SDS program is working to alleviate health profession and nursing shortages across the country.

The evaluation of this program will include a mail survey directed at graduates of SDS-participating institutions in the fields of allopathic and osteopathic medicine, dentistry, veterinary medicine, optometry, podiatry, pharmacy, nursing, allied health and behavioral and mental health. The survey will be directed at the 1996 graduates of allopathic and osteopathic medicine schools who participated in the SDS program in both 1996 and 2001. The survey will also be directed at the 1999 graduates of dentistry, veterinary medicine, optometry, podiatry, pharmacy, nursing, allied health and behavioral and mental health schools who participated in the SDS program in both 1999 and 2001. The information will identify the place and type of employment for each individual surveyed in order to determine whether or not the individual practiced in a MUC between July 1, 1999, and June 30, 2000. The data collected through this survey will be used to determine whether statistically significant differences exist between the rate at which disadvantaged versus non-disdvantaged individuals and SDS scholarship recipients versus non-recipients practice in MUCs after graduation. These data will also be used to determine whether differences exist in the rates at which individuals in different health professions work in MUCs. The results will be used to formulate programmatic and policy recommendations designed to strengthen the SDS program and increase its effectiveness.

Type of Survey	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Questionnaire	3,750	1	.25	937.5

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 9, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–20488 Filed 8–14–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the

Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: The National Health Service Corps (NHSC) and Native Hawaiian Health (NHH) Scholarship Programs Data Collection Worksheets (OMB No. 0915–0226)—Extension

The NHSC and NHH Scholarship Programs were established to assure an adequate supply of trained primary care health professionals to the neediest communities in the Health Professional Shortage Areas (HPSAs) of the United States. Under these programs, allopathic physicians, osteopathic physicians, dentists, nurse practitioners, nurse midwives, physician assistants, and, if needed by the NHSC or NHH program, students of other health professions are offered the opportunity to enter into a contractual agreement with the Secretary under which the Public Health Service agrees to pay the total school tuition, required fees, other reasonable costs (ORC) and a stipend for living expenses. In exchange, the scholarship recipients agrees to provide full-time clinical services at a site in a federally designated HPSA.

In order to accurately determine the amount of scholarship support that students will need during their academic training the Bureau of Primary Health Care must contact each scholars's school for an estimate of tuition, fees, and ORC. The Data Collection Worksheet collects these itemized costs for both resident and nonresident students.

ESTIMATED BURDEN HOURS

HRSA form	Number of respondents	Responses per respondent	Total responses	Hours per responses	Total burden hours
Worksheet	600	1	600	.50	300

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 9, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–20489 Filed 8–14–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–60]

Notice of Proposed Information Collection: Comment Request; Empowerment Zone/Enterprise Community Application Form

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: *Comments Due Date:* October 15. 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 & Urban Development, 451 Seventh 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, 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: Empowerment Zone/Enterprise Community Application Form.

OMB Control Number, if applicable: 2506–0148.

Description of the need for the information and proposed use: Eligible applications apply to HUD and USDA for designation of an eligible area in their jurisdiction as an Empowerment Zone. Applications are units of local government and states, applying jointly.

Agency form numbers, if applicable: HUD 40003.

Members of 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 12,655, number of respondents is 300, frequency of response is annually, and the hours per response is 50. Annual report is 15 (one annual progress report per grantee); 15 hours per grantee.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 9, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–20567 Filed 8–14–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–61]

Notice of Submission of Proposed Information Collection to OMB; Owner's Certification of Compliance with HUD Tenant Eligibility and Rent Procedures

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 14, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0204) 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: Owner's Certification of Compliance with HUD Tenant Eligibility and Rent Procedures.

OMB Approval Number: 2502–0204.

Form Numbers: HUD–50059.

Description of the Need for the Information and Its Proposed Use: These data elements are needed to comply with Federal statutes and regulations that: (1) Establish policies to who may be admitted to subsidized housing; (2) specify which eligible applicants may be given priority over others; (3) prohibit discrimination in conjunction with selection of tenants and unit (4) specify how tenants' incomes and rents must be compiled; and (5) require Annual Reports to Congress and the public on the race/ethnicity and gender composition of HUD program beneficiaries.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit-institutions, Federal Government, State, Local or Tribal Government.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
.....	2,207,339		1		0.9		2,008,457

Total Estimated Burden Hours: 2,008,457.

Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 9, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–20566 Filed 8–14–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Federal Grant Use by the Wisconsin Department of Natural Resources

AGENCY: Fish and Wildlife Service, Interior, lead; Wisconsin Department of Natural Resources, cooperating.

ACTION: Notice of intent.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to conduct a 30-day scoping period to solicit public comments for a National Environmental Policy Act (NEPA) decision on whether to continue awards for two Federal grants which are funded under the comprehensive management plan (CMP) grant option, as described in the Federal Aid in Wildlife Restoration Act (WR) and Federal Aid in Sport Fish Restoration Act (SFR) (16 U.S.C. 669 *et. seq.* and 16 U.S.C. 777 *et. seq.*), and the cumulative effects of activities that are funded under the Federal grants.

Comments are being sought in order to decide whether to prepare an Environmental Assessment or to utilize a categorical exclusion. The primary focus for this review is to address statewide cumulative and secondary effects of activities conducted by the WDNR that are funded under WR Grant Number W–160–P and SFR Grant Number F–95–P and administered by the Service's Region 3 Federal Aid Division. A secondary focus is to address the processes used by the WDNR to select and complete those activities. Each individual project, or group of projects, will continue to receive site specific NEPA review when it is submitted for funding. Therefore the scope of this review is broad and directed at impacts that may not be detected with individual projects along

with consideration of the overall planning system utilized by WDNR. Comments on site specific projects are not within the scope of this review, although comments regarding the effects of different types of projects would be appropriate. The Service may choose to analyze the impacts of the two Federal grants separately because their intended purposes are different. The Service is using this scoping notification as it considers approving continuation of the CMP option for the next five years.

Administration of these grants uses management systems identified in the Grant Proposal consistent with a Fish, Wildlife and Habitat Plan that generally identifies fish and wildlife program direction in Wisconsin and types of activities that may constitute projects subject to an annual application for funds process. The comprehensive management system is described in the Grant Proposal which includes a description of the WDNR strategic planning process, operational planning process and their control/evaluation process. This notice is being furnished as provided for by the NEPA regulations (40 CFR 1501.7 and 1508.22). The intent of this notice is to obtain suggestions and additional information from other agencies and the public on the scope of issues to be considered. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received on or before September 14, 2001.

Public Involvement: The public is invited to participate in the scoping process. Written scoping comments should be received within 30 days from the date of publication of this Notice of Intent. All comments received from individuals become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's NEPA regulations [40 CFR 1506.6(f)]. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If a respondent would like us to withhold his/her name and/or address, this must be stated prominently at the beginning of the comment.

ADDRESSES: Comments should be addressed to: Scoping Comments, U.S. Fish and Wildlife Service, Division of Federal Aid, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, MN 55111; telephone: (612) 713–5130. Electronic mail comments may also be submitted within the comment period to: wdnrgrants@fws.gov

FOR FURTHER INFORMATION CONTACT: Michael Sweet (Sport Fish Restoration) or Fabian Romero, (Wildlife Restoration, Wildlife Conservation and Restoration) U.S. Fish and Wildlife Service, Federal Aid Division, 1 Federal Drive, Fort Snelling, MN 55111; telephone: (612) 713–5130.

SUPPLEMENTARY INFORMATION: The WDNR has utilized SFR and WR funds since Congress enacted the programs in 1956 and 1937, respectively. This will be the first year that WDNR will use Wildlife Conservation and Restoration (WCR) funds which Congress approved for a one-year period during the Federal fiscal year beginning October 1, 2000. The public is requested to inform the Service of concerns regarding the WDNR management systems, their administration of the comprehensive management system grants in Wisconsin, and the cumulative effects of activities funded under these Federal grants.

The WDNR has administered its SFR grant program using the CMP option for the past 16 years and WR grant program using the CMP option for the past 11 years. WDNR began administering the WCR grant program using the CMP option July 1, 2001. During the past 16 years the WDNR conducted numerous public information and input processes, as well as Service review regarding its programs, including: the development and periodic revision of a Strategic Plan; development of a Fisheries, Wildlife and Habitat Management Plan for Wisconsin; numerous basin, area, waterbody, and property master plans; use of biennial work planning processes; program and management reviews; financial audits and periodic field reviews conducted jointly by WDNR and Service staff regarding implementation of the CMP.

Some projects that will be subject to NEPA review as part of the annual grant process will be conducted on lands that might be eligible for listing on the National Register of Historic Places. The National Historic Preservation Act and other laws require that these properties and resources be identified and considered in project planning. The public is requested to inform the Service of concerns about archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns.

Dated: August 1, 2001.

Charlie M. Wooley,

Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, MN.

[FR Doc. 01–20479 Filed 8–14–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Hanford Reach National Monument Federal Advisory Committee; Meeting Notice

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; FACA meeting.

SUMMARY: The Hanford Reach National Monument Federal Advisory Committee will conduct a meeting on Wednesday, September 12, 2001 from 9 am to 4:30 pm and Thursday, September 13, from 1:30 pm to 4 pm in the Wahluke School District, Administration Building, Board Room, located at 411 East Saddle Mountain Dr., Mattawa, WA. The meeting is open to the public and press.

DATES: The meeting will take place Wednesday, September 12, 2001 from 9 am to 4:30 pm and Thursday, September 13, from 1:30 pm to 4 pm. Time will be made available for public comments to be heard during the meeting. Written comments received by September 13, 4 pm., will be incorporated into the meeting notes. Written comments received after the deadline will be accepted, but will not be incorporated into the meeting notes.

ADDRESSES: Any member of the public wishing to submit written comments should send those to Mr. Greg Hughes, Designated Federal Officer for the Hanford Reach National Monument Federal Advisory Committee, Hanford Reach National Monument/Saddle Mountain National Wildlife Refuge, 3250 Port of Benton Blvd., Richland, WA 99352; fax (509) 375–0196. Copies of the draft meeting agenda can be obtained from the Designated Federal Officer.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the meeting should contact Mr. Greg Hughes, Designated Federal Official for the Hanford Reach National Monument Federal Advisory Committee; phone (509) 371–1801, fax (509) 375–0196.

SUPPLEMENTARY INFORMATION: During this meeting, the Hanford Reach National Monument Federal Advisory Committee will select a Committee Chairperson, finalize Committee groundrules, hear informational

presentations regarding the Comprehensive Conservation Plan process, and identify key decision points in the process.

Dated: August 9, 2001.

Jeff Haas,

Acting Project Leader, Hanford Reach National Monument.

[FR Doc. 01–20525 Filed 8–14–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection, Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of a revision of a currently approved information collection (OMB Control Number 1010–0095).

SUMMARY: To comply with the Paperwork Reduction Act (PRA) of 1995, we are inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) is titled ''Request to Exceed Regulatory Allowance Limitation.''

DATES: Submit written comments on or before October 15, 2001.

ADDRESSES: Submit written comments to Carol P. Shelby, Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 320B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also email your comments to us at mrm.comments@mms.gov. Include the title of the information collection and the OMB control number in the ''Attention'' line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your email, contact Ms. Shelby at (303) 231–3151.

FOR FURTHER INFORMATION CONTACT: Carol P. Shelby, telephone (303) 231–3151, FAX (303) 231–3385, email Carol.Shelby@mms.gov.

SUPPLEMENTARY INFORMATION:

Title: Request to Exceed Regulatory Allowance Limitation.

OMB Control Number: 1010–0095.

Bureau Form Number: MMS–4393.

Abstract: The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. MMS performs the royalty management functions and assists the Secretary in carrying out DOI's Indian trust responsibility.

When paying royalties on Federal or Indian leases, payors are ''allowed'' to deduct reasonable costs for transportation and/or processing to get the product in a marketable condition. By current regulation, these allowances are limited to specified percentages of the royalty due. However, in some cases, it is reasonable to deduct allowances that exceed the established limits.

Form MMS–4393, Request to Exceed Regulatory Allowance Limitation, is used by royalty payors to request MMS approval to exceed established transportation or processing allowance limits. To request permission to exceed an allowance limit, royalty payors must write a letter to MMS providing the reasons why a higher allowance limit is necessary. Although the request to exceed an allowance limit is voluntary on the part of the payors and results in a benefit to them, many times payors did not provide all of the data needed by MMS to approve or deny a request. The follow-up necessary to obtain the required information created an additional burden for both the payor and MMS.

MMS developed Form MMS–4393 to be included with the payor's request letter to ensure that we receive the data necessary to make a decision on the request. The form requires the payor to provide an Accounting Identification (AID) number for the leased property, the product code identifying the product being transported or processed, and the selling arrangement used to identify the marketing outlet for the product. We estimate the annual burden to complete this information collection is 30 minutes per request.

Request for Revision. MMS will be requesting OMB approval of a revised Form MMS–4393 to take effect when our new computer system is operational. This revision is necessary to make Form MMS–4393 compatible with other recently revised forms such as the Form MMS–2014, Report of Sales and Royalty Remittance (1010–0140). These revisions are the result of a major reengineering of MMS's financial and compliance processes and the procurement of a new computer system. For example, during the reengineering process MMS decided to eliminate the reporting of an accounting identification (AID) number and selling arrangement number on all existing forms. In their place, MMS is requiring a combination of lease and agreement numbers and sales type codes. Since the existing Form MMS–4393 contains columns for AID number and selling arrangement number, these columns must be removed and new columns for lease numbers, agreement numbers, and sales type codes must be added. The revised form requires similar types of information to be provided by the lessee so we do not anticipate any changes in burden hours.

Submission of the information in this collection is necessary when requesting to exceed regulatory allowance limits on Federal and Indian properties. Proprietary information that is submitted is protected, and there are no questions of a sensitive nature included in this information collection.

Frequency: On occasion.

Estimated Number and Description of Respondents: 75.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 37.

Estimated Annual Reporting and Recordkeeping ''Non-hour Cost'' Burden: We have identified no ''non-hour cost'' burdens.

Comments: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Before submitting an ICR to OMB, PRA Section 3506(c)(2)(A) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of

automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting ''non-hour cost'' burden to respondents or recordkeepers resulting from the collection of information. We have not identified non-hour cost burdens for this information collection. If you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our ICR submission for OMB approval, including appropriate adjustments to the estimated burden. We will provide a copy of the ICR to you without charge upon request and the ICR will also be posted on our web site at http://www.mrm.mms.gov/Laws__R__D/FRNotices/FRInfColl.htm.

Public Comment Policy. We will post all comments in response to this notice on our web site at http://www.mrm.mms.gov/Laws__R__D/InfoColl/InfoColCom.htm. We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request that we withhold their home address from the public record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: July 5, 2001.

Cathy J. Hamilton,

Acting Associate Director for Minerals Revenue Management.

[FR Doc. 01–20530 Filed 8–14–01; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF JUSTICE

Notice of Lodging of a Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Under 42 U.S.C. 9622(i), notice is hereby given that on July 11, 2001, two proposed Consent Decrees in *United States* v. *Mountain Metal Co., et al.,* Civil Action No. CV–98–C–2562–S and CV–98–C–2886–S were lodged with the United States District Court for the Northern District of Alabama.

In this action, the United States sought reimbursement of costs incurred in responding to the release and threatened release of hazardous substances at the ILCO battery cracking site in Leeds, Alabama. A group of previous settlers also sued to obtain contribution for their costs in performing work at the site. In these Consent Decrees, sixteen parties are settling their liability to the United States and the private plaintiffs by paying a total of $4,877,575. The settling parties include the following, as well as certain related individuals and entities: Mayfield Manufacturing Company, New Bern Street Realty, Elizabethton Herb & Metal, Red Ball Oxygen Co., Commercial Iron & Metals, IBS of Nashville, Resource Alloys and Metals, Aaron Scrap, Metropolitan Metals, Mathis Battery, Smith Metals, All Scrap Salvage, D & R Battery, Bob's Recycling, Denbo Iron & Metal, and Powerlab, Inc. Prior to these Consent Decrees, the United States obtained partial reimbursement of its costs through judicial settlements with 42 parties and administrative settlements with 286 parties.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044–7611, and should refer to *United States* v. *Mountain Metal Co., et al.,* D.J. Ref. 90–11–2–108/2.

The Consent Decrees may be examined at the Office of the United States Attorney, 200 Robert S. Vance Fed. Bldg., 1800 5th Avenue N., Room 200, Birmingham, Alabama, and at U.S. EPA Region 4, 61 Forsyth Street, Atlanta, Georgia. A copy of the Consent Decrees may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $34.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Walker B. Smith,

Principal Deputy, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–20526 Filed 8–14–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that consent decrees in *United States* v. *Nicholas Schorsh, NTFJ Corporation, and Robert Brumbaugh,* Civil Action No. 97–0744 (E.D.Pa.) were lodged with the Court on July 30, 2001.

The proposed consent decrees resolve the claims of the United States against the defendants Nicholas Schorsch, NTFJ Corporation and Robert Brumbaugh under section 107 of the Comprehensive Environmental Response Compensation and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9607, for past response costs at the Coleman Laboratory Superfund Site in Philadelphia, Pennsylvania. The decrees oblige defendants Nicholas Schorsch and NTFJ Corporation to reimburse $105,000, and defendant Robert Brumbaugh $55,000 of the United States' past response costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Deputy Chief, Environmental Enforcement Section, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044–7611 and should refer to *United States* v. *Nicholas Schorsch, NTFJ Corporation*

and Robert Brumbaugh DOJ Ref. # 90–11–3–1546.

The proposed consent decrees may be examined and copied at the Office of the United States Attorney, 615 Chestnut Street, Suite 1250, Philadelphia, PA, 19106–4476, or the Region III Office of the Environmental Protection Agency, c/o Gail Wilson, Assistant Regional Counsel, 1650 Arch Street, Philadelphia, PA 19103. Copies of the consent decrees may be obtained by mail from the Consent Decree Library, P.O. Box No. 7611, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $10.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–20527 Filed 8–14–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on July 18, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Ufi Limited, Dearing House, Sheffield, United Kingdom; R5 Vision Oy, Tyopajakatu 10A, Helsinki, Finland; and Artesia Technologies, Rockville, MD have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global Learning Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On April 7, 2000, IMS Global Learning Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on April 16, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 4, 2001 (66 FR 30006).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–20528 Filed 8–14–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Spray Drift Task Force

Notice is hereby given that, on July 20, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Spray Drift Task Force has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, BASF Corp., Mt. Olive, NJ transferred the membership formerly held by American Cyanamid Co., Princeton, NJ to K–1 Chemicals USA, Inc., White Plains, NY; and Syngenta Crop Protection Corp., Greensboro, NC transferred the membership formerly held by Merck, Inc., Rahway, NJ to Cedar Chemical Corp., Memphis, TN.

No changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Spray Drift Task Force intends to file additional written notification disclosing all changes in membership.

On May 15, 1990, Spray Drift Task Force filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 5, 1990 (55 FR 27701).

The last notification was filed with the Department on May 1, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 1, 2001 (66 FR 29836).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–20529 Filed 8–14–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 2, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King at (202) 693–4129 or E-Mail King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment and Training Administration (ETA).

Title: Non-monetary Determination Activity Report.

OMB Number: 1205–0150.

Affected Public: State, Local, or Tribal Government.

Frequency: Quarterly.

Number of Respondents: 53.

Number of Annual Responses: 224.

Estimated Time Per Response: 4 hours.

Total Burden Hours: 896.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The data collected on the Form ETA–207 are required by section 303(a)(6) of the Social Security Act and are used to monitor the impact of the State and Federal unemployment insurance disqualification provisions, to measure workload, and to appraise the adequacy and effectiveness of adjudication determination procedures. The data are also used for general statistical purposes.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–20466 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of July and August, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–38,673; BP Exploration (Alaska), Inc., Anchorage, AK

TA–W–38, 909; Dorsey Trainers, Inc., Elba, AL

TA–W–39,082; Birmingham Steel Corp., Joliet, IL

TA–W–39,409; General Cable Corp., Communication-Datacom Div., Cass City, MI

TA–W–38,899; Federal Mogul Corp., Powertrain Div., Malden, MO

TA–W–38,882; Thalman Manufacturing Co., Inc., Hempstead, NY

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,322; Behr Robotics, Inc., Formerly Durr Robotics/Alstom, Rochester Hills, MI

TA–W–39,608; Advanced Flex, Inc., Minnetonka, MN

TA–W–38,760; Biddeford Textile Corp., Biddeford, ME

TA–W–39,697; Kopper Industries, Inc., Carbon Materials & Chemical Div., Follansbee, WV

TA–W–39,599; Dyna-Craft Industries, Inc., Apollo, PA

TA–W–39,554; Nova Dye and Print Corp., Waterbury, CT

TA–W–38,929; Akzo-Nobel Aerospace Coatings, Inc., Brownsville, TX

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–39,439; Sunoco Lube Service Center, Tulsa, OK

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification

TA–W–39,065 & A; Mundy Industrial Contractors, Kinston, NC and Leland, NC

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,663; Oxford Shift Group, Vidalia, GA: July 3, 2000

TA–W–39,274; Berne Apparel, Inc., Portland, Indiana Plant, Portland, IN: May 4, 2000

TA–W–39,656; Boston Scientific Northwest Technology Center, Inc., Redmond, WA: June 29, 2000

TA–W–38,720; M & S Sewing, Inc., Van Nuys, CA: January 29, 2000

TA–W–39,602; ADD Spirit, Inc., Twin City, GA: June 21, 2000

TA–W–39,647; H. Oritsky, Reading, PA: July 2, 2000

TA–W–39,571 & A; Auburn Sportswear, Brookhaven, MS and Hartwell Industries, Hartwell, GA: June 25, 2000

TA–W–39,013 & A; Boise Cascade Corp., Timber and Wood Products, Idaho Region, Cascade, IN and Emmett, ID: April 2, 2000

TA–W–39,612; York Sportswear Co., Inc., Hurtsboro, AL: June 29, 2000

TA–W–39,021; Ferry Cap and Set Screw Co., Cleveland, OH: June 20, 2000

TA–W–39,469; Tarkett, Inc., Whitehall, PA: May 27, 2001

TA–W–39,358; Turner Industries II, Ltd, Bowling Green, KY: May 14, 2000

TA–W–38,982; Lyons Falls Pulp and Paper, Inc., Lyons Falls, NY: March 9, 2000

TA–W–39,399; Lomac LLC, Muskegon, MI: May 18, 2000

TA–W–39,332; Heckett Multiserve, Div. Of Harsco Corp., Employed at GST Steel Company, Kansas City, MO: May 9, 2000

TA–W–39,525; Maxxim Medical, Eaton Glove Plant, Eaton, OH: June 2, 2000

TA–W–38,842; Wisconsin Machine Tool Corp., West Allis, WI: March 6, 2000

TA–W–39,493; Tennessee Machine and Hosiery, Inc., Dandridge, TN: June 7, 2000

TA–W–39,411; Johnson Electric Automotive, Inc., Johnson Electric Automotive Motors, Columbus, MS: May 22, 2000

TA–W–39,491 & A; Stearns, Inc., Paynesville, MN and Sauk Rapids, MN: May 31, 2000

TA–W–39,504 & A; Mayflower Manufacturing Co., Inc., Old Forge, PA: May 4, 2001 and Triple ''A'' Trouser, Scranton, PA: May 5, 2001

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply

for NAFTA–TAA issued during the month of July and August, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–04804; Birmingham Steel Corp., Joliet, IL

NAFTA–TAA–04907; General Cable Corp., Communications-Datacom Div., Cass City, MI

NAFTA–TAA–04980; Lomac LLC: Muskegon, MI

NAFTA–TAA–04960; Behr Robotics, Inc., Formerly Durr Robotics/ Alstom, Rochest Hills, MI

NAFTA–TAA–04693; Thalman Manufacturing Co., Inc., Hempstead, NY

NAFTA–TAA–04680; Textron Fastening Systems, Thermoplastics Operations, Mishawaka, IN

NAFTA–TAA–04726; Boise Cascade Corp., Timber and Wood Products, Idaho Region, Cascade, ID

NAFTA–TAA–05026; Townsend Engineered Products, Textron Fastening Systems—Automotive Div., Spencer, TN

NAFTA–TAA–04662; Federal Mogul Corp., Powertrain Div., Malden, MO

NAFTA–TAA–04657; Pelton Casteel, Inc., Milwaukee, WI

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

NAFTA–TAA–05041; Seagate Technology, Inc., OKC 1020 Div., Oklahoma City, OK

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–04883; Motorola, Inc., iDen Subscriber Div., Plantation, FL: May 14, 2000

NAFTA–TAA–04987; Tennessee Machine & Hosiery, Inc., Dandridge, TN: June 7, 2000

NAFTA–TAA–05122; Maxxim Medical, Eaton Glove Plant, Eaton, OH: June 14, 2000

NAFTA–TAA–04937; Jordana, Inc., Medley, FL: May 21, 2000

NAFTA–TAA–04943; Akzo-Nobel Aerospace Coatings, Inc., Brownsville, TX: March 20, 2000

NAFTA–TAA–04725; Lyons Falls Pulp and Paper, Inc., Lyons Falls, NY: March 24, 2000

NAFTA–TAA–04726A; Boise Cascade Corp., Timber and Wood Products, Idaho Region, Emmett, ID: All workers engaged in employment related to the production of plywood who become totally or partially separated on or after April 2000

NAFTA–TAA–04991; Triple ''A'' Trouser, Scranton, PA: May 5, 2001

NAFTA–TAA–04990; Mayflower Manufacturing Co., Inc., Old Forge, PA: May 4, 2001

NAFTA–TAA–04870; Berne Apparel, Inc., Portland, Indiana Plant, Portland, IN: May 3, 2000

NAFTA–TAA–04984; Tarkett, Inc., Whitehall, PA: May 27, 2001

NAFTA–TAA–04557; M & S Sewing, Inc., Van Nuys, CA: January 29, 2000

I hereby certify that the aforementioned determinations were issued during the month of July and August, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 7, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–20539 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of July, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,292; Gulf States Paper Corp., Maplesville, AL

TA–W–38,522; Red Wing Products, Inc., Brentwood, NY

TA–W–39,505; Cuyahoga Steel and Wire LLC, Solon, OH

TA–W–39,325; Mercersburg Apparel Co., Mercersburg, PA

TA–W–39,365; Eagle Affiliates, Harrision, NJ

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,488; Coldwater Machine Co. LLC, Coldwater, OH

TA–W–39,408; Alcoa Fujikura Ltd, El Paso, TX

TA–W–39,591; TRW Automotive Braking Systems, Milford, MI

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–39,610; Avecia, Inc., Mt. Pleasant, TN

TA–W–39,567; Guardian Life Insurance Co. Of America, Northeast Regional Office, Lehigh Valley, PA

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–39,537; Red Wing Shoe Co., Inc., Danville, KY

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,373; The Carbide/Graphite Group, Inc., St. Marys, PA: May 18, 2000

TA–W–38,869; Westfield Tanning, Div., of E.H. Hall, Westfield, PA: March 2, 2000

TA–W–38,856; Garan Manufacturing, Oak Grove, LA: February 20, 2000

TA–W–38,905; Gambella Industries, Nikki Knits Div., Goldsboro, NC: March 12, 2000

TA–W–39,588; Motorola, Inc., iDen Subscriber Div., Plantation, FL: June 27, 2000

TA–W–39,352; Midwest Tanning Co., South Milwaukee, WI: May 4, 2000

TA–W–39,199; Party Shoes, Chicago, IL: April 26, 2000

TA–W–39,105; Exide Technologies, Formerly GNB Technologies, Dunmore, PA: April 5, 2000

TA–W–38,830; Marcegaglia USA, Inc., Damascus Tube, Greenville, PA: February 16, 2000

TA–W–38,596; Matsushita Battery Corp., Storage Battery Div., Columbus, GA: December 26, 1999

TA–W–39,466; Imperial Home Decor Group, Finishing Department, Knoxville, TN: May 29, 2000

TA–W–39,334; Electrolux Home Products, NA, WCI Outdoor Products, Inc., Swainsboro, GA: May 11, 2000

TA–W–39,187; Jenson Apparel Group, Fall River, MA: April 17, 2000

TA–W–39,236; Winky Textiles, Inc., Hauppauge, NY: April 24, 2000

TA–W–39,544; American Apparel, Inc., Lena, MS: June 11, 2000

TA–W–39,514; Guilford Mills, Inc., Greenberg Plant, Greensboro, NC: June 5, 2000

TA–W–39,403; Phelps Dodge Tyrone, Inc., Tyrone, NM: May 24, 2000

TA–W–39,073; Pen-Tab/Stuart Hall, Kansas City, MO: March 29, 2000

TA–W–39,164; Primecast, Inc., South Beloit, IL: April 12, 2000

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of July, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–05017; TRW Automotive, Braking Systems, Milford, MI

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

NAFTA–TAA–04938; Alcoa Fujikura Ltd, El Paso, TX

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

NAFTA–TAA–05002; Red Wing Shoe Co., Inc., Danville, KY

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–04925; Fernbrook & Co., Palmerton, PA: May 23, 2000

NAFTA–TAA–04999; Pete's Cutting Services, Hialeah, FL: May 25, 2000

NAFTA–TAA–04771; Ansell Protective Products, Tarboro, NC: April 16, 2000

NAFTA–TAA–04615; Westfield Tanning, Div. Of E.H. Hall, Westfield, PA: March 2, 2000

NAFTA–TAA–04666; Gambella Industries, Nikki Knits Div., Goldsboro, NC: March 12, 2000

NAFTA–TAA–04974; Winky Textiles, Inc., Hauppauge, NY: June 4, 2000

NAFTA–TAA–05084; Guilford Mills, Inc., Greenberg Plant, Greensboro, NC: July 2, 2000

NAFTA–TAA–04802; Pro Manufacturing Co., Killeen, TX: April 20, 2000

NAFTA–TAA–04894; Midwest Tanning Co., South Milwaukee, WI: May 4, 2000

NAFTA–TAA–04961; Steiger Lumber Co., Bessember, MI: May 21, 2000

NAFTA–TAA–04997; American Apparel, Inc., Lena, MS: June 11, 2000

NAFTA–TAA–04891; Electrolux Home Products, NA, WCI Outdoor Products, Swainesboro, GA: May 11, 2000

NAFTA–TAA–04600; Marcegaglia USA, IN., Damascus Tube, Greenville, PA: February 21, 2000

NAFTA–TA–04758; Exide Technologies, GNB Technologies, Dunmore, PA: April 5, 2000

I hereby certify that the aforementioned determinations were issued during the month of July, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 27, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–20472 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[Docket No. TA–W–38,784]

Schlessinger Industries, et al.; Notice of Negative Determination Regarding Application for Reconsideration

By application postmarked May 21, 2001, the petitioners requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on April 23, 2001, and published in the **Federal Register** on May 9, 2001 (66 FR 23733).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The negative determination issued by the Department on behalf of the workers of the subject firm in Ridgefield, New Jersey, was based on the finding that the ''contributed importantly'' test of the worker group eligibility requirements of Section 222 of the Trade Act of 1974 was not met for workers at Joseph L. Schlessinger, T/A Schlessinger Industries, Ridgefield Machine, Inc., and P&G Machinery Repair Corp., Ridgefield, New Jersey producing parts for Schiffli Embroidery Machines. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's customers. The Department of Labor surveyed the major customers of the subject firm regarding their purchases of Schiffli Embroidery Machine parts. There were no company or customer imports of parts for embroidery machines.

The petitioner asserts that the customers are not running the machines, but they are selling them to foreign countries. Petitioners also attached a ''Spare Parts of Embroidery Lace Machine.'' The petition investigation, however, revealed that the major customers of the subject firm do not import products like or directly competitive with that which was produced in Ridgefield, New Jersey.

The petitioner adds that another firm, Swiss Maid, Inc., was sold at a bankruptcy sale because Champion went to Mexico. The Department notes that Swiss Maid, Inc., has no relevance in this case.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 1st day of August 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–20547 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,042, et al.]

Agilent Technologies, Inc. Basic Electronics Systems, & Test Unit Including Temporary Workers of Staff Mark Loveland, Colorado, et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 25, 2001, applicable to workers of Agilent Technologies, Inc., Basic Electronics Systems & Test Unit, Loveland, Colorado, Agilent Technologies, Inc., Design Validation Unit, Colorado Springs, Colorado and Agilent Technologies, Inc., Network System and Test Division, Colorado Springs, Colorado. The notice was published in the **Federal Register** on June 14, 2001 (66 FR 32389).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the State agency shows that some employees of Agilent Technologies, Inc., Basic Electronic Systems & Test Unit, Loveland, Colorado were temporary workers from Staff Mark employed to produce volt meters and bench-top instruments at the Loveland, Colorado location of the subject firm.

Information also shows that some employees of Agilent Technologies, Inc., Design Validation Unit and the Network System & Test Division, Colorado Springs, Colorado were temporary workers from Volt Technical Services to produce oscilloscopes and logic analyzers; and, test equipment to telecommunications applications respectively at the Colorado Springs, Colorado locations of the subject firm.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Agilent Technologies, Inc., Basic Electronics Systems & Test Unit, Loveland, Colorado; and, Agilent Technologies, Inc., Design Validation Unit and the Network System & Test Division, Colorado Springs, Colorado, adversely affected by increased imports.

The amended notice applicable to TA–W–39,042, TA–W–39,042A and TA–W–39,042B are hereby issued as follows:

All workers of Agilent Technologies, Inc., Basic Electronics Systems & Test Unit, including temporary workers of Staff Mark, Loveland, Colorado, who were engaged in the production of volt meters and bench-top instruments at Agilent Technologies, Basic Electronics Systems & Test Unit, Loveland, Colorado (TA–W–39,042); and, all workers of Agilent Technologies, Design Validation Unit, including temporary workers of Volt Technical Services, Colorado Springs, Colorado, who were engaged in the production of oscilloscopes and logic analyzers at Agilent Technologies, Design Validation Unit, Colorado Springs, Colorado (TA–W–39,042A); and, all workers of Agilent Technologies, Network Systems & Test Division, including temporary workers of Volt Technical Services, Colorado Springs, Colorado, who were engaged in the production of test equipment for telecommunications applications at Agilent Technologies, Network Systems & Test Division, Colorado Springs, Colorado (TA–W–39,042B), who became totally or partially separated from employment on or after March 30, 2000, through May 25, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 3rd day of August, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–20541 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 27, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 27, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 16th day of July, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 07/16/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,615	Allegheny Ludlum Steel (USWA)	Brackenridge, PA	07/16/2001	Cold Rolled Oriented Steel.
39,616	United States Ceramic (USWA)	East Sparta, OH	07/02/2001	White Body Ceramic Tile.
39,617	Silgan Plastics (Wkrs)	Fairfield, OH	07/02/2001	Plastic Bottles.
39,618	Winer Industries (Wkrs)	Dallas, TX	06/27/2001	Women's Jeans.
39,619	Converse, Inc. (Wkrs)	Charlotte, NC	06/25/2001	Footwear.
39,620	Perry Manufacturing (Wkrs)	Mt. Airy, NC	07/02/2001	Ladies Sports Apparel.
39,621	Franklin Industries (Wkrs)	Lavenia, GA	06/28/2001	Sewing Machine Parts.
39,622	UCAR Carbon (Co.)	Clarksville, TN	07/02/2001	Graphite Electrodes.
39,623	E.J. Victor (Co.)	Morganton, NC	07/02/2001	House Hold Furniture.
39,624	Nidec America Corp. (Wkrs)	Canton, MA	07/02/2001	Fans for Computers.
39,625	Kimlor Mills (Wkrs)	Orangeburg, SC	06/30/2001	Sheet Sets.
39,626	Great Western In't (Wkrs)	Portland, OR	06/27/2001	Industrial Chemicals.
39,627	Timken Railroad Bearing (Wkrs)	Columbus, OH	06/19/2001	Bearings.
39,628	Henderson Sewing Machine (Co.)	Andalusia, AL	06/29/2001	Sewing Machine Parts.
39,629	MasterTrans Transportation (Wkrs)	Stungis, MS	06/28/2001	Trucking.
39,630	John Crane (Wkrs)	Crystal Lake, IL	06/14/2001	Industrial Seals.
39,631	Merix Corporation (Wkrs)	Forest Grove, OR	07/02/2001	Circuit Boards.
39,632	JPS Apparel Fabric (Co.)	South Boston, VA	06/27/2001	Woven Fabrics.
39,633	GAMCO Manufacturing (Co.)	Jamestown, TN	06/29/2001	Ladies Sportswear and Uniforms.
39,634	Lea Industries (Co.)	Marion, VA	06/29/2001	Casegoods Furniture.
39,635	Alpha Industries (Wkrs)	Knoxville, TN	06/27/2001	Civilian and Military Jackets.
39,636	Angelica Image Apparel (Wkrs)	Mountain View, MO	06/28/2001	Hospital Apparel.
39,637	International Garment (Wkrs)	El Paso, TX	06/27/2001	Jeans.
39,638	Webster Corporation (PACE)	West Bend, WI	06/26/2001	Wiring Harnesses.
39,639	American Steel (Wkrs)	Cuyahoga Hts, OH	06/27/2001	Steel Bar Rod.
39,640	ARC–NACO (Wkrs)	Superior, WI	06/28/2001	Trackwork Products.
39,641	Agilent Technologies (Wkrs)	Westford, MA	06/28/2001	Hand Held Communications Test Equipment.
39,642	Cares Candles and Gifts (Wkrs)	Hayward, CA	06/27/2001	Botanical Candles.
39,643	Precision Mold (Co.)	Kent, WA	06/26/2001	Precision Mold.
39,644	A–1 Manufacturing (Co.)	Brilliant, AL	06/28/2001	Uniforms.
39,645	S.D. Warren Alabama (Wkrs)	Mobile, AL	06/26/2001	Uncoated Paper Products.
39,646	L.B. Foster (USWA)	Pomeroy, OH	06/28/2001	Steel.
39,647	H. Oritsky (UNITE)	Reading, PA	07/02/2001	Men's Suits and Slacks.
39,648	Greg Stout Logging (Co.)	Gold Hill, OR	06/29/2001	Logs.
39,649	Nazareth Century Mills (Co.)	Ouitman, MS	07/02/2001	Knit Apparel.
39,650	Micron Electronics (Wkrs)	Nampa, ID	05/22/2001	Computer Products.
39,651	Ditto Apparel of Calif. (Wkrs)	Bastrop, LA	07/06/2001	Denim Jeans.
39,652	Cranston Print Works (UNITE)	Webster, MA	07/03/2001	Textiles.
39,653	Covington Industries (Wkrs)	New York, NY	07/03/2001	Fabric.
39,654	Wilcox Forging (Co.)	Mechanicsburg, PA	07/03/2001	Drop Forging.
39,655	International Components (Co.)	San Jose, CA	06/29/2001	Wire Harness Assembly.
39,656	Boston Scientific (Co.)	Redmond, WA	07/05/2001	Medical Devices (Cardiology).
39,657	Weirton Steel Corp. (Co.)	Weirton, WV	07/03/2001	Flat Rolled Steel.
39,658	HARSCO Corporation (USWA)	Harrisburg, PA	07/03/2001	Gas Cylinders.
39,659	Tower Automotive (PACE)	Sebewaing, MI	06/29/2001	Metal Stampings.
39,660	Rosti, Inc. (Co.)	Coushatta, LA	06/27/2001	Phone Knit.

APPENDIX—Continued

[Petitions Instituted on 07/16/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,661	R and B Machine Tool (Co.)	Saline, MI	06/29/2001	Automated Metal Removal Equipment.
39,662	MM and E Machine (Co.)	Penton, MI	06/29/2001	Automated Metal Removal Equipment.
39,663	Oxford Shirt Group (7/3/20)	Vidalia, GA	07/03/2001	Men's Shirts.

[FR Doc. 01–20538 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,678]

Cooper Bussman, Black Mountain, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 23, 2001, in response to a worker petition which was filed by the company on behalf of workers at Cooper Bussman, Black Mountain, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 31st day of July, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–20546 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,672]

GKN Sintered Metal Kersey Division, Kersey, Pennsylvania; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 23, 2001 in response to a petition filed on behalf of workers at GKN Sintered Metal, Kersey Division, Kersey, Pennsylvania.

Some of the petitioners did not work at GKN Sintered Metal, Kersey Division, Kersey, Pennsylvania. Therefore, the petition is invalid. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 30th day of July, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–20470 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,642]

Global Tex LLC Doing Business as Bates of Maine, Lewiston, ME; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of June 1, 2001, the Union of Needletrades, Industrial and Textile Employees (UNITE) New England Joint Board requests administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance applicable to workers of the subject firm. The negative determination was signed on May 3, 2001, and published in the **Federal Register** on May 23, 2001 (66 FR 28553).

The Department's review of the application shows that the information provided supports reopening of the petition investigation.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is therefore, granted.

Signed at Washington, DC this 20th day of July 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–20476 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 27, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 27, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 9th day of July, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 07/09/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,571A	Hartwell Industries (Comp)	Hartwell, GA	06/25/2001	Jackets and Shirts.
39,571	Auburn Sportswear (Comp.)	Brookhaven, MS	06/25/2001	Jackets and Shirts.
39,572	Owens-BriGam Medical Co (Comp)	Arden, NC	06/28/2001	Disposable Anesthesia & Respiratory.
39,573	Cooper Wiring Devices (USWA)	Georgetown, SC	06/27/2001	Wiring Devices.
39,574	SGL Carbon Group (UFCW)	Morganton, NC	06/07/2001	Graphite Electrodes & Specialty Graphite.
39,575	J and L Specialty Prod. (USWA)	Louisville, OH	06/18/2001	Steel Grades.
39,576	Serco Co. (The) (Wrks)	Buffalo, NY	06/29/2001	Loading Dock Equipment.
39,577	Et Al Group, Inc. (UNITE)	New York, NY	06/22/2001	Ladies Dresses Day and Evening.
39,578	McLaughlin Co. (UAW)	Petoskay, MI	06/20/2001	Cold Forming Headers.
39,579	Newell Window Furnishings (Wrks)	Waco, TX	06/24/2001	Window Blinds and Slats.
39,580	Elkay Manufacturing (Comp)	Lanark, IL	06/11/2001	Bottled Water Coolers.
39,581	Ross Allen Design (Wrks)	Bean Station, TN	06/21/2001	Sofas and Chairs Upholstery.
39,582	Mallinckrodt Medical (Wrks)	Plymouth, MN	06/20/2001	Specialized Medical Tools.
39,583	Visteon Systems LLC (Comp)	Connersville, IN	06/21/2001	Radiators, Compressors, Evaporators.
39,584	Laco Sportswear, Inc. (Comp)	Chattanooga, TN	06/25/2001	Sportswear.
39,585	Bike Athletic Co/Kazmaier (Comp)	Mountain City, TN	06/28/2001	Men's & Ladies Athletic Wear.
39,586	Moltech Power Systems (Comp)	El Paso, TX	06/21/2001	Rechargeable Batteries.
39,587	Grote Industries LLC (Comp)	Madison, IN	06/15/2001	Electrical Wiring Harnesses.
39,588	Motorola, Inc. (Comp)	Plantation, FL	05/08/2001	Radios and Printed Circuit Boards.
39,589	Northwest Alloys, Inc. (Comp)	Addy, WA	06/25/2001	Pure Magnesium Metal Ingots.
39,590	Lees Curtain Co., Inc. (Comp)	New York, NY	06/22/2001	Window Curtains.
39,591	TRW Automotive (UAW)	Milford, MI	06/19/2001	Brake System Components.
39,592	Viceroy Gold Corp. (Comp)	Searchlight, NV	06/20/2001	Gold.
39,593	MuRata Electronics NA (Wrks)	State College, PA	06/22/2001	Ceramic Capacitors.
39,594	Spectrum Control, Inc. (Wrks)	Elizabethtown, PA	06/21/2001	Microwaves.
39,595	RHO Industries (UNITE)	Buffalo, NY	06/22/2001	Chestpiece Supplier.
39,596	Quilt Gallery (Wrks)	Easley, SC	06/20/2001	Quilts, Comforters, Pillows.
39,597	Adaptec, Inc. (Wrks)	Orlando, FL	06/21/2001	Electronics.
39,598	Palliser Furniture Corp (Comp)	Troutman, NC	06/21/2001	Upholstered Leather Furniture.
39,599	Dyna-Craft Industries (Wrks)	Apollo, PA	06/21/2001	Tooling Systems.
39,600	General Electric Co. (IUE)	Fort Wayne, IN	06/21/2001	Permanent Magnetic & AC Motors.
39,601	3M, Inc. (Wrks)	Columbia, MO	06/17/2001	Printer Cartridge Circuits.
39,602	Add Spirit, Inc. (Comp)	Twin City, GA	06/21/2001	Baby and Infant Apparel.
39,603	ColemanCable, Inc. (Wrks)	McAllen, TX	06/10/2001	Car Floor.
39,604	Doran Mills LLC (Wrks)	Shelby, NC	06/20/2001	Novelty Yarns.
39,605	Kimble Glass, Inc. (AFGWU)	Vineland, NJ	06/13/2001	Culture Tubes.
39,606	California Manufacturing (UNITE)	California, MO	06/19/2001	Light Winter Jackets.
39,607	UniFirst Corp. (Comp)	Wilburton, OK	06/18/2001	Men's & Women's Jeans and Jackets.
39,608	Advanced Flex, Inc. (Wrks)	Minnetonka, MN	06/12/2001	Printed Circuit Boards.
39,609	Valeo Engine Cooling (IAMAW)	Jamestown, NY	06/22/2001	Engine Cooling Products.
39,610	Avecia, Inc. (Wrks)	Mt. Pleasant, TN	06/22/2001	Research and Development of Chemicals.
39,611	HR Textron Cadillac Gage (EIU)	Greenville, OH	06/20/2001	Hydraulic Pumps and Turret Systems.
39,612	York Sportswear Co., Inc (Comp)	Hurtsboro, AL	06/29/2001	Insulated Outer Wear.
39,613	Dutton Manufacturing (Comp)	Laconia, NH	06/27/2001	Women's Clothing.
39,614	Trinity Industries (Wrks)	Paris, TN	06/07/2001	Interior/Exterior Rail Cars.

[FR Doc. 01–20548 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39, 637]

International Garment Processors, El Paso, TX; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 16, 2001, in response to a petition filed by workers on behalf of all workers at International Garment Processors, El Paso, Texas.

The petition group of workers is under an existing certification for which a determination was issued on June 29, 2001 (TA–W–39, 196) for J.C. Viramontes, Inc., d/b/a International Garment Processors, El Paso, Texas. Consequently, further investigation int his case would serve no purpose, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 2nd day of August, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–20549 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 27, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 27, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 2nd day of July, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

Appendix

PETITIONS INSTITUTED ON 07/02/2001

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,516	Loogootee Manufacturing (Wkrs)	Loogootee, IN	06/05/2001	Cord sets.
39,517	Spectrum Control (Wkrs)	Erie, PA	06/12/2001	0–Subs Assembly.
39,518	Spartan International (Wkrs)	Spartanburg, SC	05/14/2001	Woven Fabrics.
39,519	FCI Electronics (Wkrs)	Mt. Union, PA	04/21/2001	Control Cables for Telephones.
39,520	Nokia, Inc. (Wkrs)	Irving, TX	06/15/2001	Mobile Phones.
39,521	Kleinert's Inc. of Alabama (Co.)	Elba, AL	06/15/2001	Children's Playwear and Sleepwear.
39,522	JLG Industries (Wkrs)	McConnellsburg, PA	06/19/2001	Aerial Work Platform—Scissor Lifts.
39,523	Minnesota Twist Drill (Wkrs)	Chilsholm, MN	06/19/2001	Drill Bits.
39,524	Tex Tech (Co.)	Tempe, AZ	06/21/2001	Tennis Felt Coverings.
39,525	Maxxim Medical (Wkrs)	Eaton, OH	05/01/2001	Medical Exam Gloves.
39,526	CTS Reeves Frequency (Co.)	Carlisle, PA	06/18/2001	Crystal Oscillators.
39,527	International Wire Group (Co.)	Camden, NY	06/15/2001	Coated Copper Wire.
39,528	Fessler Machine (USWA)	Sharon, PA	06/14/2001	Gear Boxes.
39,529	Quaker Oats Co. (RWDSU)	St. Joseph, MO	06/14/2001	Pancake Mix and Cereals.
39,530	Facemate Corp. (Co.)	Collierville, TN	06/15/2001	Garment Linings.
39,531	Bill Levkoff (UNITE)	New York City, NY	06/21/2001	Ladies' Dresses.
39,532	Power Conversion Products (Co.)	Crystal Lake, IL	05/31/2001	Power Supplies.
39,533	FCI Electronics (Wkrs)	Mount Union, PA	06/19/2001	Cables—Audio and Video.
39,534	Robert Bosch Corp. (UAW)	Ashland, OH	06/14/2001	Complete Braking Systems.
39,535	Computer Sciences Corp. (Co.)	Charleston, SC	06/20/2001	Provide Technical Support.
39,536	Georgia Pacific (AMPPW)	Bellingham, WA	06/15/2001	Pulp and Chemicals.
39,537	Red Wing Shoe (Wkrs)	Danville, KY	06/08/2001	Work Boots.
39,538	Rich Products Corp. (Wkrs)	Winchester, VA	06/15/2001	Frozen Dough Products.
39,539	Mission Valley Fabrics (Wkrs)	New Braunfels, TX	06/14/2001	Woven Yarn.
39,540	Oxford Automotive (Wkrs)	Masury, OH	06/13/2001	Front End Suspension Parts.
39,541	Signature Software (Wkrs)	Hood River, OR	05/29/2001	Custom Handwritten Fonts.
39,542	Calvmet Lubricants (PACE)	Rouseville, PA	06/18/2001	Petroleum Waxes.
39,543	Tyco Electronics (Wkrs)	Menlo Park, CA	06/10/2001	Fiber Optic Components.
39,544	American Apparel (Wkrs)	Lena, MS	06/11/2001	Knit Shirts.
39,545	Invensys, Inc. (Co.)	Foxboro, MA	06/04/2001	Printed Circuit Boards.
39,546	Revere Copper Products (UAW)	Rome, NY	06/15/2001	Copper and Copper Alloy Mill Products.
39,547	Ross Simmons Hardwood (Wkrs)	Longview, WA	06/12/2001	Hardwood Lumber.
39,548	Plystar (Wkrs)	Columbus, GA	06/13/2001	Vacuum Seal Bags (Foodsaver).
39,549	Chicago Miniature Lamps (Wkrs)	Wynnewood, OK	06/11/2001	Miniature Lamps.
39,550	Passo Prossing LLC (Wkrs)	Bartow, FL	05/25/2001	Juice.
39,551	Rohm and Haas (PACE)	Paterson, NJ	06/13/2001	Industrial Dyes.
39,552	HS Industries (Wkrs)	Independence, WI	06/08/2001	Camouflage Headnets.
39,553	National Textiles (Co.)	Gaffney, SC	06/20/2001	Knit, Dye, & Finished Fabrics.
39,554	Nova Dye and Print (Wkrs)	Waterbury, CT	06/11/2001	Dyeing and Finishing Materials.
39,555	Wilson Freight Associates (Co.)	Van Buren, AR	06/12/2001	Truck Hauling—Steel Machinery, Lumber.
39,556	Ademco Group (Wkrs)	Syosset, NY	06/14/2001	Alarm Systems.
39,557	D.V. and P., Inc. (Wkrs)	New York, NY	05/18/2001	Distribution Services for Garments.
39,558	Phantom Glendale (Wkrs)	W. Wilkesboro, NC	06/20/2001	Ladies' Intimate Apparel.

PETITIONS INSTITUTED ON 07/02/2001—Continued

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,559	DeLong Sportswear (Wkrs)	Jefferson, OR	06/15/2001	Woven Wool Fabric.
39,560	ISB Fashion, Inc. (Wkrs)	New York, NY	06/21/2001	Dresses.
39,561	411 Warehouse Corp. (Co.)	Madisonville, TN	06/21/2001	Ladies Outerwear.
39,562	ADC Mersum US, Inc. (Co.)	S. Hackensack, NJ	06/13/2001	DSXpert Remote Access Equipment.
39,563	Excaliber Tublar (Wkrs)	Benwood, WV	06/15/2001	Steel Tubing.
39,564	Moding Aftermarket (Wkrs)	Merced, CA	06/21/2001	Aftermarket Radiators.
39,565	Thomaston Mills (Co.)	Thomaston, GA	06/20/2001	Sheets, Pillowcases and Comforters.
39,566	Louisiana Pacific (Wkrs)	Rogue River, OR	06/12/2001	Veneer.
39,567	Guardian Insurance (Wkrs)	Lehigh Valley, PA	06/15/2001	Software Support.
39,568	Alcatel Submarine Network (Co.)	Portland, OR	06/19/2001	Fiber Optic Cable.
39,569	Alamac Knit Fabrics (Co.)	Clinton, NC	06/20/2001	Knit Fabric.
39,570	Tyrolit North America (UAW)	Westboro, MA	06/15/2001	Grinding Wheels.

[FR Doc. 01–20537 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,286A]

M. Fine & Sons Manufacturing Co., Inc. Loretto, TN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on June 26, 2001, applicable to workers of M. Fine & Sons Manufacturing Company, Inc., Loretto, Tennessee. The notice was published in the **Federal Register** on July 11, 2001 (FR 66 36329).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of primarily men's and boys' pants and shirts. New findings show that the Department incorrectly issued the certification to ''all workers'' of the Loretto, Tennessee location of M. Fine & Sons Manufacturing Company, Inc. A previous certification, TA–W–38,200, was issued on December 27, 2000, for workers of the subject firm's Loretto, Tennessee location limited to workers who were engaged in employment related to the production of blue jean finishing. That certification expires December 27, 2002.

The Department is amending the certification determination to exclude workers, employed at the Loretto, Tennessee location, who are engaged in employment related to the production of blue jean finishing, who are previously covered under TA–W–38,200.

The intent of the Department's certification is to include all workers of M. Fine and Sons Manufacturing Company, Inc., Loretto, Tennessee.

The amended notice applicable to TA–W–39,286A is hereby issued as follows:

All workers of M. Fine & Sons Manufacturing Co., Inc., Loretto, Tennessee, excluding those workers engaged in employment related to the production of blue jean finishing, who are covered by TA–W–38,200, who became totally or partially separated from employment on or after May 3, 2000, through June 26, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 16th day of July, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–20477 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other person showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 27, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 27, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 23rd day of July, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 7/23/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,664	Maine Poly, Inc. (Wrks)	Coreene, ME	07/13/2001	Plastic Film Packaging
39,665	IMS (Comp)	Warren, OH	06/19/2001	Slag
39,666	International Wire (Comp)	Elkmont, AL	06/13/2001	Crosslink and PVC Wire
39,667	Wheeling Pittsburgh Steel (USWA)	Steubenville, OH	07/07/2001	Hot Rolled Sheet
39,668	Hawley Products, Inc. (Comp)	Paducah, KY	07/05/2001	Loudspeakers Cones
39,669	Chadwick Yarns Co., Inc. (Wrks)	Central Falls, RI	07/05/2001	Industrial Yarns
39,670	Lamb-Grays Harbor Co (Comp)	Hoquiam, WA	07/09/2001	Equipment—Pulp and Paper
39,671	Fiber Optic Network (Wrks)	Northboro, MA	07/09/2001	Enclosure Cabinets
39,672	GKN Sintered Metal (Wrks)	Kersey, PA	06/28/2001	Powered Metal Parts
39,673	Magnolia International (Wrks)	Harlingen, TX	07/10/2001	Uniforms
39,674	Pennsylvania Steel (USWA)	Steelton, PA	07/03/2001	Steel Rails, Pipe, Semi-Finished Steel
39,675	Fruit Distributing Co (Comp)	Mobile, AL	06/28/2001	Food Distributor Schools, Gas Stations
39,676	Del Laboratories, Inc. (Comp)	Newark, NJ	07/03/2001	Tweezers and Nail Clippers
39,677	Concord Fabrics, Inc. (Comp)	New York, NY	07/06/2001	Painted Fabrics
39,678	Cooper Bussmann (Comp)	Black Mountain, NC	06/25/2001	Electrical Fuses
39,679	J and L Structural, Inc (USWA)	Ambridge, PA	06/22/2001	Finished Weight Beams and Channels
39,680	Great Lakes Stitchery (Comp)	Manistee, MI	07/10/2001	Sew Men's & Ladies' Apparel
39,681	United Shoe Machinery (USWA)	Wilmington, MA	07/02/2001	Shoe Mfg Machinery
39,682	Wellmade Industries, Inc (Comp)	New York, NY	07/10/2001	Ladies' and Children's Apparel
39,683	Plaid Clothing Co., Inc. (Comp)	Somerset, KY	07/12/2001	Men's Suits
39,684	Lee Fashion Fabric/Dyeing (Comp)	Gloversville, NY	07/07/2001	Dye Fabrics
39,685	Karin Stevens, Inc (Wkrs)	New York, NY	07/10/2001	Dress Patterns, Graders, Markers
39,686	J and K Sales Co., Inc (Comp)	Pawtucket, RI	07/13/2001	Children's Costume Jewelry
39,687	Ohio Industries (Wrks)	Bucyrus, OH	07/12/2001	Locomotive Cranes
39,688	LifeStyle Leather (Comp)	Shelby, NC	07/10/2001	Leather Covers for Sofas, Chairs
39,689	Mallicote Printing, Inc (Wrks)	Bristol, TN	07/13/2001	Company Brochures, Annual Reports
39,690	Atlas Bag (Comp)	Houston, TX	07/03/2001	Flexible Bulk Containers
39,691	Meadowbrook Company (IBT)	Spelter, WV	07/12/2001	Zinc Dust
39,692	AM Communications, Inc (Comp)	Quakertown, PA	07/11/2001	Status Monitoring Products for Cable TV
39,693	Winkle Industries (Wrks)	Confield, OH	07/10/2001	Power Hammers
39,694	C.T. Gamble Acquisition (Wrks)	Delanco, NJ	07/03/2001	Electrical Resistors
39,695	PEC of America Corp (Wrks)	Santee, CA	07/11/2001	Stamped Metal Parts—Appliances
39,696	Hunt Forest Products (Comp)	Castor, LA	07/13/2001	Yellow Pine Lumber
39,697	Koppers Industries, Inc. (Wrks)	Follensbee, WV	07/17/2001	Coal Tar Pitch
39,698	RHI America (USWA)	Farber, MO	07/10/2001	Refractories

[FR Doc. 01–20540 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,279]

Motorola, Inc. Personal Communications Sector Administrative Headquarters, Libertyville, IL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 21, 2001 in response to a worker petition which was filed on behalf of workers at Motorola, Inc., Personnel Communications Sector, Libertyville, Illinois.

An active certification covering the petitioning group of workers is already in effect (TA–W–38,928A, as amended). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 25th day of July, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–20469 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,928; TA–W–38,928A]

Motorola, Inc. Personal Communications Sector; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 13, 2001, applicable to workers of Motorola, Inc., Personal Communications Sector, Harvard, Illinois. The notice was published in the **Federal Register** on May 2, 2001 (66 FR 22006).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of cellular phones. The company reports that worker separations occurred at the Administrative Headquarters, Libertyville, Illinois, Personal Communications Sector of Motorola, Inc. The Libertyville, Illinois location provides administrative functions, including marketing and engineering, directly supporting the subject firm's production facility in Harvard, Illinois.

Accordingly, the Department is amending the certification to include workers of Motorola, Inc., Personal Communications, Administrative Headquarters, Libertyville, Illinois.

The intent of the Department's certification is to include all workers of Motorola, Inc., Personal Communications Sector adversely affected by increased imports.

The amended notice applicable to TA–W–38,928 is hereby issued as follows:

''All workers of Motorola, Inc., Personal Communications Sector, Harvard, Illinois (TA–W–38,928) and Motorola, Inc., Personal Communications Sector, Administrative Headquarters, Libertyville, Illinois (TA–W–38,928A) who became totally or partially separated from employment on or after February 14, 2000, through April 13, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 25th day of July, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–20471 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 27, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 22, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 18th day of June, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 06/18/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,423	Outboard Marine Corp. (Wkrs)	Delavan, WI	05/15/2001	Outboard Motors
39,424	Outboard Marine (Wkrs)	Stuart, FL	05/23/2001	Marine Engines
39,425	Hoover Precision (IAMAW)	Washington, IN	05/24/2001	Carbon Steel Balls
39,426	Donna Lynn Fashions, Inc. (UNITE)	Bronx, NY	05/24/2001	Bridesmaid Dresses and Ballroom Gowns
39,427	Lori Lynn Fashions, Inc. (UNITE)	Bronx, NY	05/14/2001	Bridesmaid Dresses and Ballroom Gowns
39,428	Giordano Fashions, Ltd. (UNITE)	Woodside, NY	05/24/2001	Bridesmaid Dresses and Ballroom Gowns
39,429	Mele Manufacturing (Wkrs)	Utica, NY	05/27/2001	Jewelry Boxes
39,430	Jacmel Jewelry (Co.)	Long Island City, NY	05/21/2001	Jewelry
39,431	Reichard Industries (Wkrs)	Columbiana, OH	05/29/2001	Steel Mill Equipment
39,432	Columbus Industries (Wkrs)	Ashville, OH	05/03/2001	Range Hood Filters
39,433	Penn Companies (The) (Co.)	St. Peters, MO	05/29/2001	Embroidered Emblems
39,434	Kentucky Electric Steel (Co.)	Ashland, KY	05/17/2001	Steel Bar Flats
39,435	Mandell Industries (UNITE)	Oceanside, NY	05/23/2001	Ladies' Undergarments
39,436	Wiegand Appliance Div. (Wkrs)	Vernon, AL	06/01/2001	Electric Heating Elements
39,437	Lucent Technologies Agere (IBEW)	Reading, PA	06/01/2001	Optoelectronic Devices
39,438	United Viel Dyeing (UNITE)	Jersey City, NJ	06/01/2001	Lace Fabric, Dyeing & Finishing
39,439	Sunoco Lube Service (Wkrs)	Tulsa, OK	05/23/2001	Crude Oil Products
39,440	Triple-O (Co.)	Roseburg, OR	05/26/2001	Raw Logs
39,441	Mrs. Alison's Cookie (BU)	St. Louis, MO	05/25/2001	Cookies
39,442	Sohnen Enterprises (Wkrs)	Santa Fee Spring, CA	05/25/2001	Electrical Appliances
39,443	Kurdziel Industrial (Wkrs)	Wauseon, OH	05/13/2001	Gray Iron Castings
39,444	Kennecott Utah Copper (USWA)	Bingham Canyon, UT	06/01/2001	Copper Cathodes
39,445	Thomson Multimedia (Co.)	Dunmore, PA	05/31/2001	Color TV Picture Tubes
39,446	Morgan Machine Co. (USWA)	Fulton, MO	06/01/2001	Machine Fabricated Products
39,447	Quantum Corporation (Wkrs)	Milpitas, CA	05/30/2001	Hard Disk Drives
39,448	NewBold Corporation (Co.)	Rocky Mount, VA	05/29/2001	Manual Retail Data Imprinters
39,449	Agere Systems (IBEW)	Allentown , PA	06/05/2001	Integrated Circuits
39,450	Northwestern Steel & Wire (Co.)	Sterling, IL	05/30/2001	Steel Rod, Structural Steel Beams, Flats
39,451	Phelps Dodge Morenci (Co.)	Morenci, AZ	06/04/2001	Copper Open Pit, Mine
39,452	Athens Furniture (IUE)	Athens, TN	06/01/2001	Case Goods and Offacional Furniture
39,453	Arnold Engineering (The) (USWA)	Sevierville, TN	05/30/2001	Ferrite Permanent Magnets
39,454	Coe Manufacturing (USWA)	Painesville, OH	05/28/2001	Wood and Rubber Press
39,455	Rivoli Mills (Co.)	Jasper, TN	05/29/2001	Knit Shirts
39,456	Huck Fasteners (Wkrs)	Altoona, PA	05/25/2001	Cold Headed, Threaded Fasteners
39,457	Agilent Technologies (Wkrs)	Fort Collins, CO	05/30/2001	Semiconductors
39,458	MacDonald Footwear (Wkrs)	Skowhegan, ME	06/01/2001	Hand Sewn Shirts
39,459	Lane Company (The) (Co.)	Altavista, VA	06/06/2001	Wood Furniture

APPENDIX—Continued

[Petitions Instituted on 06/18/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,460	Johnson Controls (Wkrs)	Taylor, MI	06/07/2001	Seating for Jeep Grand Cherokee's
39,461	D'Clase Cutting Services (Wkrs)	Medley, FL	05/22/2001	Garment Cutting
39,462	Monticello Manufacturing (Co.)	Monticello, KY	06/01/2001	Shirts and Blouses
39,463	ABB Power T and D (Wkrs)	Jefferson City, MO	05/31/2001	Distribution Transformers
39,464	Corning Frequency Control (Wkrs)	Mt. Holly Spgs. PA	04/16/2001	Crystal Oscillators
39,465	Baltic Dyeing & Finishing (UNITE)	Passaic, NJ	06/01/2001	Textile Fabrics—Dyeing & Finishing
39,466	Imperial Home Decor Group (Wkrs)	Knoxville, TX	05/29/2001	Wallpaper
39,467	Erie County Technical (Wkrs)	Erie, PA	05/31/2001	Technical Training
39,468	Veco Alaska (Co.)	Anchorage, AK	06/05/2001	Services to Oil Producers
39.469	Domco Tarkettt (Wkrs)	Whitehall, PA	06/04/2001	Sheet Vinyl Flooring
39,470	Clestra Hauserman (Co.)	Solon, OH	06/05/2001	Walls & Other Architectural Products
39,471	Besser Company (IBBU)	Alpena, MI	05/29/2001	Concrete Masonry Products
39,472	Garan Manufacturing Corp. (Wkrs)	Clinton, KY	06/04/2001	Ladies Knit Shirts
39,473	Boston Scientific (Co.)	Watertown, MA	06/07/2001	Medical Devices
39,474	Meridian Beartrack (Co.)	Salmon, ID	05/22/2001	Dore Metal—Gold and Silver

[FR Doc. 01–20473 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,219]

Supreme Machined Products, Inc., Spring Lake, Michigan; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 7, 2001, in response to a worker petition which was filed by the company on behalf of workers at Supreme Machined Products, Inc., Spring Lake, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 30th day of July, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–20475 Filed 8–14–01 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,555; TA–W–38,555A]

Tee Jays Manufacturing Co., Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) as amended by the Omnibus Trade and Competitiveness Act of 1988 (P.L. 100–418), the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is determined that all of the requirements have been met.

The investigation was initiated in response to a petition received on January 18, 2001, filed on behalf of workers at Tee Jays Manufacturing Co., Inc., Florence, Alabama (Plants 1, 5, 6, 14, 15, and 16) and Elgin, Alabama (Plant 9). The workers are engaged in the production of tee shirts and sweat shirts. In Florence, Alabama, petitioning plants include Plant 1 (sewing and cutting), Plant 5, (warehousing and administration), Plant 6 (sewing), Plant 14 (dyeing and sewing), Plant 15 (warehousing) and Plant 16 (sewing). In Elgin, the petitioning facility is Plant 9 (sewing).

Investigation findings revealed that production and employment at the Florence and Elgin, Alabama facilities have declined during the relevant period. The company has increased its imports of tee shirts and sweat shirts, causing separations at the subject plants.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with tee shirts and sweat shirts manufactured at Tee Jays Manufacturing Co., Inc., Florence and Elgin, Alabama, contributed importantly to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

''All workers of Tee Jays Manufacturing Co., Inc., Florence, Alabama (Plants 1, 5, 6, 14, 15, and 16) and Elgin, Alabama (Plant 9), who became totally or partially separated from employment on or after January 3, 2000, through two years from the date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed in Washington, DC this 8th day of February, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–20468 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions,

the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 27, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 27, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 25th day of June, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 06/25/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,475	Thomas and Betts Corp (Co.)	Vidalia, GA	06/01/2001	Safety Switches
39,476	Alarama (Wrks)	Long Island Cty, NY	06/02/2001	Fine Jewerly
39,477	NY Co Minerals, Inc. (Wrks)	Wilsbors, NY	05/31/2001	Fine Grinds
39,478	Window Concepts, Inc. (Wrks)	Wilson, NC	06/06/2001	Vertical Blinds
39,479	Spectrum Controls, Inc (Wrks)	Fairview, PA	06/01/2001	Filters, Amps and Connectors
39,480	Anvil International (Wrks)	Statesboro, GA	06/06/2001	Machine Screw Fittings, Flange Fittings
39,481	Elders Manufacturing (UNITE)	Dexter, MO	06/04/2001	Parochial School Uniforms
39,482	Colorgraphic Web Offset (Wrks)	Lancaster, NY	05/28/2001	Printed Periodicals
39,483	Franklin Industries (Wrks)	Franklin, PA	06/08/2001	Steel of T-Posts
39,484	Cooper Wood Products (Wrks)	Rocky Mount, VA	05/31/2001	Mirror Frames and Parts
39,485	Senior Automotive (Co.)	Bartlett, IL	06/06/2001	Exhaust Gas Recirculation Systems
39,486	Oneal Steel, Weldment Div (Wrks)	Roanoke, VA	06/06/2001	Steel Parts from Prints
39,487	Perlos, Inc (Wrks)	Ft. Worth, TX	06/05/2001	Mobile Phones
39,488	Coldwater Machine Co LLC (Wrks)	Coldwater, OH	06/05/2001	Dies, Fixtures, Tools, Special Machines
39,489	California Cedar Products (Co.)	Roseburg, OR	06/07/2001	Pencil Stock
39,490	Sagebrush Corp (Wrks)	Caledonia, MN	06/05/2001	Technical Support of Software
39,491	Stearns, Inc. (Wrks)	Paynesville, MN	05/31/2001	Personal Flotation Devices
39,492	APW, Ltd (Wrks)	Erie, PA	06/06/2001	Large Format Engineering Copiers
39,493	Tennessee Machine (Co.)	Dandridge, TN	06/07/2001	Hosiery and Athletic Socks
39,494	Empire Wood Carving Co (Wrks)	Chicago, IL	06/01/2001	Wood Carved Furniture Components
39,495	Cold Metal Products Co (IAMAW)	New Britain, CT	06/01/2001	Steel Rolling & Slitting & Finishing
39,496	Master Products Mfg Co (Wrks)	Los Angeles, CA	06/01/2001	Paper Punches and Related Products
39,497	Superior Electric (Co.)	Bristol, CT	06/07/2001	Stepper Motors
39,498	Hibbing Taconite (Wrks)	Hibbing, MN	06/05/2001	Iron Ore Pellets
39,499	Tescom Corp. (Wrks)	Elk River, MN	06/07/2001	Regulators and Valves
39,500	M. Fine and Sons (Wrks)	Killen, AL	06/07/2001	Distribute Denim Jeans
39,501	Thomas Iseri Produce Co (Co.)	Ontario, OR	06/11/2001	Pack and Ship Dry Onions
39,502	Recmix of PA, Inc (Wrks)	Canonsburg, PA	06/12/2001	Recycles Stainless Steel Slag
39,503	Thomson Financial Research (Co.)	Ft. Lauderdale, FL	06/08/2001	Data Collection, Development
39,504	Mayflower Manufacturing (UNITE)	Old Forge, PA	06/08/2001	Men's and Boys' Slacks
39,505	Cuyahoga Steel and Wire (Wrks)	Solon, OH	06/08/2001	Cold Finished Steel Bar and Wire
39,506	Unico (Wrks)	Sanford, ME	06/14/2001	Injection Molded Shoe Soles
39,507	Bess Manufacturing Co (Wrks)	Philadelphia, PA	06/12/2001	Table Linens
39,508	Duo-Fast Corp. (Co.)	Cleveland, MS	06/05/2001	Plastic Collated Nails and Staples
39,509	E-Town Sportswear (UNITE)	Elizabethtown, KY	06/12/2001	Men's Slacks
39,510	Cadmus Professional (Wrks)	Akron, PA	06/01/2001	Floppy Disks
39,511	Philips Display Component (Wrks)	Ottawa, OH	05/24/2001	TV Tubes Mount and Gun Parts
39,512	Royce Hosiery Mills, Inc (Wrks)	High Point, NC	06/06/2001	Men's and Ladies' Casual Socks
39,513	Weyerhaeuser Co (AWPPW)	Springfield, OR	06/08/2001	Linerboard
39,514	Guilford Mills, Inc. (Co.)	Greensboro, NC	06/05/2001	Ladies' Swimwear and Intimate Apparel
39,515	Teledyne Electronic (Co.)	Hawthorne, CA	06/04/2001	Electomechanical Relays

[FR Doc. 01–20474 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,301]

York International Unitary Products Group, Elyria, OH; Notice of Negative Determination Regarding Application for Reconsideration

By application dated March 5, 2001, petitioners requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on February 20, 2001, and published in the **Federal Register** on April 5, 2001 (66 FR 18117).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if its appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The investigation findings for the February 20 denial of TAA for workers of York International, producing residential and light commercial heating and air conditioning products in Elyria, Ohio showed that criterion (3) of the group eligibility requirements of section 222 of the Trade Act was not met. There were no company imports of the above-mentioned products.

The petitioner asserts that when the subject firm plant closes the production of evaporator coils and air handling units will be transferred to Monterrey, Mexico. The petition investigation revealed that the company does not import products like or directly competitive with that which was produced in Elyria, Ohio. While there are company plans to relocate the production of evaporator coils and air handling units from its Elyria, Ohio facility to Monterrey, Mexico until such time as this occurs and the products are imported back into the United States, criterion (3) is not met.

The workers of York International may wish to consider filing a petition for NAFTA-Transitional Adjustment Assistance.

Conclusion

After review of the application and investigation findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC this 2nd day of August, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–20545 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5069]

Cooper Bussman, Black Mountain, North Carolina; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on July 11, 2001, in response to a worker petition which was filed on behalf of workers at Cooper Bussman, Black Mountain, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 30th day of July, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–20467 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE (NCLIS)

Sunshine Act Meeting

AGENCY: National Commission on Libraries and Information Science.

ACTION: Notice of meeting.

SUMMARY: The U.S. National Commission on Libraries and Information Science is holding an open business meeting to discuss administrative matters and NCLIS international projects.

DATE AND TIME: NCLIS Business Meeting—August 21, 2001, 3:30 p.m. to 5:30 p.m., Boston, Massachusetts.

ADDRESSES: Meeting location—Boston Public Library, Mezzanine Conference Room (MCR), 700 Boylston Street, Copley Square, Boston, Massachusetts 02116.

STATUS: Open meeting.

FOR FURTHER INFORMATION CONTACT: Rosalie Vlach, Director, Legislative and Public Affairs, U.S. National Commission on Libraries and Information Science, 1110 Vermont Avenue, N.W., Suite 820, Washington, DC 20005, e-mail *rvlach@nclis.gov,* fax 202–606–9203 or telephone 202–606 9200.

SUPPLEMENTARY INFORMATION: The Commission will discuss administrative matters and NCLIS international projects, including:

- International application of the results of the NCLIS study, A Comprehensive Assessment of Public Information Dissemination;
- Preparation for the International Leadership Conference on Information Literacy;
- NCLIS activities with the European Union;
- Transfer of the NCLIS Survey of U.S. Participation in International Organizations and Activities Which Address Major Library and Information Science Policy Issues to the School of Library Science, University of Pittsburgh; and
- Transfer of Sister Libraries: A White House Millennium Council Project to the United Nations Associated Libraries.

The meeting is open to the public, subject to space availability. To make special arrangements for physically challenged persons, contact Rosalie Vlach, Director, Legislative and Public Affairs, 1110 Vermont Avenue, NW, Suite 820, Washington, DC 20005, e-mail *rvlach@nclis.gov,* fax 202–606–9203 or telephone 202–606–9200.

Dated: July 11, 2001.

Judith C. Russell,

NCLIS Deputy Director.

[FR Doc. 01–20695 Filed 8–13–01; 4:00 pm]

BILLING CODE 7527–$$–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 01–097]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, 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)). This information collection will help NASA to assess the services provided by its procurement offices.

DATES: All comments should be submitted on or before October 15, 2001.

ADDRESSES: All comments should be addressed to Mr. William Childs, Code HS, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: NASA Procurement Customer Survey.

OMB Number: 2700–.

Type of review: New.

Need and Uses: The NASA Procurement Customer Survey will be used to determine whether NASA's procurement offices are providing an acceptable level of service to the business/educational community, and if not, which areas need improvement. Respondents will be business concerns and educational institutions that have been awarded a NASA procurement, or are interested in receiving such an award.

Affected Public: Business or other for-profit, Not-for-profit institutions.

Number of Respondents: 1000.

Responses Per Respondent: 1.

Annual Responses: 500.

Hours Per Request: .25.

Annual Burden Hours: 125.

Frequency of Report: On occasion.

David Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 01–20463 Filed 8–14–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 01–096]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, 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)). This information collection provides data used in the Agency's accrual accounting and cost-based budgeting systems, maintained as required under Federal law.

DATES: All comments should be submitted on or before September 14, 2001.

ADDRESSES: All comments should be addressed to Mr. Phillip Smith, Code BFZ, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: NASA Contractor Financial Management Reports.

OMB Number: 2700–0003.

Type of review: Extension.

Need and Uses: The NASA Contractor Financial Management Reporting System is the basic financial medium for contractor reporting of estimated and incurred costs, providing essential data for projecting costs and hours to ensure that contractor performance is realistically planned and supported by dollar and labor resources. The data provided by these reports is an integral part of the Agency's accrual accounting and cost-based budgeting systems required under 31 U.S.C. 3512.

Affected Public: Business or other for-profit, Not-for-profit institutions.

Number of Respondents: 850.

Responses Per Respondent: 12.

Annual Responses: 10,200.

Hours Per Request: 9 hrs.

Annual Burden Hours: 91,500.

Frequency of Report: Quarterly; Monthly.

David Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 01–20462 Filed 8–14–01; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 73—Physical Protection of Plants and Materials.

2. *Current OMB approval number:* 3150–0002.

3. *How often the collection is required:* On occasion. Required reports are submitted and evaluated as events occur.

4. *Who is required or asked to report:* Persons who possess, use, import, export, transport, or deliver to a carrier for transport, special nuclear material.

5. *The number of annual respondents:* 7,300

6. *The number of hours needed annually to complete the requirement or request:* The industry total burden is 364,991 hours annually (45,390 hours for reporting and 319,601 hours for recordkeeping).

1. *Abstract:* NRC regulations in 10 CFR Part 73 prescribe requirements for establishment and maintenance of a physical protection system with capabilities for protection of special nuclear material at fixed sites and in transit and of plants in which special nuclear material is used. The information in the reports and records is used by the NRC staff to ensure that the health and safety of the public is protected and that licensee possession and use of special nuclear material is in compliance with license and regulatory requirements.

Submit, by October 15, 2001, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E6, Washington, DC 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 9th day of August, 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–20532 Filed 8–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–369, 370, 413, and 414]

Duke Energy Corporation, McGuire Units 1 and 2, and Catawba, Units 1 and 2; Notice of Acceptance for Docketing of the Application and Notice of Opportunity for a Hearing Regarding Renewal of Facility Operating License Nos. NPF–9, NPF–17, NPF–35, and NPF–52 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (the Commission) is considering an application for the renewal of Operating License Nos. NPF–9, NPF–17, NPF–35, and NPF–52, which authorize Duke Energy Corporation to operate McGuire Nuclear Station, Units 1 and 2, and Catawba Nuclear Station, Units 1 and 2, at 3411 megawatts thermal. The renewed licenses would authorize the applicant to operate McGuire Nuclear Station, Units 1 and 2, and Catawba Nuclear Station, Units 1 and 2, for an additional 20 years beyond the period specified in the current licenses. The current operating licenses for McGuire Nuclear Station, Units 1 and 2, expire on June 12, 2021, and March 3, 2023, respectively. The current operating licenses for Catawba Nuclear Station, Units 1 and 2, expire on December 6, 2024, and February 24, 2026, respectively.

Duke Energy Corporation submitted an application to renew the operating licenses for McGuire, Units 1 and 2, and Catawba, Units 1 and 2, on June 13, 2001. A Notice of Receipt of Application, ''Duke Energy Corporation, McGuire, Units 1 and 2, and Catawba, Units 1 and 2; Notice of Receipt of Application for Renewal of Facility Operating License Nos. NPF–9, NPF–17, NPF–35, and NPF–52 for an Additional 20-Year Period,'' was published in the **Federal Register** on July 16, 2001 (66 FR 37072).

The Commission's staff has determined that Duke Energy Corporation has submitted information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, and 51.53(c) that is complete and acceptable for docketing. The current Docket Nos. 50–369, 370, 413, and 414 for Operating License Nos. NPF–9, NPF–17, DPR–35, and DPR–52, respectively, will be retained. The docketing of the renewal application does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application.

Before issuance of each requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's rules and regulations. In accordance with 10 CFR 54.29, the NRC will issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to (1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review, and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB) and that any changes made to the plant's CLB comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants'' (May 1996). Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold a public scoping meeting. Detailed information regarding this meeting will be included in a future **Federal Register** notice. The Commission also intends to hold public meetings to discuss the license renewal process and the schedule for conducting the review. The Commission will provide prior notice of these meetings. As discussed further herein, in the event that a hearing is held, issues that may be litigated will be confined to those pertinent to the foregoing.

By September 14, 2001, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the renewal of the licenses in accordance with the provisions of 10 CFR 2.714. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, 11555 Rockville Pike (first floor) Rockville, Maryland, and on the NRC Web site at http://www.nrc.gov (the Electronic Reading Room). If a request for a hearing or a petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request(s) and/or petition(s), and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. In the event that no request for a hearing or petition for leave to intervene is filed by the above date, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR parts 54 and 51, renew the licenses without further notice.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR parts 54 and 51. The petition must specifically explain the

reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition must also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the board up to 15 days before the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days before the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene that must include a list of the contentions that the petitioner seeks to have litigated in the hearing. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement that satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Requests for a hearing and petitions for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, 11555 Rockville Pike (first floor), Rockville, Maryland, 20855–2738, by the above date. A copy of the request for a hearing and the petition to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. Michael S. Tuckman, Executive Vice President, Nuclear Generation, Duke Energy Corporation, 526 South Church Street, PO Box 1006, Charlotte, NC 28201–1006.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions, and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Detailed information about the license renewal process can be found under the nuclear reactors' icon of the NRC's Web page at *http://www.nrc.gov.*

A copy of the application to renew the operating licenses for McGuire Nuclear Station, Units 1 and 2, and Catawba Nuclear Station, Units 1 and 2, is available for public inspection at the Commission's Public Document Room, 11555 Rockville Pike (first floor), Rockville, Maryland, 20855–2738, and on the NRC's Web page at *http://www.nrc.gov.* The staff has also verified that copies of the license renewal application for the McGuire and Catawba nuclear stations have been provided to the J. Murrey Atkins Library at the University of North Carolina, Charlotte, in Charlotte, North Carolina, and to the Rock Hill Public Library in Rock Hill, South Carolina.

Dated at Rockville, Maryland, the 8th day of August 2001.

For the Nuclear Regulatory Commission.

Christopher I. Grimes,

Chief, License Renewal and Standardization Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 01–20535 Filed 8–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–286]

Entergy Nuclear Operations, Inc.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the NRC/Commission) has granted the request of Entergy Nuclear Operations, Inc., to withdraw the Power Authority's of the State of New York (PASNY) the then licensee, November 29, 1999, application as supplemented October 27, 2000, for proposed amendment to Facility Operating License No. DPR–64 for the Indian Point Nuclear Generating Unit No. 3 (IP3), located in Westchester County, New York.

On November 21, 2000, PASNY's ownership interest in IP3 was transferred to Entergy Nuclear Operations, Inc. (Entergy) to possess, use, and operate IP3. By letter dated January 26, 2001, Entergy requested that the NRC continue to review and act on all requests before the Commission which had been submitted by PASNY before the transfer. Accordingly, the NRC staff continued its review of PASNY's license amendment application. Subsequently, by letter dated May 12, 2001, Entergy withdrew the amendment request.

The proposed amendment would have adopted the ''Standard Test Method for Nuclear Grade Activated Carbon'' for charcoal filter laboratory testing with certain exceptions.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on February 9, 2000 (65 FR 6409). However, by letter dated May 12, 2001, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated November 29, 1999, as supplemented October 27, 2000, and the licensee's letter dated May 12, 2001, which withdrew the application for license amendment. 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 Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index/html.* 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, 301–415–4737 or by email to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 9th day of August 2001.

For the Nuclear Regulatory Commission.

Guy S. Vissing,

Senior Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–20534 Filed 8–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–456 and STN 50–457]

Exelon Generation Company, LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–72 and NPF–77, issued to Exelon Generation Company, LLC (the licensee) for operation of the Braidwood Station, Units 1 and 2, located in Will County, Illinois.

The proposed amendment would provide a temporary change to Technical Specification (TS) 3.7.9, ''Ultimate Heat Sink (UHS).'' Surveillance Requirement (SR) 3.7.9.2 verifies that average water temperature of the UHS is ≤100 °F every 24 hours as measured at the discharge of the operating Essential Service Water (SX) pumps. With the average water temperature of the UHS greater than 100 °F, the UHS must be declared inoperable in accordance with condition A. With the UHS inoperable, Condition A requires that both units be placed in Mode 3, i.e., Hot Standby, within six hours and Mode 5, i.e., Cold Shutdown, within 36 hours. The proposed amendment would provide a temporary change to increase the average temperature limit of the Ultimate Heat Sink (UHS) from 100 °F to 102 °F through September 30, 2001.

Prolonged hot weather in the area has resulted in the sustained elevated UHS. High temperatures and humidity during the daytime in conjunction with little cooling at night and little precipitation have resulted in elevated water temperature in Braidwood Station's UHS. There are no controllable measures that can be taken to immediately reduce the temperature of the UHS in that reduction of the heat input by derating the units would have a negligible short-term effect on the temperature of the UHS. The licensee has requested approval of the proposed change as soon as possible to avoid a potential shutdown of Braidwood Station, Units 1 and 2.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Analyzed accidents are assumed to be initiated by the failure of plant structures, systems or components. An inoperable Ultimate Heat Sink (UHS), which is the source of water for the Essential Service Water (SX) System, is not considered as an initiator of any analyzed events. The design basis analyses for Braidwood Station, Units 1 and 2, assume a UHS temperature of 100 °F. Further assessments have been performed which assumed an SX temperature of 102 °F. An UHS temperature of up to 102 °F does not increase the failure rate of systems, structures or components because the systems, structures or components have been evaluated for operation with SX temperatures of 102 °F and the design allows for higher temperatures than at which they presently operate.

This higher temperature does not have a significant impact on the Loss of Coolant Accident (LOCA) analysis or Containment analysis, and the non-LOCA analyses are unaffected. Therefore, continued operation with an UHS temperature ≤ 102 °F will not increase the consequences of an accident previously evaluated in the Byron/Braidwood Stations' Updated Final Safety Analysis Report (UFSAR). The proposed change does not involve any physical alteration of plant systems, structures or components. Based on the above, it has been determined that unit operation with an initial UHS temperature of 102 °F at the onset of previously evaluated accidents will result in the continued ability of the equipment and components supplied by the SX System to perform their intended safety functions.

Therefore, increasing the average water temperature limit of the UHS from ≤ 100 °F to ≤ 102 °F does not increase the consequences of any accident previously evaluated. Raising this limit does not introduce any new equipment, equipment modifications, or any new or different modes of plant operation, nor does it significantly affect the operational characteristics of any equipment or systems.

Therefore, the proposed temporary change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed action does not involve physical alteration of the units. No new equipment is being introduced, and installed equipment is not being operated in a new or different manner. There is no significant change being made to the parameters within which the units are operated. There are no setpoints at which protective or mitigative actions are initiated that are affected by this proposed action. This proposed action will not significantly alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No alteration in the procedures that govern plant operation is proposed, and no change is being made to procedures relied upon to respond to an off-normal event. As such, no new failure modes are being introduced. The proposed action does not significantly alter assumptions made in the safety analysis. Therefore, the proposed action does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Increasing the allowed average water temperature of the UHS by 2 °F in TS 3.7.9, ''Ultimate Heat Sink (UHS),'' has no impact on plant operation. Operating at the proposed higher temperature limit does not introduce new failure mechanisms for systems, structures or components. The engineering evaluations performed to support the change to UHS temperature limit provide the basis to conclude that the equipment will operate acceptably at elevated temperatures. The current design basis analyses and calculations assume a UHS temperature of 100 °F, and contain operating margins to account for potential degradations in material condition (e.g., tube plugging) which are more severe than currently present. Together with these operating margins, design and construction codes applied to the affected structures, systems and components provide additional margins that are sufficient to accommodate the proposed temperature change.

Therefore, the proposed temporary change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

The proposed action allows operation with the UHS temperature ≤ 102 °F through September 30, 2001. The margin of safety is determined by the design and qualification of the plant equipment, the operation of the plant within analyzed limits, and the point at which protective or mitigative actions are initiated. The proposed action does not impact these factors. Further evaluations have determined acceptable component performance at 102 °F. This temperature increase will not significantly change the operational characteristics or the design of any equipment or system. The identified equipment margins are sufficient to ensure that the post-accident response is not significantly affected. Thus, the proposed increase in temperature does not involve a significant reduction in the margin of safety.

Therefore, the proposed temporary change does not involve a significant reduction in a margin of safety.

Overall Conclusion

Based upon the above assessments and evaluations, we have concluded that the proposed temporary change to the TS involves no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. 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.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 14, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/NRC/CFR/index.html.* If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no

significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Edward J. Cullen, Jr., Vice President and General Counsel, Exelon Generation Company, LLC, 300 Exelon Way KSB 3–W, Kennett Square, PA 19348, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 2, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* 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 Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 9th day of August, 2001.

For the Nuclear Regulatory Commission.

Mahesh Chawla,

Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–20533 Filed 8–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Company, Surry Power Station, Units 1 and 2; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Process

Virginia Electric and Power Company (Virginia Power) has submitted an application for renewal of operating licenses DPR–32 and DPR–37 for an additional 20 years of operation at Surry Power Station (SPS), Units 1 and 2. SPS is located in Surry County, Virginia. The application for renewal was submitted by letter dated May 29, 2001, pursuant to 10 CFR Part 54. A notice of receipt of application, including the environmental report (ER), was published in the **Federal Register** on June 28, 2001 (66 FR 34489). A notice of acceptance for docketing of the application for renewal of the facility operating license was published in the **Federal Register** on July 27, 2001 (66 FR 39213). The purpose of this notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC) will be preparing an environmental impact statement in support of the review of the license renewal application and to provide the public an opportunity to participate in the environmental scoping process as defined in 10 CFR 51.29.

In accordance with 10 CFR 54.23 and 10 CFR 51.53(c), Virginia Power submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR part 51 and is accessible at http://www.nrc.gov/NRC/ADAMS/index.html, which provides access through the NRC's Public Electronic Reading Room (PERR) link. 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 to pdr@nrc.gov.

This notice advises the public that the NRC intends to gather the information necessary to prepare a plant-specific supplement to the Commission's ''Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants,'' (NUREG–1437) in support of the review of the application for renewal of the SPS operating licenses for an additional 20 years. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. 10 CFR 51.95 requires that the NRC prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with the National Environmental Policy Act (NEPA) and the NRC's regulations found in 10 CFR part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in this scoping process by members of the public and local, State, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

a. Define the proposed action which is to be the subject of the supplement to the GEIS.

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth.

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant.

d. Identify any environmental assessments and other environmental impact statements (EISs) that are being or will be prepared that are related to but are not part of the scope of the supplement to the GEIS being considered.

e. Identify other environmental review and consultation requirements related to the proposed action.

f. Indicate the relationship between the timing of the preparation of environmental analyses and the Commission's tentative planning and decision-making schedule.

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies.

h. Describe how the supplement to the GEIS will be prepared, including any contractor assistance to be used.

The NRC invites the following entities to participate in the scoping process:

a. The applicant, Virginia Electric and Power Company.

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to

develop and enforce relevant environmental standards.

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards.

d. Any affected Indian tribe.

e. Any person who requests or has requested an opportunity to participate in the scoping process.

f. Any person who intends to petition for leave to intervene.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold a public meeting for the SPS license renewal supplement to the GEIS. The scoping meeting will be held in the Combined District Court Room in the Surry County Government Center, 45 School Street, Surry, Virginia, on Wednesday September 19, 2001. There will be two sessions to accommodate interested parties. The first session will convene at 1:30 p.m. and will continue until 4:30 p.m. The second session will convene at 7:00 p.m. with a repeat of the overview portions of the meeting and will continue until 10:00 p.m. Both meetings will be transcribed and will include (1) An overview by the NRC staff of the National Environmental Policy Act (NEPA) environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; (2) an overview by Virginia Power of the proposed action, SPS license renewal, and the environmental impacts as outlined in the ER; and (3) the opportunity for interested Government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the Surry County Government Center. No comments on the proposed scope of the supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing, as discussed below. Persons may register to attend or present oral comments at the meeting on the NEPA scoping process by contacting Mr. Andrew J. Kugler by telephone at 1 (800) 368–5642, extension 2828, or by Internet to the NRC at *ajk1@nrc.gov* no later than September 11, 2001. Members of the public may also register to speak at the meeting within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Kugler's attention no later than September 11, 2001, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental scoping process for the supplement to the GEIS to:

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop T–6 D 59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. To be considered in the scoping process, written comments should be postmarked by October 15, 2001. Electronic comments may be sent by the Internet to the NRC at *SurryEIS@nrc.gov.* Electronic submissions should be sent no later than October 15, 2001, to be considered in the scoping process. Comments will be available electronically and accessible through the NRC's Public Electronic Reading Room (PERR) link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Notice of opportunity for a hearing regarding the renewal application was the subject of the aforementioned **Federal Register** notice of acceptance for docketing. Matters related to participation in any hearing are outside the scope of matters to be discussed at the public meeting.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process. The summary will also be available for inspection through the PERR link. The staff will then prepare and issue for comment the draft supplement to the GEIS, which will be the subject of separate notices and a separate public meeting. Copies will be available for public inspection at the above-mentioned addresses, and one copy per request will be provided free of charge. After receipt and consideration of the comments, the NRC will prepare a final supplement to the GEIS, which will also be available for public inspection.

Information about the proposed action, the supplement to the GEIS, and the scoping process may be obtained from Mr. Kugler at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 9th day of August 2001.

For the Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Chief, Generic Issues, Environmental, Financial and Rulemaking Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 01–20536 Filed 8–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Thermal-Hydraulic Phenomena, Revisions

The schedule for the August 21–23, 2001 ACRS Subcommittee meeting on Thermal-Hydraulic Phenomena to be held in Room T–2B3, at 11545 Rockville Pike, Rockville, Maryland, has been revised. Specifically, the session scheduled for Tuesday, August 21, to review the license amendment request of the Nuclear Management Company, LLC, for a core power uprate for the Duane Arnold Energy Center has been postponed due to the unavailability of necessary documentation. The meeting will now begin on August 22. The meeting schedule is also revised to include a closed session to public attendance on August 23, 2001, to discuss Electric Power Research Institute (EPRI) proprietary information per 5 U.S.C. 552b(c)(4). Notice of this meeting was published in the **Federal Register** on Monday, July 30, 2001 (66 FR 39373). All other items pertaining to this meeting remain the same as previously published.

FOR FURTHER INFORMATION CONTACT: Mr. Paul A. Boehnert, cognizant ACRS staff engineer, (telephone 301–415–8065) between 7:30 a.m. and 4:30 p.m. (EDT).

Dated: August 9, 2001.

Sher Bahadur,

Associate Director for Technical Support.

[FR Doc. 01–20531 Filed 8–14–01; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Annual Financial and Actuarial Information Reporting

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') intends to request that the Office of Management and Budget (''OMB'') extend approval, under the Paperwork Reduction Act, of the collection of information under its regulation on Annual Financial and Actuarial Information Reporting, 29 CFR Part 4010 (OMB control number 1212–0049; expires December 31, 2001). This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

DATES: Comments should be submitted by October 15, 2001.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to that address between 9 a.m. and 4 p.m. on business days. Written comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, suite 240 at the same address, between 9 a.m. and 4 p.m. on business days.

Copies of the collection of information may be obtained without charge by writing to the PBGC's Communications and Public Affairs Department at the address given above or calling 202–326–4040. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The regulation on Annual Financial and Actuarial Information Reporting can be accessed on the PBGC's Web site at http://www.pbgc.gov.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call the Federal relay service toll-free at 1–800–877–8339 and request connection to 202–326–4024).

SUPPLEMENTARY INFORMATION: Section 4010 of the Employee Retirement Income Security Act of 1974 (ERISA) requires each member of a controlled group to submit identifying, financial, and actuarial information to the PBGC in certain circumstances. Reporting is required (1) if the aggregate unfunded vested benefits of all defined benefit pension plans maintained by the controlled group exceed $50 million, (2) if the controlled group maintains any plan with missed contributions aggregating more than $1 million (unless paid within a ten-day grace period), or (3) if the controlled group maintains any plan with funding waivers in excess of $1 million and any portion is still outstanding (taking into account certain credit balances in the funding standard account). The PBGC's regulation on Annual Financial and Actuarial Information Reporting (29 CFR Part 4010) implements section 4010.

The regulation requires the controlled group to file certain identifying information, certain financial information, each plan's actuarial valuation report, certain participant information, and a determination of the amount of each plan's benefit liabilities. The information submitted under the regulation allows the PBGC (1) to detect and monitor financial problems with the contributing sponsors that maintain severely underfunded pension plans and their controlled group members and (2) to respond quickly when it learns that a controlled group with severely underfunded pension plans intends to engage in a transaction that may significantly reduce the assets available to pay plan liabilities.

The collection of information under the regulation has been approved by OMB under control number 1212–0049 through December 31, 2001. The PBGC intends to request that OMB extend its approval for another three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The PBGC estimates that an average of 70 controlled groups per year respond to this collection of information. The PBGC further estimates that the average annual burden of this collection of information is 7.9 hours and $10,000 per controlled group, for a total burden of 552 hours and $700,000.

The PBGC is soliciting public comments to—

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Issued in Washington, DC, this 9th day of August, 2001.

Stuart Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 01–20492 Filed 8–14–01; 8:45 am]

BILLING CODE 7708–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') intends to request that the Office of Management and Budget (''OMB'') extend approval, under the Paperwork Reduction Act, of the collection of information under its regulation on Payment of Premiums (29 CFR Part 4007), including Form 1-ES, Form 1-EZ, Form 1, and Schedule A to Form 1, and related instructions (OMB control number 1212–0009). The collection of information also includes a certification (on Form 1-EZ and Schedule A) of compliance with requirements to provide certain notices to participants under the PBGC's regulation on Disclosure to Participants (29 CFR Part 4011). This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

DATES: Comments should be submitted by October 15, 2001.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to that address between 9 a.m. and 4 p.m. on business days. Written comments will be available for public inspection at the PBGC's Communications and Public Affairs

Department, suite 240 at the same address, between 9 a.m. and 4 p.m. on business days.

Copies of the collection of information may be obtained without charge by writing to the PBGC's Communications and Public Affairs Department at the address given above or calling 202–326–4040. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4040). The premium payment regulation can be accessed on the PBGC's home page at http://www.pbgc.gov.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Deborah C. Murphy, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4024).

SUPPLEMENTARY INFORMATION: Section 4007 of Title IV of the Employee Retirement Income Security Act of 1974 (''ERISA'') requires the Pension Benefit Guaranty Corporation (''PBGC'') to collect premiums from pension plans covered under Title IV pension insurance programs. Pursuant to ERISA section 4007, the PBGC has issued its regulation on Payment of Premiums (29 CFR Part 4007). Section 4007.3 of the premium payment regulation requires plans, in connection with the payment of premiums, to file certain forms prescribed by the PBGC, and § 4007.10 requires plans to retain and make available to the PBGC records supporting or validating the computation of premiums paid.

The forms prescribed are PBGC Form 1-ES, Form 1-EZ, and Form 1 and (for single-employer plans only) Schedule A to Form 1. Form 1-ES is issued, with instructions, in the PBGC's Estimated Premium Payment Package. Form 1-EZ, Form 1, and Schedule A are issued, with instructions, in the PBGC's Annual Premium Payment Package.

The premium forms are needed to determine the amount and record the payment of PBGC premiums, and the submission of forms and retention and submission of records are needed to enable the PBGC to perform premium audits. The plan administrator of each pension plan covered by Title IV of ERISA is required to file one or more of the premium payment forms each year. The PBGC uses the information on the premium payment forms to identify the plans paying premiums and to verify whether plans are paying the correct amounts. That information and the retained records are used for audit purposes.

In addition, section 4011 of ERISA and the PBGC's regulation on Disclosure to Participants (29 CFR Part 4011) require plan administrators of certain underfunded single-employer pension plans to provide an annual notice to plan participants and beneficiaries of the plans' funding status and the limits on the Pension Benefit Guaranty Corporation's guarantee of plan benefits. The participant notice requirement only applies (subject to certain exemptions) to plans that must pay a variable rate premium. In order to monitor compliance with Part 4011, plan administrators must indicate on Form 1-EZ or Schedule A to Form 1 that the participant notice requirements have been complied with.

The collection of information under the regulation on Payment of Premiums, including Form 1-ES, Form 1-EZ, Form 1, and Schedule A to Form 1, and related instructions has been approved by OMB under control number 1212–0009. This collection of information also includes the certification of compliance with the participant notice requirements (but not the participant notices themselves). The PBGC is revising the forms and instructions to clarify them and make them easier to use. The PBGC intends to request that OMB extend its approval of this collection of information, as revised, for three years from the date of approval. (The participant notices constitute a different collection of information that has been separately approved by OMB.) An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The PBGC estimates that it receives responses annually from about 37,700 plan administrators and that the total annual burden of the collection of information is about 2,541 hours and $9,657,780.

The PBGC is soliciting public comments to—

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Issued in Washington, DC, this 9th day of August, 2001.

Stuart Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 01–20493 Filed 8–14–01; 8:45 am]

BILLING CODE 7708–01–P

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or are derivable from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (http://www.pbgc.gov).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in August 2001. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in September 2001.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining a single-employer plan's variable-rate

premium. The required interest rate is the ''applicable percentage'' (currently 85 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

The required interest rate to be used in determining variable-rate premiums for premium payment years beginning in August 2001 is 4.77 percent (*i.e.,* 85 percent of the 5.61 percent yield figure for July 2001).

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between September 2000 and August 2001.

For premium payment years beginning in:	The required interest rate is:
September 2000	4.86
October 2000	4.96
November 2000	4.93
December 2000	4.91
January 2001	4.67
February 2001	4.71
March 2001	4.63
April 2001	4.54
May 2001	4.80
June 2001	4.91
July 2001	4.82
August 2001	4.77

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in September 2001 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 9th day of August 2001.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 01–20491 Filed 8–14–01; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–15991]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the American Stock Exchange LLC (AirTran Holdings, Inc., Common Stock, $.001 Par Value)

August 9, 2001.

AirTran Holdings, Inc., a Nevada Corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.001 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of Nevada, in which it is incorporated and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Issuer's application relates solely to the Security's withdrawal from listing on the Amex and registration under section 12(b) of the Act[3] and shall not affect its obligation to be registered under section 12(g) the Act.[4]

On July 17, 2001, the Board of Directors of the Issuer approved resolutions to withdraw the Issuer's Security from listing on the Amex and list it on the New York Stock Exchange, Inc. (''NYSE''). In its application, the Issuer states that trading in the Security on the Amex will cease on August 14, 2001, and trading in the Security is expected to begin on the NYSE at the opening of business on August 15, 2001. In making the decision to withdraw the Security from listing on the Exchange, the Issuer represents that by doing so it can avoid the direct and indirect costs and the division of the market resulting from dual listing on the Amex and NYSE.

Any interested person may, on or before August 30, 2001, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–20498 Filed 8–14–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25106; 812–12286]

Pitcairn Funds and Pitcairn Trust Company; Notice of Application

August 9, 2001.

AGENCY: Securities and Exchange Commission (''Commission'')

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act, rule 18f–2 under the Act, certain disclosure requirements, and rule 15a–4(b)(2)(vi)(C) under the Act.

SUMMARY: Applicants, Pitcairn Funds (the ''Trust'') and Pitcairn Trust Company (''PTC'') request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval, grant relief from certain disclosure requirements, and allow for a release from escrow of compensation earned under an interim subadvisory agreement.

FILING DATES: The application was filed on September 29, 2000 and amended on March 20, 2001 and July 27, 2001. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief 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 a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 3, 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 who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609; Applicants, c/o Ruth Epstein, Esq., Dechert, 1775 Eye Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Lidian Pereira, Senior Counsel, at (202) 942–0524 (Division of Investment Management, Office of Investment Company 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, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Trust, a Delaware business trust, is registered under the Act as an open-end management investment company. The Trust is currently comprised of ten separate investment series (each a ''Pitcairn Fund'' and collectively, the ''Pitcairn Funds'').[1] Each Fund has its own investment objectives, policies and restrictions. PTC is a state chartered trust company and bank as defined in section 202(a)(2) of the Investment Advisers Act of 1940 (''Advisers Act''). Pitcairn Investment Management (the ''Adviser'') provides investment adviser services to the Trust pursuant to an advisory agreement with the Trust (''Advisory Agreement''). The Advisory Agreement was approved by the board of trustees of the Trust (the ''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Trustees''), and the shareholder(s) of each Fund.

2. Under the terms of the Advisory Agreement, the Adviser manages the investment assets of each Fund and may, subject to oversight by the Board, hire one or more subadvisers (''Managers'') to provide portfolio management services to each of the Funds pursuant to separate investment advisory agreements (''Management Agreements''). Each Manager is, or will be, an investment adviser that is either registered or exempt from registration under the Advisers Act. Managers are recommended to the Board by the Adviser and selected and approved by the Board, including a majority of the Independent Trustees. Each Manager's fees are, and will be, paid by the Adviser out of the management fees received by the Adviser from the respective Fund.

3. The Adviser monitors the Funds and the Managers and makes recommendations to the Board regarding allocations, and reallocation, of assets between Managers and is responsible for recommending the hiring, termination and replacement of Managers. The Adviser recommends Managers based on a number of factors used to evaluate their skills in managing assets pursuant to particular investment objectives.

4. Applicants request relief to permit the Adviser, subject to the oversight of the Board, to enter into and materially amend Management Agreements without shareholder approval. The requested relief will not extend to a Manager that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust or the Adviser, other than by reason of serving as a Manager to one or more of the Funds (an ''Affiliated Manager'').

5. Applicants also request an exemption from the various disclosure provisions described below that may require each Fund to disclose fees paid by the Adviser to the Managers. The Trust will disclose for each Fund (both as a dollar amount and as a percentage of a Fund's net assets): (a) Aggregate fees paid to the Adviser and Affiliated Managers; and (b) aggregate fees paid to Managers other than Affiliated Managers (''Aggregate Fee Disclosure''). For any Fund that employs an Affiliated Manager, the Fund will provide separate disclosure of any fees paid to the Affiliated Manager.

6. On April 25, 2001, Standish, Ayer & Wood, Inc. (''Standish''), then the Manager of one of the Funds, entered into an agreement with Mellon Financial Corp. (''Mellon''), under which Standish agreed to be merged into a newly formed subsidiary of Mellon, to be called Standish Mellon Asset Management Company LLC (''Standish Mellon,'' the transaction to be called the ''Mellon Standish Transaction''). The Mellon Standish Transaction closed on July 31, 2001 and resulted in an assignment and termination of the Adviser's Management Agreement with Standish. Applicants are currently relying on rule 15a–4 under the Act, which permits the Adviser to enter into an interim contract with Standish Mellon (the ''Interim Agreement'') without shareholder approval for a period not to exceed 150 days subject to the requirements set forth in the rule. In connection with the Mellon Standish Transaction, applicants seek relief from rule 15a–4(b)(2)(vi)(C) to permit the release from escrow of compensation earned under the Interim Agreement, upon the earlier of: (a) Shareholder approval of a new Management Agreement with Standish Mellon within the 150 day period provided in the rule, or (b) receipt by applicants of the requested order and adoption of a new Management Agreement with Standish Mellon in accordance with the terms of that order.

Applicants' Legal Analysis

Relief From Section 15(a), Rule 18f–2 and Certain Disclosure Requirements

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to registered investment company except pursuant to a written contract that has been approved by the vote of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 15(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (''Exchange Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

[1] Applicants also request relief with respect to future series of the Trust, and any other registered open-end management investment companies or series thereof (a) that are advised by the Adviser (as defined below) or any entity controlling, controlled by, or under common control with the Adviser and/or PTC, and (b) which operate in substantially the same manner as the Pitcairn Funds (together with the Pitcairn Funds, the ''Funds''). Any Fund that relies on the requested order will do so only in accordance with the terms and conditions contained in the application. The Trust is the only existing investment company that currently intends to rely on the order. If the name of any Fund should, at any time, contain the name of a Manager (as defined below), it will also contain the name of the Adviser which will appear before the name of the Manager.

4. Form N–SAR is the semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N–SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Managers.

5. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require that investment companies include in their financial statements information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or form any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that their requested relief meets this standard for the reasons discussed below.

7. Applicants assert that shareholders are relying on the Adviser's experience to select one or more Managers best suited to achieve a Fund's desired investment objectives. Applicants assert that, from the perspective of the investor, the role of the Managers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants contend that requiring shareholder approval of Management Agreements may impose unnecessary costs and delays on the Funds, and may preclude the Adviser from acting promptly in a manner considered advisable by the Board. Applicants note that the Advisory Agreement will remain subject to section 15(a) of the Act and rule 18f–2 under the Act.

8. Applicants assert that some Managers use a ''posted'' rate schedule to set their fees. Applicants state that the Adviser may not be able to negotiate below ''posted'' fee rates with Managers if each Manager's fees are required to be disclosed. Applicants submit that the nondisclosure of the individual Managers' fees is in the best interest of the Funds and their shareholders, where the disclosure of such fees would increase costs to shareholers without offsetting benefit to the Funds and their shareholders.

Relief from Rule 15a–4

9. Rule 15a–4 under the Act provides that, subject to certain requirements, a person may act as investment adviser for a registered investment company under an interim contract that has not been approved by shareholders after the termination of a previous contract. Rule 15a–4(b)(2)(vi) requires, among other things, that compensation to be received under the interim contract be kept in an interest-bearing escrow account with the investment company's custodian or bank. Rule 15a–4(b)(2)(vi)(C) requires that, if a majority of the investment company's outstanding voting securities do not approve a contract with the investment adviser, the investment adviser will be paid, out of the escrow account, the lesser of: (1) Any costs incurred in performing the interim contract (plus interest earned on that amount while in escrow); or (2) the total amount in the escrow account (plus interest earned). In connection with the Standish Mellon Transaction and the establishment of the Interim Agreement, applicants have relied on rule 15a–4. Applicants request relief from rule 15a–4(b)(2)(vi)(C) to permit release of the escrowed subadvisory fees earned under the Interim Agreement upon the earlier of: (a) Shareholder approval of a new Management Agreement with Standish Mellon within the 150 day period provided in the rule, or (b) receipt by applicants of the requested order and adoption of a new Management Agreement with Standish Mellon in accordance with the terms of that order.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

Conditions Applicable to All Funds Relying on the Requested Order

1. Before a Fund may rely on the order requested in this application, the operation of the Fund in the manner described in this application will be approved by a majority of the outstanding voting securities of the Fund, as defined in the Act, or in the case of a Fund whose shareholders purchase shares in a public offering on the basis of a prospectus containing the disclosure contemplated by condition 3 below, by the initial shareholder(s) before the shares of the Fund are offered to the public.

2. Within 90 days of the hiring of any new Manager, the Adviser will furnish the shareholders of the applicable Fund all the information about a new Manager that would have been included in a proxy statement, except as modified to permit Aggregate Fee Disclosure. Such information will include Aggregate Fee Disclosure and any changes in such disclosure caused by the addition of a new Manager. To meet this obligation, the Adviser will provide the shareholders of the applicable Fund, within 90 days of the hiring of a Manager, with an Information Statement meeting the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the 1934 Act, except as modified by the order to permit Aggregate Fee Disclosure.

3. The Trust's prospectus will disclose the existence, substance and effect of any order granted pursuant to this application. In addition, the Funds will hold themselves out to the public as employing the Adviser/Manager approach described in this application. The Trust's prospectus will prominently disclose that the Adviser has ultimate responsibility (subject to oversight by the Board) to oversee the Managers and recommend their hiring, termination and replacement.

4. The Adviser will provide general management services to the Trust and its Funds, including overall supervisory responsibility for the general management and investment of each Fund's securities portfolio, and, subject to review and approval by the Board will: (i) Set the Fund's overall investment strategies; (ii) evaluate, select, and recommend Managers to manage all or part of a Fund's assets; (iii) when appropriate, allocate and reallocate a Fund's assets among Managers; (iv) monitor and evaluate the performance of Managers, including their compliance with the investment objectives, policies, and restrictions of the Funds; and (v) implement procedures to ensure that the Managers comply with the Fund's investment objectives, policies, and restrictions.

5. At all times, a majority of the Board will be Independent Trustees, subject to the suspension of this requirement for the death, disqualification or bona fide resignation of directors as provided in rule 10e–1 under the Act, and the nomination of new or additional Independent Trustees will be at the discretion of the then existing Independent Trustees.

6. Neither the Adviser nor PTC will enter into a Management Agreement with any Affiliated Manager, without such Management Agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

7. No trustee or officer of the Trust or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle

that is not controlled by that trustee, director or officer) any interest in a Manager except for: (i) Ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser, or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Manager or an entity that controls, is controlled by or is under common control with a Manager.

8. When a change in Manager is proposed for a Fund with an Affiliated Manager, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Fund's Board minutes, that the change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Adviser or the Affiliated Manager derives an inappropriate advantage.

Additional Conditions Applicable to Funds Relying on the Aggregate Fee Disclosure Relief

9. Each Fund will include in its registration statement the Aggregate Fee Disclosure.

10. Independent legal counsel, as defined in rule 0–1(a)(6) under the Act, knowledgeable about the Act and the duties of Independent Trustees will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the Independent Trustees.

11. The Adviser will provide the Board, no less frequently than quarterly, with information about the Adviser's profitability on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Manager during the applicable quarter.

12. Whenever a Manager is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the Adviser's profitability.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–20449 Filed 8–14–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44661; File No. 4–208]

Intermarket Trading System; Notice of Filing of the Seventeenth Amendment to the ITS Plan Relating to Regional Computer Interface, 30-Second Commitment Expiration, and the Principal Place of Business of the Boston Stock Exchange, Inc.

August 8, 2001.

Pursuant to section 11A of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 11A3a3–2 thereunder,[2] notice is hereby given that on July 16, 2001, the Intermarket Trading System Operating Committee (''ITSOC'') submitted to the Securities and Exchange Commission (''Commission'') a proposed amendment (''Seventeenth Amendment'') to the restated ITS Plan.[3] The purpose of the proposed amendment is to: (1) Recognize the NASD's use of the Regional Computer Interface (''RCI'');[4] (2) provide for a six-month pilot program for the use of a 30-second commitment expiration; and (3) reflect the BSE's new principal place of business. The Commission is publishing this notice to solicit comment on the proposed amendment from interested persons.

I. Description of the Amendment

The proposed amendment recognizes the NASD's use of the RCI by deleting references to the ''ITS/CAES Interface'' [5] and incorporating NASD members registered as ITS/CAES Market Makers as part of the definition of ''RCI'' in section 1(34A) of the ITS Plan, thus enabling the NASD to use the communications network that links the exchange markets electronically to facilitate trades among Participant markets.

In addition, the proposed amendment provides for a six-month pilot program for the use of a 30-second commitment expiration. Currently, the ITS Plan provides that the sender of the commitment may designate a time period during which the commitment shall be irrevocable following acceptance by the System.[6] If the commitment is not accepted or rejected during the applicable time period (which commences to run upon the time stamping of the commitment when it is accepted by the System), the commitment is automatically canceled by the System at the end of the applicable time period.[7] The two time period options currently available are known as ''T–1,'' which has a duration of one minute, and ''T–2,'' which has a duration of two minutes.[8] The proposed amendment would allow for a third time period option known as ''T–30S,'' which would have a duration of 30 seconds. This option would commence on the date of Commission approval of this Seventeenth Amendment, or immediately following installation of the T–30S functionality by the Securities Industry Automation Corporation (''SIAC''), whichever is later, and would remain available until the last trading day of the sixth full calendar month following such commencement.[9]

Lastly the proposed amendment amends the ITS Plan to reflect the BSE's new principal place of business. The BSE's principal place of business is 100 Franklin Street, Boston, Massachusetts 02110.

II. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed Plan

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 240.11Aa3–2.

[3] The ITS is a National Market System (''NMS'') plan, which was designed to facilitate intermarket trading in exchange-listed equity securities based on current quotation information emanating from the linked markets. *See* Securities Exchange Act Release No. 19456 (January 27, 1983), 48 FR 4938 (February 3, 1983).

The ITS Participants include the American Stock Exchange LLC (''AMEX''), the Boston Stock Exchange, Inc. (''BSE''), the Chicago Board Options Exchange, Inc. (''CBOE''), the Chicago Stock Exchange, Inc. (''CHX''), the Cincinnati Stock Exchange, Inc. (''CSE''), the National Association of Securities Dealers, Inc. (''NASD''), the New York Stock Exchange, Inc. (''NYSE''), the Pacific Exchange, Inc. (''PCX''), and the Philadelphia Stock Exchange, Inc. (''PHLX'') (''Participants'').

[4] ''RCI'' is defined in Section 1 (34A) of the ITS Plan as the ''automated linkage between the System and, and collectively, the Regional Switches and the AMEX [Display Book Manager] DBM that, when implemented, will enable members located on the floors of the Amex, BSE, the CHX, the PSE, and the PHLX to participate in the Applications.''

[5] *See* ITS Plan, Section 1(15) (defining ''ITS/CAES Interface''); Section 10(e)(i) (discussing ''Standard Automated Interfaces''); Section 11(a)(iii)(B) (discussing the ''New Participant's Share of Development Costs''); and Section 11(a)(iii)(E) (regarding ''CAES Interface Costs'').

[6] *See* ITS Plan, Section 6(b)(i) (discussing ''Commitment Information, Expiration'').

[7] *See* ITS Plan, Section 6(b)(iv) (discussing ''Commitment Validation, Routing'').

[8] *See* note 5, *supra.*

[9] The ITSOC also proposed to either continue the T–30S option for one or more additional six-month periods or to make the T–30S option permanent. The ITSOC must determine such option by a unanimous vote of the ITSOC (with all representatives voting). Prior to any such vote, the ITSOC shall review the functioning of the option in terms of, but not limited to, the percentage of T–30S commitments that are automatically cancelled (expired) in the System overall and by each Participant Market.

amendment 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 Plan amendment that are filed with the Commission, and all written commissions relating to the proposed Plan amendment 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 proposed Plan Amendment will also be available for inspection and copying at the principal office of the ITS. All submissions should refer to File No. 4–208 and should be submitted by September 5, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–20500 Filed 8–14–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–14875]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the American Stock Exchange LLC; (FTI Consulting, Inc. Common Stock, $.01 Par Value)

August 9, 2001.

FTI Consulting, Inc., a Maryland Corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.01 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of Maryland, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Issuer's application relates solely to the Security's withdrawal from listing on the Amex and registration under section 12(b) of the Act[3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

On July 25, 2001, the Board of Directors of the Issuer unanimously approved resolutions to withdraw the Issuer's Security from listing on the Amex and to list it on the New York Stock Exchange (''NYSE''). In its application, the Issuer states that trading in the Security on the Amex will cease on August 15, 2001 and trading in the Security is expected to begin on the NYSE at the opening of business on August 16, 2001. In making the decision to withdraw the Security from listing on the Exchange, the Issuer represents that it is in the best interest of the shareholders because it will raise the Issuer's profile with the investment community and will be an important step in providing the access to capital markets necessary to continue the Company's strong business and financial growth.

Any interested person may, on or before August 30, 2001 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–20499 Filed 8–14–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25104; 812–12520]

ABN AMRO Funds, et al.; Notice of Application

August 8, 2001.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY: Applicants request an order to permit certain series of a registered open-end management investment company to acquire all of the assets and assume certain stated liabilities of certain series of anther registered open-end management investment company. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

APPLICANTS: ABN AMRO Funds, Alleghany Funds, and ABN AMRO North America Holding Company (''ABN AMRO'').

FILING DATES: The application was filed on May 11, 2001 and amended on August 2, 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 a copy 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 who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, c/o Leslie Sperling Cruz, Esq., Morgan Lewis & Bockius LLP, 1800 M Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 942–0714, or Janet M. Grossnickle, Branch Chief, at (202) 942–0564 (Division of Investment Management Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. ABN AMRO Funds, a Massachusetts business trust, is registered under the Act as an open-end management investment company and

[10] 17 CFR 200.30–3(a)(29).

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

currently offers eighteen series, sixteen of which are referred to as the ''Acquired Funds.'' Alleghany Funds, a Delaware business trust, is registered under the Act as an open-end management investment company and offers thirty series. Three existing series of Alleghany funds are referred to as the ''Existing Acquiring Funds'' and thirteen of its newly established series,[1] together with the Existing Acquiring Funds, are referred to as the ''Acquiring Funds'' (together with the Acquired Funds, the ''Funds''). ABN AMRO Funds and Alleghany Funds are referred to as the ''Trusts.''

2. ABN AMRO Asset Management (USA) LLC (''AAAM''), a wholly-owned subsidiary of ABN AMRO North America Holding Company (''ABN AMRO''), will serve as the investment adviser to the Acquired Funds and the Acquiring Funds (except the Existing Acquiring Funds) and is registered under the Investment Advisers Act of 1940 (''Advisers Act''). Chicago Capital Management, Inc., an indirect, wholly-owned subsidiary of ABN AMRO, currently serves as the investment adviser to the Existing Acquiring Funds and is registered under the Advisers Act. Affiliated persons of ABN AMRO own 5% or more (and in some cases more than 25%) of the outstanding securities of the Acquiring Funds in a fiduciary capacity. In addition, affiliated persons of ABN AMRO, in a fiduciary or custodial capacity, or on behalf of brokerage customers, own 5% or more (and in some cases more than 25%) of the outstanding voting securities of the Acquired Funds.

3. On April 23, 2001 and June 21, 2001, the boards of trustees of the ABN AMRO Funds and Alleghany Funds (together, the ''Boards''), including all the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Trustees''), unanimously approved the reorganization and an agreement and plan for reorganization (the ''Plan of Reorganization''). Under the Plan of Reorganization, certain series of Alleghany Funds will acquire all of the assets and certain stated liabilities of certain series of ABN AMRO Funds (the ''Reorganization'').[2] Applicants state that the Reorganization will occur on or about September 15, 2001 and September 22, 2001 (each a ''Closing Date'' and collectively, the ''Closing Dates''). On the applicable Closing Date, each class of shares of each Acquiring Fund will acquire all of the assets and certain stated liabilities of the corresponding class of shares of the corresponding Acquired Fund in exchange for shares of the designated class of the Acquiring Fund. The shares of each Acquiring Fund exchanged will have an aggregate net asset value equal to the aggregate net asset value of the corresponding Acquired Fund's shares determined as of the close of business on the business day immediately preceding the applicable Closing Date. The net asset value of the Acquiring Funds and value of the assets of the Acquired Funds will be determined according to the Funds' then-current prospectuses and statements of additional information. As soon as reasonably practicable after the applicable Closing Date, the Acquired Funds will distribute the shares of the corresponding Acquiring Funds pro rata to their shareholders of record, determined as of the close of business on the business day immediately preceding the applicable Closing Date. Following the distribution of the Acquiring Funds' shares, the Acquired Funds will terminate.

4. The Acquired Funds offer Common Shares, which are not subject to any rule 12b–1 distribution fees, shareholder servicing fees or sales loads; Investor Shares, which are subject to rule 12b–1 distribution fees of 0.25% and shareholder servicing fees, but not sales loads; Institutional Shares, which are not subject to rule 12b–1 distribution fees, shareholder servicing fees or sales loads; and Institutional Service Shares, which are subject to shareholder servicing fees, but not rule 12b–1 distribution fees or sales loads. The Acquiring Funds will offer Class N Shares, which are subject to rule 12b–1 distribution fees of 0.25%, but not shareholder servicing fees or sales loads; Class I shares and Class Y Shares, which are not subject to rule 12b-distribution fees, shareholder servicing fees or sales loads; Class S Shares, which are subject to rule 12b–1 distribution fees and shareholder servicing fees, but not sales loads and; Class YS Shares, which are subject to shareholder servicing fees, but not rule 12b–1 distribution fees or sales loads.

5. Shareholders with Common or Investor Shares of the Acquired Funds (except the ABN AMRO Money Market Funds) will receive Class N Shares of the corresponding Acquiring Fund. Shareholders of Common Shares of the ABN AMRO Government Money Market Fund, ABN AMRO Money Market Fund, ABN AMRO Tax-Exempt Money Market Fund and ABN AMRO Treasury Money Market Fund will receive Class I Shares of the corresponding Acquiring Fund. Shareholders with Investors Shares of the ABN AMRO Government Money Market Fund, ABN AMRO Money Market Fund, ABN AMRO Tax-Exempt Money Market Fund and ABN AMRO Treasury Money Market Fund will receive Class S Shares of the corresponding Acquiring Fund. Shareholders with Institutional Shares of the ABN AMRO Institutional Prime Money Market Fund will receive Class Y Shares of the corresponding Acquiring Fund. Shareholders with Institutional Service Shares of the ABN AMRO Institutional Money Market Fund will receive Class YS Shares of the corresponding Acquiring Fund.

6. Applicants state that the investment objectives, policies and restrictions of each Acquired Fund are substantially similar to those of the corresponding Acquiring Fund. Applicants state that the rights and obligations of each class of shares of the Selling Funds are similar to those of the corresponding class of shares of the Acquiring Funds. No sales charges will be imposed in connection with the Reorganization. ABN AMRO and/or affiliated persons (but not the Funds) will bear the costs associated with the Reorganization.

7. The Boards, including all of the Independent Trustees, determined that the Reorganization is in the best interests of each Fund and that the interests of the shareholders of each Fund would not be diluted as a result of the Reorganization. In assessing the Reorganization, the Boards considered various factors, including: (a) The terms and conditions of the Reorganization;

[1] A registration statement for the new series that will participate in the Reorganization was filed with the Commission on May 4, 2001, and it is anticipated that it will be declared effective on September 21, 2001.

[2] Under the Plan of Reorganization, the Acquired Funds will merge into the corresponding Acquiring Funds as follows: ABN AMRO Money Market Fund will merge into ABN AMRO Money Market Fund, ABN AMRO Government Money Market Fund into ABN AMRO Government Money Market Fund, ABN AMRO Treasury Money Market Fund into ABN AMRO Treasury Money Market Fund, ABN AMRO Tax-Exempt Money Market Fund into ABN AMRO Tax-Exempt Money Market Fund, ABN AMRO Value Fund into ABN AMRO Value Fund, ABN AMRO Growth Fund into ABN AMRO Growth Fund, ABN AMRO Small Cap Fund into ABN AMRO Small Cap Fund, ABN AMRO Real Estate Fund into ABN AMRO Real Estate Fund, ABN AMRO International Equity Fund into ABN AMRO International Equity Fund, ABN AMRO Europe Equity Growth Fund into ABN AMRO Europe Equity Growth Fund, ABN AMRO Asian Tigers Fund into ABN AMRO Asian Tigers Fund, ABN AMRO Latin America Equity Fund into ABN AMRO Latin America Equity Fund, ABN AMRO Institutional Prime Money Market Fund into ABN AMRO Institutional Prime Money Market Fund, ABN AMRO Balanced Fund into Alleghany/Chicago Trust Balanced Fund, ABN AMRO Fixed Income Fund into Alleghany/Chicago Trust Bond Fund and ABN AMRO Tax-Exempt Fixed Income Fund into Alleghany/Chicago Trust Municipal Bond Fund.

(b) the compatibility of the Funds' investment objectives, policies and limitations; (c) the Acquired Funds and corresponding Existing Acquiring Funds' performance histories; (d) the pro forma expense ratios of the Acquiring Funds; (e) the potential economies of scale to be gained from the Reorganization; (f) the advantages of increased investment opportunities for the Acquired Funds' shareholders; (g) the anticipated tax-free nature of the Reorganization, (h) the service features available to shareholders of the corresponding Funds; (i) the assumption of identified liabilities of the Acquired Funds; and (j) the fact that Reorganization expenses will be borne by ABN AMRO and/or its affiliated persons (but not the Funds).

8. The Reorganization is subject to a number of conditions precedent, including that: (a) The shareholders of each Acquired Fund will have approved the Reorganization; (b) the Trusts will have received opinions of counsel that the Reorganization will be tax-free for the Trusts and their shareholders; (c) applicants will have received from the Commission an exemption from section 17(a) of the Act for the Reorganization; (d) the registration statement under the Securities Act of 1933 for the Acquiring Funds will have become effective; and (e) each Acquired Fund shall have declared and paid dividend(s) which shall have the effect of distributing to its shareholders all net investment company taxable income for all taxable periods ending on or before the applicable Closing Date and, with respect to each Acquired Fund that is reorganizing into an Existing Acquiring Fund, all of its net capital gains, if any, to its shareholders. The Plan of Reorganization may be terminated by mutual agreement or by either party at or before the Closing Dates. No material changes to the Plan of Reorganization will be made without prior Commission approval.

9. The registration statement on Form N–14 for ABN AMRO Funds, Inc. (which contains a combined proxy prospectus/proxy statement for three of the Acquired Funds) was filed with the Commission on June 13, 2001. The definitive proxy materials for the other Acquired Funds were filed with the Commission on July 13, 2001. The solicitation materials related to the Reorganization were mailed to shareholders of the Acquired Funds on July 13, 2001. A special meeting of shareholders of the Acquired Funds to consider the Reorganization is scheduled for August 24, 2001.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts certain mergers, consolidations, and sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied. Applicants believe that rule 17a–8 may not be available to exempt the Reorganization because the Funds may be deemed to be affiliated by reasons other than having a common investment adviser, common directors, and/or common officers. Applicants state that because affiliated persons of ABN AMRO, in a fiduciary capacity, own 5% or more (and in some cases more than 25%) of the outstanding voting securities of the Acquiring Funds, each may be deemed to be affiliated persons of the Acquiring Funds. In addition, applicants state that because affiliating of ABN AMRO also own 5% or more (and in some cases more than 25%) of the outstanding voting securities of the Acquired Funds, in a fiduciary or custodial capacity, or on behalf of brokerage customers, each also may be deemed to be an affiliated person of the Acquired Funds. As a result, the Acquiring Funds may be deemed to be affiliated persons of an affiliated person of the Acquired Funds.

3. Section 17(b) of the Act provides, in relevant part, that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid to received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

4. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to effect the Reorganization. Applicants submit that the Reorganization satisfies the conditions of section 17(b) of the Act. Applicants also state that the Boards, including all of the Independent Trustees, have determined that the participation of the Funds in the Reorganization is in the best interests of each Fund and that such participation will not dilute the interests of the existing shareholders of each Fund. Applicants also state that the Reorganization will be effected on the basis of relative net asset value.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–20450 Filed 8–14–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44663; File No. SR–Amex–2001–49]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Amendments to Amex Rule 236(a)(6)

August 8, 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 25, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] The Commission is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange provided written notice to the Commission on June 29, 2001 of its intention to file this proposal. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

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 Amex proposes to amend Amex Rule 236(a)(6) to delete reference to ITS/CAES securities. The text of the proposed rule language is below. Additions are in italics. Deletions are in brackets.

Trade Through Rule

Rule 236.(a) Definitions

''ITS/CAES Market Maker'', as that term is used in this Rule, means a NASD member that is registered as a market maker with the NASD for the purpose of the Applications with respect to one or more specified *System securities* [''ITS/CAES securities'' as more fully described in the ITS Plan].

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutoy Basis for, the Proposed Rule Change

1. Purpose

The Amex proposes to amend the definition of ''ITS/CAES Market Maker'' in Amex Rule 236(a)(6) to eliminate reference to ''ITS/CAES securities''. Since 1982, the National Association of Securities Dealers' participation in the Intermarket Trading System Plan (''ITS Plan'') had been limited to securities subject to SEC Rule 19c–3 [6] (''ITS/CAES securities''). On December 9, 1999, the Commission adopted amendments to the ITS Plan to expand the ITS/CAES linkage to all ''eligible'' listed securities.[7] This renders the term ''ITS/CAES securities'' unnecessary in Amex Rule 236(a)(6). The term has also been eliminated from the ITS Plan.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act [8] in general, and furthers the objectives of section 6(b)(5) [9] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers. In addition, the amendment is consistent with section 11A(a)(1)(D) of the Act [10] which calls for the linkage of all markets for qualified securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex believes the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were 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 of the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)A) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR–Amex–2001–49 and should be submitted by September 5, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–20501 Filed 8–14–01; 8:45 am]

BILLING CODE 8010–01–M

[6] 17 CFR 240.19c–3.

[7] *See* Securities Exchange Act Release No. 42212 (December 9, 1999), 64 FR 70297 (December 16, 1999).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78k–1(a)(1)(D).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3348]

State of Louisiana; Amendment #4

In accordance with a notice received from the Federal Emergency Management Agency, dated August 8, 2001, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to August 24, 2001.

All other information remains the same, i.e., the deadline for filing applications for loans for economic injury is March 11, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 9, 2001.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 01–20495 Filed 8–14–01; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC–14)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting for an open teleconference.

SUMMARY: The Industry Sector Advisory Committee on Small and Minority Business (ISAC–14) will hold a meeting for an open teleconference on August 21, 2001, from 11:00 a.m. to 12:30 p.m. The meeting will be opened to the public from 11:00 a.m. to 12:30 p.m.

DATES: The meeting is scheduled for August 21, 2001, unless otherwise notified.

ADDRESSES: The meeting will be held in Conference Room 2015B, of the Department of Commerce, located at 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Millie Sjoberg or Pam Wilbur, (principal contacts), at (202) 482–4792, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230 or myself on (202) 395–6120.

SUPPLEMENTARY INFORMATION: During the meeting the following topics will be addressed.

- Secretary of Commerce Evan's proposal to the OECD for a c-business facilitation initiative and ISAC–14 input into the upcoming WTO meeting in Doha.

Christina Sevilla,

Acting Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 01–20508 Filed 8–14–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During Week Ending August 3, 2001

The following Agreements were filed with the Department of Transportation under provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the applications.

Docket Number: OST–2001–10275
Date Filed: July 30, 2001
Parties: Members of the International Air Transport Association
Subject:
PTC COMP 0841 dated 27 July 2001
Composite Expedited Resolutions 024d, 210 (including USA/US Territories)
Intended effective date: 1 September 2001 Mail Vote

Docket Number: OST–2001–10276
Date Filed: July 30, 2001
Parties: Members of the International Air Transport Association
Subject:
PTC COMP 0842 dated 27 July 2001
Composite Expedited Resolution 015v (excluding USA/US Territories)
Intended effective date: 1 October 2001

Docket Number: OST–2001–10281
Date Filed: July 30, 2001
Parties: Members of the International Air Transport Association
Subject:
PTC123 0147 dated 27 July 2001
Mail Vote 138—Resolution 101j
TC123 North/Mid/South Atlantic Special Passenger Amending Resolution from Korea (Rep. of)
Intended effective date: 1 August

Docket Number: OST–2001–10311
Date Filed: July 30, 2001
Parties: Members of the International Air Transport Association
Subject:
PTC12 USA–EUR Fares 0061 dated 20 July 2001
Resolution 015h—USA Add-on Amounts between USA and UK.
Intended effective date: 1 October 2001

Cynthia L. Hatten,

Federal Register Liaison.

[FR Doc. 01–20516 Filed 8–14–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending August 3, 2001

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period, DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–1996–1423.
Date Filed: August 1, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 22, 2001.
Description: Application of Continental Airlines, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart B, requesting renewal of Segment 13 of its Route 29–F certificate, authorizing Continental to provide scheduled foreign air transportation of persons, property and mail between New York/Newark and Madrid and Barcelona via the Azores and Lisbon and beyond.

Cynthia L. Hatten,

Federal Register Liaison.

[FR Doc. 01–20515 Filed 8–14–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–01–10380]

Hazardous Materials: Knowledge Required for Civil Penalty Enforcement Proceedings

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of public meeting and invitation to comment.

SUMMARY: Interested parties are invited to submit comments for consideration by DOT in developing additional guidance as to when a reasonable person offering, accepting or transporting a hazardous material in commerce would be deemed to have knowledge of facts giving rise to a violation of Federal hazardous material transportation law or the Hazardous Materials Regulations.

DATES: *Public meeting.* The public meeting will be held on November 14, 2001, from at 9:00 a.m. to 5:00 p.m. The meeting may end before 5:00 p.m. if all topics have been addressed and all participants heard.

Comments. Written comments must be received by December 14, 2001.

ADDRESSES: *Public meeting.* The public meeting will be held in Room 2300 of the U.S. Department of Transportation headquarters building (Nassif Building), 400 Seventh Street, SW., Washington, DC 20590–0001. Any person desiring to participate in discussions at the public meeting should notify Thomas Sherman by telephone or e-mail (see **FOR FURTHER**

INFORMATION CONTACT below) no later than November 1, 2001. Each person should indicate which of the four topics described at the end of this notice that he or she wishes to discuss.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Sherman as soon as possible.

Comments. You must address comments to the Dockets Management System, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number (OST–01–10380) and submit two copies of your comments. If you want to confirm that we received your comments, include a self-addressed, stamped postcard.

You may also submit comments by e-mail by accessing the DOT Dockets Management System website at: *http://dms.dot.gov*. Click on ''Help,'' ''DMS Web Help,'' or ''DMS Frequently Asked Questions'' to obtain instructions for filing a document electronically.

The Dockets Management System is located on the Plaza Level of the Nassif Building at the above address. You may review public dockets there between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except public holidays. You may also review comments on-line at the DOT Dockets Management System website at: *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Thomas Sherman, Intermodal Hazardous Materials Program, Office of Intermodalism, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20009. Telephone: 202–366–5864; E-mail: Tom.Sherman@ost.dot.gov.

SUPPLEMENTARY INFORMATION: Federal hazardous material transportation law provides that DOT may assess a civil penalty against a person that ''knowingly violates'' that law or the HMR. 49 U.S.C. 5123(a)(1). The same section of the law also states that:

A person acts knowingly when—

(A) The person has actual knowledge of the facts giving rise to the violation; or

(B) A reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

This statutory definition of ''knowingly'' was added in the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), Pub. L. 101–615, § 12, 104 Stat. 3259 (Nov. 16, 1990), to ''cover violations that are committed *negligently*'' and to ''negate any inference that the term only encompasses actions based on actual knowledge or reckless actions.'' H. Report No. 101–444, Part 1, Committee on Energy and Commerce, p. 47 (Apr. 3, 1990) (emphasis in original).[1]

In a recent letter to the Secretary of Transportation, Federal Express Corporation asked DOT to develop further guidance on what constitutes ''constructive knowledge'' that a carrier is deemed to have of the presence of hazardous materials when the carrier accepts a shipment for transportation. Federal Express stated that carriers lack ''essential criteria defining constructive knowledge of undeclared hazardous materials, that would allow the carriers to design and implement a viable system for training their employees, and for identifying and reporting discrepancies, without being subjected to second-guessing after a shipment has been transported.''

In its letter, Federal Express referred to a formal interpretation published in the **Federal Register** on June 4, 1998, 63 FR 30411. In that interpretation, which was coordinated among all the DOT agencies to which enforcement authority has been delegated,[2] RSPA's Chief Counsel stated that:

> a carrier knowingly violates the HMR when the carrier accepts or transports a hazardous material with actual or constructive knowledge that a package contains a hazardous material which has not been packaged, marked, labeled, and described on a shipping paper as required by the HMR. This means that a carrier may not ignore readily apparent facts that indicate that either (1) a shipment declared to contain a hazardous material is not properly packaged, marked, labeled, placarded, or described on a shipping paper, or (2) a shipment actually contains a hazardous material governed by the HMR despite the fact that it is not marked, labeled, placarded, or described on a shipping paper as containing a hazardous material.
>
> * * * * *
>
> In the case of an undeclared or hidden shipment, all relevant facts must be considered to determine whether or not a reasonable person acting in the circumstances and exercising reasonable care would realize the presence of hazardous materials. In an enforcement proceeding, this is always a question of fact, to be determined by the fact-finder. Because innumerable fact patterns may exist, it is not practicable to set forth a list of specific criteria to govern whether or not the carrier has sufficient constructive knowledge of the presence of hazardous materials within an undeclared or hidden shipment to find a knowing violation of the HMR.
>
> Information concerning the contents of suspicious packages must be pursued to determine whether hazardous materials have been improperly offered. A carrier's employees who accept packages for transportation must be trained to recognize a ''suspicious package,'' as part of their function-specific training as specified in 49 CFR 172.704(a)(2), because the legal standard remains the knowledge that a reasonable person acting in the circumstances and exercising reasonable care would have.[3]

63 FR at 30412. Federal Express has not disputed this interpretation but stated that, ''as it has been applied [in enforcement proceedings, this interpretation] fails to provide fair warning to carriers as to when they will be charged with constructive knowledge of having accepted undeclared hazardous materials shipments.''

In an interim response to Federal Express's attorney, the Secretary of Transportation advised that DOT's Director, Intermodal Hazardous Materials Program (IHMP), located within the Office of the Assistant Deputy Secretary and Director, Office of Intermodalism,[4] would be the focal point in developing possible guidance on ''constructive knowledge.'' In conjunction with FAA, FMCSA, FRA,

[1] In its regulations, the Research and Special Programs Administration, (RSPA) had implemented the ''knowingly'' standard for assessment of a civil penalty in the original Hazardous Material Transportation Act, Pub. L. 93–633, § 110, 88 Stat. 2160 (Jan. 3, 1975), and defined ''knowingly'' to mean that a person (1) Has actual knowledge of the facts that give rise to the violation, or (2) should have known of the facts that give rise to the violation. A person knowingly commits an act if the act is done voluntarily and intentionally. Former 49 CFR 107.299, added 48 FR 2653 (Jan. 20, 1983), revised 56 FR 8624 (Feb. 28, 1991), renumbered 61 FR 21094 (May 9, 1996). When RSPA revised § 107.299 in 1991 to define ''knowingly'' consistent with the language adopted in HMTUSA, it noted that ''Congress effectively adopted the Department's historic interpretation of the term 'knowingly.'" 56 FR 8620.

[2] The Secretary of Transportation has delegated to five agencies within DOT the authority to bring civil penalty enforcement cases and assess civil penalties for violations of Federal Hazardous material transportation law or the HMR: Federal Aviation Administration (FAA), Federal Motor Carrier Safety Administration (FMCSA), Federal Railroad Administration (FRA), United States Coast Guard (USCG), and RSPA. 49 CFR 1.46(u), 1.47(j)(1), (k), 1.49(s)(1), 1.53(b)(1), 1.73(d)(1).

[3] In its June 14, 1996 Advisory Guidance; Offering, Accepting, and Transporting Hazardous Materials, 61 FR 30444, 30446, RSPA urged persons ''who engage in day-to-day transportation activities [to] make a concerted effort to ensure their own compliance, as well as that of others from whom they receive shipments'' and reminded them to: (1) ''Know Your Customer,'' (2) ''Know the Packaging,'' (3) ''Know/Verify the Proper Hazardous Material Description,'' (4) ''Visually Inspect Shipments,'' (5) ''Advise Your Customer of Possible Discrepancies,'' and (6) ''Report Violations.''

[4] The Secretary of Transportation has delegated to the Assistant Deputy Secretary and Director, Office of Intermodalism, the authority under Federal hazardous material transportation law to act a the focal point for review of hazardous materials policies, monitor department hazardous materials activities, and address regulatory and programmatic cross-modal issues related to hazardous materials as warranted. 49 CFR 1.74.

RSPA, and USCG, IHMP invites interested parties to attend a public meeting and to comment at that meeting or separately in writing on the indicia or readily apparent facts that would indicate the potential presence of hazardous materials to a reasonable person and the actions that a reasonable person should take in response to those indicia or readily apparent facts.

Logical topics for discussion at the public meeting and in written comments include:

1. The responsibilities of an offeror of a hazardous material to properly classify the material, package the material, mark and label packagings, outside containers, and overpacks, describe the material on a shipping paper, and provide placards to a carrier.

2. The responsibilities of a carrier when it accepts any shipment to review documentation that accompanies the shipment and inspect the packagings, outside containers, or overpacks to determine (a) whether a hazardous material is present, and (b) when a hazardous material is present, whether it is properly packaged, marked, labeled, placarded, and described on a shipping paper.

3. When a reasonable person should have constructive knowledge of the potential presence of a hazardous material based on information that is readily apparent from: (a) Documentation that accompanies a shipment, (b) markings, labels, or placards on packagings, outside containers, or overpacks, and (c) the condition of the packagings, outside containers, or overpacks themselves.

4. Methods used to train personnel who prepare materials for shipment or accept shipments for transportation to recognize the potential presence of a hazardous material based on information that is readily apparent, including the use of checklists such as those required by Section 7;1.3 of the Technical Instructions for the Transport of Dangerous Goods of the International Civil Aviation Organization.

Oral comments at the public meeting and separate written comments are not limited to the above topics and may include any suggestions for developing additional guidance as to when a reasonable person would be deemed to have constructive knowledge of the potential presence of hazardous material and the manner in which that material is classified, packaged, marked, labeled, placarded, and described on a shipping paper. A facilitator will chair the meeting to ensure that all topics are covered and persons heard. No formal transcript of this meeting is planned, but the meeting will be tape recorded for later use by DOT in its decision-making process.

Issued in Washington, DC, on August 9, 2001.

Jackie A. Goff,

Director, Intermodal Hazardous Materials Program, Office of Intermodalism.

[FR Doc. 01–20514 Filed 8–14–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Metropolitan Oakland International Airport, Oakland, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Metropolitan Oakland International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before September 14, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Steven J. Grossman, Director of Aviation, Port of Oakland, at the following address: 530 Water Street, Oakland, CA 94604. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Port of Oakland under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (650) 876–2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Metropolitan Oakland International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). On July 27, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Port of Oakland was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 27, 2001.

The following is a brief overview of the impose and use application.

NO.: 01–10–C–00–OAK.

Level of proposed PFC: $4.50.

Proposed charge effective date: February 1. 2003.

Proposed charge expiration date: August 1, 2004.

Total estimated PFC revenue approved in this application: $69,000,000.

Brief description of proposed impose and use projects: Terminal One Ticket Counter Expansion-Phase 1, Overlay Runway 11/29, Terminal One Gate Improvement Project, Terminal One and Two Restroom Improvements, and Multi-User System Equipment in Terminal One.

Brief description of proposed use of PFC revenue project: Construct Remote Overnight Aircraft Parking Apron.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Nonscheduled/On-Demand Air Carriers filing FAA form 1800–31 and Commuters or Small Certificated Air Carriers filing DOT form 298–C T1 or E1.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Port of Oakland.

Dated: Issued in Hawthorne, California, on August 1, 2001.

Ellsworth L. Chan,

Acting Manager, Airports Division, Western-Pacific Region.

[FR Doc. 01–20519 Filed 8–14–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Washington County, UT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Washington County, Utah.

FOR FURTHER INFORMATION CONTACT: Sandra Garcia, Highway Engineer, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84118–1847, Telephone (801) 963–0182.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Utah Department of Transportation (UDOT), will prepare an environmental impact statement (EIS) on a proposal to construct a new interchange on I–15 at milepost 13 in Washington City, Utah.

The construction of a new interchange is considered necessary to provide access to I–15, which will accommodate the projected traffic demand and development planned for the area. Alternatives under consideration include (1) taking no action; (2) Transportation System Management (TSM), activities which maximize the efficiency of the present system; (3) constructing a new interchange on I–15 at milepost 13.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A public scoping meeting and a public hearing will be held. Notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: August 9, 2001.

William R. Gedris,

Highway Engineer.

[FR Doc. 01–20480 Filed 8–14–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2001–1037]

Notice of Request for the Extension of a Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to extend the following currently approved information collection: Charter Service Operations.

DATES: Comments must be submitted before October 15, 2001.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the United States Department of Transportation, Central Dockets Office, PL–401, 400 Seventh Street, S.W., Washington, D.C. 20590. All comments received will be available for examination at the above address from 10:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Martineau, Office of the Chief Counsel, (202) 366–1936.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Charter Service Operations (*OMB Number: 2132–0543*)

Background: 49 U.S.C. Section 5323(d) requires all applicants for financial assistance from FTA to enter into a charter bus agreement with the Secretary of Transportation (delegated to the Administrator of FTA in 49 CFR Section 1.51(a)). 49 U.S.C. Section 5323(d) provides protections for private intercity charter bus operators from unfair competition by FTA recipients. 49 U.S.C. Section 5302(a)(7) as interpreted by the Comptroller General permits FTA recipients, but does not state that recipients have a right, to provide charter bus service with FTA-funded facilities and equipment only if it is incidental to the provision of mass transportation service. These statutory requirements have been implemented in FTA's charter regulation, 49 CFR Section 604.

49 CFR Section 604.7 requires all applicants for financial assistance under 49 U.S.C. Sections 5309, 5336, or 5311 to include two copies of a charter bus agreement with the first grant application submitted after the effective date of the rule. The applicant signs the agreement, but FTA executes it only upon approval of the application. This is a one-time submission with incorporation by reference in subsequent grant applications. 49 CFR Section 604.11(b) requires recipients to provide notice to all private charter operators and allows them to submit written evidence demonstrating that they are willing and able to provide the charter service the recipient is proposing to provide. The notice must be published in a newspaper and sent to any private operator requesting notice and to the United Bus Owners of America and the American Bus Association, the two trade associations to which most private charter operators belong. To continue receiving federal financial assistance, recipients must publish this notice annually. 49 CFR Section 604.13(b) requires recipients to review the evidence submitted and notify the submitter of its decision. This notice is also an annual requirement. On December 30, 1988, FTA issued an amendment to the Charter Service regulation that allows additional exceptions for certain non-profit social service groups that meet eligibility requirements.

Respondents: State and local government, business or other for-profit institutions, and non-profit institutions.

Estimated Annual Burden on Respondents: 1.2 hours for each of the 1,656 respondents.

Estimated Total Annual Burden: 1,984 hours.

Frequency: Annual.

Issued: August 9, 2001.

Dorrie Y. Aldrich,

Associate Administrator for Administration.

[FR Doc. 01–20517 Filed 8–14–01; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–2001–8761 (Notice No. 01–08)]

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comments. The ICRs describe the nature of the information collections and their expected burden. The **Federal Register** Notice, with a 60-day comment period soliciting comments on the following collections of information, was published on June 7, 2001, [30786–30787].

DATES: Comments must be submitted on or before September 14, 2001.

FOR FURTHER INFORMATION CONTACT: Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8422, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION:

Title: Testing, Inspection and Marking Requirements for Cylinders.

OMB Control Number: 2137–0022.

Type of Request: Extension of a currently approved collection.

Abstract: Requirements in 49 CFR 173.34 for qualification, maintenance and use of cylinders require that cylinders be periodically inspected and retested to ensure continuing compliance with packaging standards. Information collection requirements address registration of retesters and marking of cylinders by retesters with their identification number and retest date following conduct of tests. Records showing the results of inspections and retests must be kept by the cylinder owner or designated agent until expiration of the retest period or until the cylinder is reinspected or retested, whichever occurs first. These requirements are intended to ensure that retesters have the qualifications to perform tests and to identify to cylinder fillers and users that cylinders are qualified for continuing use. Information collection requirements in § 173.303 require that fillers of acetylene cylinders keep, for at least 30 days, a daily record of the representative pressure to which cylinders are filled.

Affected Public: Fillers, owners, users and retesters of reusable cylinders.

Estimated Number of Respondents: 139,352.

Estimated Number of Responses: 153,287.

Annual Estimated Burden Hours: 168,431.

Frequency of Collection: On occasion.

Title: Hazardous Materials Incident Reports.

OMB Control Number: 2137–0039.

Type of Request: Extension of a currently approved collection.

Abstract: This collection is applicable upon occurrence of incidents as prescribed in 49 CFR 171.15 and 171.16. Basically, a Hazardous Materials Incident Report, DOT Form F5800.1, must be completed by a carrier of hazardous materials when a hazardous material transportation incident occurs, such as a release of materials, serious accident, evacuation or highway shutdown. Serious incidents meeting criteria in § 171.15 also require a telephonic report by the carrier. This information collection enhances the Department's ability to evaluate the effectiveness of its regulatory program, determine the need for regulatory changes, and address emerging hazardous materials transportation safety issues. The requirements apply to all interstate and intrastate carriers engaged in the transportation of hazardous materials by rail, air, water, and highway.

Affected Public: Carriers of hazardous materials.

Estimated Number of Respondents: 825.

Estimated Number of Responses: 20,600.

Annual Estimated Burden Hours: 30,942.

Frequency of Collection: On occasion.

Title: Flammable Cryogenic Liquids.

OMB Control Number: 2137–0542.

Type of Request: Extension of a currently approved collection.

Abstract: Provisions in 49 CFR 177.818 require the carriage on a motor vehicle of written procedures for venting flammable cryogenic liquids and for responding to emergencies. 49 CFR 177.840 (h) specifies certain safety procedures and documentation requirements for drivers of these motor vehicles. These requirements are intended to ensure a high level of safety when transporting flammable cryogenics due to their extreme flammability and high compression ratio when in a liquid state.

Affected Public: Carriers of cryogenic materials.

Estimated Number of Respondents: 65.

Estimated Number of Responses: 18,200.

Annual Estimated Burden Hours: 1,213.

Frequency of Collection: On occasion.

Title: Testing Requirements for Non-bulk Packaging.

OMB Control Number: 2137–0572.

Type of Request: Extension of a currently approved collection.

Abstract: Detailed packaging manufacturing specifications have been replaced by a series of performance tests that a non-bulk packaging must be capable of passing before it is authorized to be used for transporting hazardous materials. The Hazardous Materials Regulations (HMR), 49 CFR parts 171–180 require proof that packagings meet these testing requirements.

Manufacturers must retain records of design qualification tests and periodic retests. Manufacturers must notify, in writing, persons to whom packagings are transferred of any specification requirements that have not been met at the time of transfer. Subsequent distributors, as well as manufacturers must provide written notification. Performance-oriented packaging standards allow manufacturers and shippers much greater flexibility in selecting more economical packagings.

Affected Public: Each non-bulk packaging manufacturer that tests packagings to ensure compliance with the HMR.

Estimated Number of Respondents: 5,000.

Estimated Number of Responses: 15,000.

Annual Estimated Burden Hours: 30,000.

Frequency of Collection: On occasion.

Title: Container Certification Statement.

OMB Control Number: 2137–0582.

Type of Request: Extension of a currently approved collection.

Abstract: Shippers of explosives, in freight containers or transport vehicles by vessel, are required to certify on shipping documentation that the freight container or transport vehicle meets minimal structural serviceability requirements. This requirement is

intended to ensure an adequate level of safety for transport of explosives aboard vessel and ensure consistency with similar requirements in international standards.

Affected Public: Shippers of explosives in freight containers or transport vehicles by vessel.

Estimated Number of Respondents: 650.

Estimated Number of Responses: 860,000 HM Containers & 4400 Explosive Containers.

Annual Estimated Burden Hours: 14,409.

Frequency of Collection: On occasion.

Title: Hazardous Materials Public Sector Training and Planning Grants.

OMB Control Number: 2137–0586.

Type of Request: Extension of a currently approved collection.

Abstract: Part 110 of 49 CFR sets forth the procedures for reimbursable grants for public sector planning and training in support of the emergency planning and training efforts of States, Indian tribes and local communities to deal with hazardous materials emergencies, particularly those involving transportation. Sections in this part address information collection and recordkeeping with regard to applying for grants, monitoring expenditures, reporting and requesting modifications.

Affected Public: State and local governments, Indian tribes.

Estimated Number of Respondents: 66.

Estimated Number of Responses: 1.

Annual Estimated Burden Hours: 4,082.

Frequency of Collection: On occasion.

Title: Response Plans for Shipments of Oil.

OMB Control Number: 2137–0591.

Type of Request: Extension of a currently approved collection.

Abstract: In recent years several major oil discharges damaged the marine environment of the United States. Under authority of the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990, RSPA issued regulations in 49 CFR part 130 that require preparation of written spill response plans.

Affected Public: Carriers that transport oil in bulk, by motor vehicle or rail.

Estimated Number of Respondents: 8,000.

Estimated Number of Responses: 8,000.

Annual Estimated Burden Hours: 10,560.

Frequency of Collection: On occasion.

Title: Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service.

OMB Control Number: 2137–0595.

Type of Request: Extension of a currently approved collection.

Abstract: These information collection and recordkeeping requirements pertain to the manufacture, certification, inspection, repair, maintenance, and operation of DOT specification MC 330, MC 331, and certain nonspecification cargo tank motor vehicles used to transport liquefied compressed gases. These information collection and recordkeeping requirements ensure that certain cargo tank motor vehicles used to transport liquefied compressed gases are operated safely and minimize the potential for catastrophic releases during unloading and loading operations. They include: (1) Requirements for operators of cargo tank motor vehicles in liquefied compressed gas service to develop operating procedures applicable to unloading operations and carry them on each vehicle; (2) inspection, maintenance, marking and testing requirements for the cargo tank discharge system, including delivery hose assemblies; and (3) requirements for emergency discharge control equipment on certain cargo tank motor vehicles transporting liquefied compressed gases that must be installed and certified by a Registered Inspector. (See 49 CFR 180.416(b)(d)(f); 180.405; 180.407(h); 177.840(l); 173.315(n)).

Affected Public: Carriers in liquefied compressed gas service, manufacturers and repairers.

Estimated Number of Respondents: 6,958.

Estimated Number of Responses: 920,530.

Annual Estimated Burden Hours: 200,615.

Frequency of Collection: On occasion.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to Office of Management and Budget, Attention: Desk Officer for RSPA, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC on August 10, 2001.

Edward T. Mazzullo,

Director, Office of Hazardous Materials Standards.

[FR Doc. 01–20520 Filed 8–14–01; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 8, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before September 14, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0020.

Form Number: IRS Form 709.

Type of Review: Revision.

Title: United States Gift (and Generation-Skipping Transfer) Tax Return.

Description: Form 709 is used by individuals to report transfers subject to the gift and generation-skipping transfer taxes and to compute these taxes. IRS uses the information to enforce these taxes and to compute the estate tax.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 130,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—39 min.
Learning about the law or the form—1 hr., 5 min.
Preparing the form—1 hr., 55 min.
Copying, assembling, and sending the form to the IRS—1 hr., 3 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 613,600 hours.

OMB Number: 1545–0901.

Form Number: IRS Form 1098.

Type of Review: Extension.

Title: Mortgage Interest Statement.

Description: Form 1098 is used to report $600 or more of mortgage interest received from an individual in the course of the mortgagor's trade or business.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 171,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 7 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 8,038,699 hours.

OMB Number: 1545–1102.

Regulation Project Number: PS–19–92 Final.

Type of Review: Extension.

Title: Carryover Allocations and Other Rules Relating to the Low-Income Housing Credit.

Description: The regulations provide the Service the information it needs to ensure that low-income housing tax credit are being properly allocated under section 42. This is accomplished through the use of carryover allocation documents, election statements, and binding agreements executed between taxpayers (e.g., individuals, businesses, etc.) and housing credit agencies.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents/ Recordkeepers: 2,230.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour, 48 minutes.

Frequency of Response: Other (one time).

Estimated Total Reporting/ Recordkeeping Burden: 4,008 hours.

OMB Number: 1545–1148.

Regulation Project Number: EE–113–90 (TD 8324) Final and Temporary.

Type of Review: Extension.

Title: Employee Business Expenses-Reporting and Withholding on Employee Business Expense Reimbursements and Allowances.

Description: These temporary and final regulations provide rules concerning the taxation of, and reporting and withholding on, employee business expense reimbursements and other expense allowance arrangements.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Recordkeepers: 1,419,456.

Estimated Burden Hours Per Recordkeeper: 30 minutes.

Estimated Total Recordkeeping Burden: 709,728 hours.

OMB Number: 1545–1304.

Regulation Project Number: INTL–941–86, TL–656–87, and INTL–704–87 NPRM.

Type of Review: Extension.

Title: Treatment of Shareholders of Certain Passive Foreign Investment Companies.

Description: The reporting requirements affect U.S. persons that are direct and indirect shareholders of passive foreign investment companies (PFICs). The IRS uses Form 8621 to identify PFICs, U.S. persons that are shareholders, and transactions subject to PFIC taxation and verify income inclusions, excess distributions and deferred tax amounts.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 2,500.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 2,500 hours.

OMB Number: 1545–1355.

Regulation Project Number: REG–208985–89 (formerly INTL–848–89) NPRM.

Type of Review: Extension.

Title: Taxable Year of Certain Foreign Corporations Beginning After July 10, 1989.

Description: Proposed regulations set forth the ''required year'' for ''specified foreign corporations'' for taxable years beginning After July 10, 1989, and guidance in which foreign corporations must change their taxable year and how to effect the change in taxable year. Specified foreign corporations must conform to the required year and must state so on Form 5471.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 700.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 700 hours.

OMB Number: 1545–1468.

Form Number: IRS Form 1040NR–EZ.

Type of Review: Revision.

Title: U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents.

Description: This form is used by certain nonresident aliens with no dependents to report their income subject to tax and compute the correct tax liability. The information on the return is used to determine whether income, deductions, credits, payments, etc. are correctly figured.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 100,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—1 hr., 18 min.

Learning about the law or the form—49 min.

Preparing the form—1 hr., 52 min.

Copying, assembling, and sending the form to the IRS—34 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 459,000 hours.

OMB Number: 1545–1618.

Form Number: IRS Form 8863.

Type of Review: Extension.

Title: Education Credits (Hope and Lifetime Learning Credits).

Description: Section 25A of the Internal Revenue Code allows for two education credits, the Hope credit and the lifetime learning credit. Form 8863 will be used to compute the amount of allowable credits. The IRS will use the information on the form to verify that respondents correctly computed their education credits.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 12,000,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—12 min.

Learning about the law or the form—8 min.

Preparing the form—32 min.

Copying, assembling, and sending the form to the IRS—33 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 13,210,000 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. 01–20441 Filed 8–14–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 8, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before September 14, 2001 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545–1397.

Form Number: IRS Form 8453–OL.

Type of Review: Extension.

Title: U.S. Individual Income Tax Declaration for an IRS e-file On-Line Return.

Description: This form is used to secure taxpayer signatures and declarations in conjunction with the On-Line Electronic Filing program. This form, together with the electronic transmission, comprises the taxpayer's return.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 50,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 15 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 12,500 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. 01–20442 Filed 8–14–01; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Wednesday,
August 15, 2001

Part II

Department of Labor

Office of the Secretary

Establishment of the Management Review Board; Notice

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 5–2001]

Establishment of the Management Review Board

August 8, 2001.

1. Purpose

This Order establishes the Management Review Board, which shall serve as a Department-wide forum for systematically furthering the Secretary's management objectives for the Department of Labor (DOL).

2. Authority and Directives Affected

This Order is issued pursuant to 5 U.S.C. 301; the Government Performance and Results Act of 1993 (P.L. 103–62), 31 U.S.C. 1115, *et seq.;* the Government Management Reform Act of 1994 (P.L. 103–356), 31 U.S.C. 3515 *et seq.;* the Clinger-Cohen Act (P.L. 104–106), 40 U.S.C. 1422–23, *et seq.* and 44 U.S.C. 3506 *et seq.;* the Federal Financial Management Improvement Act of 1996, (P.L. 104–208), 31 U.S.C. 3512 note; the Federal Managers' Financial Integrity Act of 1982 (P.L. 97–255), 31 U.S.C. 3512 *et seq.*; and the Government Paperwork Elimination Act (P.L. 105–277), 44 U.S.C. 3504 note. References to the Management Review Council in Secretary's Order 1–2000 are hereby amended to refer to the Management Review Board, and Section 8 of that Order is superseded to the extent that it is inconsistent with this Order.

3. Background

The purpose of this Order is to maximize the quality of Departmental resource and management decisions through a coordinated, Department-wide approach having a primary focus on the priorities of the Secretary. The Department's planning, budgeting, and program review processes serve as the principal tools for establishing the foundation for identifying and achieving goals and objectives of the Secretary of Labor. These processes will identify the resources required to ensure that Departmental programs are conducted efficiently, effectively, and consistent with all applicable legal requirements. The Management Review Board (MRB) will serve as the principal forum for coordination, executive oversight, and integration of agency management processes, offering an essential Departmental perspective in assessing Agency program plans, budgets, human resource management, funding requirements, and program results.

4. Delegation of Authority and Assignment of Responsibility

a. *The Management Review Board* is delegated authority and assigned responsibility for defining and addressing DOL management initiatives and major cross-cutting management issues; for providing a forum for eliciting the views and perspectives of affected DOL agencies and offices; and for ascertaining a coordinated Departmental perspective and recommended course(s) of action, as appropriate, including:

(1) Assessing annual program funding requests and related budget issues with Department-wide implications and, as appropriate, offering recommendations to the Secretary of Labor and/or Deputy Secretary for approval;

(2) Providing Departmental oversight and coordination for the continuing implementation of the Government Performance and Results Act, the Information Technology Management Reform Act (ITMRA), except as provided by the ITMRA, as reflected by Secretary's Order 1–2000, Government Paperwork Elimination Act, Federal Financial Management Improvement Act and other government-wide and agency-specific management reforms;

(3) Reviewing the draft Department's Strategic Plan, Annual Performance Plan, and Annual Performance Report and, as appropriate, offering recommendations to the Deputy Secretary or Secretary of Labor for approval;

(4) Monitoring Agency program results in consideration of the goals and objectives articulated for the fiscal year in the Departmental Annual Performance Plan;

(5) Directing, as appropriate, periodic reviews of Agency performance;

(6) Assessing and offering recommendations to the Secretary on human resources management, and other program support issues, programs, and initiatives that cross the lines of Agency authority; and

(7) Except as provided in Secretary's Order 1–2000, advising and assisting on information technology policies and related issues.

b. *The Assistant Secretary for Administration and Management* is delegated authority and assigned responsibility for:

(1) Receiving reports from standing or ad-hoc workgroups, formed to implement agreed-upon activities and projects;

(2) Maintaining the MRB agenda and providing staff support in the areas of budget and human resources; and

(3) Promoting participation by DOL agencies with the MRB.

c. *The Chief Information Officer* is delegated authority and assigned responsibility for providing Departmental Information Technology leadership, policy guidance, and assistance and all other matters within the scope of Secretary's Order 1–2000.

d. *The Chief Financial Officer* is delegated authority and assigned responsibility for providing leadership, policy guidance, and assistance in the areas of budget execution, managerial cost accounting, and financial reporting, and all other matters within the scope of Secretary's Order 1–92.

e. *The Solicitor of Labor* is delegated authority and assigned responsibility for providing legal advice and counsel to the Secretary and Deputy Secretary, the MRB and other DOL agencies on all matters arising in the administration of this Order.

f. *Agency Heads* are responsible for:

(1) Providing to the MRB the perspective of their respective agencies on matters before the MRB; and

(2) Consulting with the MRB on policies and activities which relate to the purposes or responsibilities of the MRB.

g. *MRB Members* are responsible for:

(1) Ensuring their appropriate involvement with the duties delegated to the MRB; and

(2) Assisting in preparations of draft documents for MRB discussions, recommendations, or decisions.

h. *The Technical Review Board* is delegated authority and assigned responsibility for serving as the Department's first tier Investment Review Board on Information Technology (IT) investments to identify and recommend to the MRB IT capital planning process improvements, agency and Departmental IT investment portfolios, and address common IT issues and proposed resolution of those issues.

i. *The Executive Secretary* is delegated authority and assigned responsibility for recording official decisions and assignments made at MRB proceedings and will participate in follow-up activities, as required.

5. Composition

a. *Chairperson.* The MRB shall be chaired by the Assistant Secretary for Administration and Management. In the absence of the Assistant Secretary for Administration and Management, the MRB shall be chaired by a designee of the Chair.

b. *Membership.* The membership of the MRB will be determined periodically by the Secretary.

c. *Process.*

(1) The MRB shall meet at least monthly.

(2) All meetings shall be convened by the Chair with sufficient advance notice to promote member participation.

(3) The MRB shall establish such standing or special ad-hoc workgroups, as appropriate, to implement agreed-upon activities and projects. Chairs of these workgroups shall report to the Chair of the MRB.

(4) Where MRB recommendations are not unanimously adopted, dissenting recommendations shall be submitted to the Deputy Secretary or Secretary with the MRB recommendation, at the request of any dissenting members.

6. Reservation of Authority and Responsibility

a. The submission of reports and recommendations to the President and the Congress concerning the administration of the statutory provisions and Executive Orders affecting the Department of Labor is reserved to the Secretary.

b. This Secretary's Order does not affect the authorities or responsibilities of the Office of Inspector General under the Inspector General Act of 1978, as amended, or under Secretary's Order 2–90 (January 31, 1990).

c. Except as provided above in Section 2, all other Secretary's Orders remain in full force and effect.

7. *Effective Date.* This Order is effective immediately.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 01–20465 Filed 8–14–01; 8:45 am]

BILLING CODE 4510–23–P

Federal Register

Wednesday,
August 15, 2001

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 2, et al.

Federal Acquisitions Regulation; Definition of "Claim" and Terms Relating to Termination; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 17, 33, 49, and 52

[FAR Case 2000–406]

RIN 9000–AJ10

Federal Acquisition Regulation; Definition of ''Claim'' and Terms Relating to Termination

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to clarify and move the definitions of ''claim,'' and certain terms relating to termination.

DATES: Interested parties should submit comments in writing on or before October 15, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Attn: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.2000–406@gsa.gov

Please submit comments only and cite FAR case 2000–406 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Klein, Procurement Analyst, at (202) 501–3775. Please cite FAR case 2000–406.

SUPPLEMENTARY INFORMATION:

A. Background

This rule is one of a series of rules that considers moving definitions of terms that are located outside FAR 2.101 into FAR 2.101 if the terms are used in more than one part of the FAR. This will clarify the applicability of definitions, eliminate redundant or conflicting definitions, and make them easier to find. The Councils do not intend to make any substantive changes to the FAR by these amendments.

This proposed rule—

- Revises and moves the definitions of ''claim'' from 33.201; ''continued portion of the contract,'' ''partial termination,'' ''terminated portion of the contract'' from FAR 49.001; and ''termination for convenience'' from FAR 17.103;
- Adds a definition of ''termination for default'' at FAR 2.101 and a new paragraph 17.104(d) that explains the distinction between ''termination for convenience'';
- Revises FAR 33.213(a) to clarify the distinction between claims ''arising under a contract'' and claims ''relating to a contract'';
- Revises the definition of ''claim'' in the clause at FAR 52.233–1 to conform to the definition at FAR 2.101; and
- Makes other editorial revisions for clarity.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because, the rule does not change policy. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 2, 17, 33, 49, and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2000–406), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 2, 17, 33, 49, and 52

Government procurement.

Dated: August 9, 2001.

Gloria Sochon,

Acting Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 2, 17, 33, 49, and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 2, 17, 33, 49, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101 by adding, in alphabetical order, the definitions ''Claim,'' ''Continued portion of the contract,'' ''Partial termination,'' ''Termination for convenience,'' ''Termination for default,'' and ''Terminated portion of the contract'' to read as follows:

2.101 Definitions.

* * * * *

Claim means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. However, a written demand or written assertion by the contractor seeking the payment of money exceeding $100,000 is not a claim under the Contract Disputes Act of 1978 until certified as required by the Act. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim, by written notice to the contracting officer as provided in 33.206(a), if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

* * * * *

Continued portion of the contract means the portion of a contract that the contractor must continue to perform following a partial termination.

* * * * *

Partial termination means the termination of a part, but not all, of the work that has not been completed and accepted under a contract.

* * * * *

Termination for convenience means the exercise of the Government's right to completely or partially terminate performance of work under a contract when it is in the Government's interest.

Termination for default means the exercise of the Government's right to completely or partially terminate a contract because of the contractor's actual or anticipated failure to perform its contractual obligations.

Terminated portion of the contract means the portion of a contract that the contractor is not to perform following a partial termination. For construction contracts that have been completely terminated for convenience, it means

the entire contract, notwithstanding the completion of, and payment for, individual items of work before termination.

* * * * *

PART 17—SPECIAL CONTRACTING METHODS

17.103 [Amended]

3. In section 17.103, remove the definition ''Termination for convenience''.

4. Amend section 17.104 by adding paragraph (d) to read as follows:

17.104 General.

* * * * *

(d) The termination for convenience procedure may apply to any Government contract, including multiyear contracts. As contrasted with cancellation, termination can be effected at any time during the life of the contract (cancellation is effected between fiscal years) and can be for the total quantity or partial quantity (where as cancellation must be for all subsequent fiscal years'' quantities).

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205–47 [Amended]

5. Amend section 31.205–47 in paragraph (f)(1) by removing ''(see 33.201)''.

PART 33—PROTESTS, DISPUTES, AND APPEALS

33.201 [Amended]

6. In section 33.201, remove the definition ''Claim.''

7. Amend section 33.213 by revising paragraph (a) to read as follows:

33.213 Obligation to continue performance.

(a) In general, before passage of the Act, the obligation to continue performance applied only to claims arising under a contract. However, the Act, at 41 U.S.C. 605(b), authorizes agencies to require a contractor to continue contract performance in accordance with the contracting officer's decision pending a final resolution of any claim arising under, or relating to, the contract. (A claim arising under a contract is a claim that can be resolved under a contract clause, other than the clause at 52.233–1, Disputes, that provides for the relief sought by the claimant; however, relief for such claim can also be sought under the clause at 52.233–1. A claim relating to a contract is a claim that cannot be resolved under a contract clause other than the clause at 52.233–1.) This distinction is recognized by the clause with its Alternate I (see 33.215).

PART 49—TERMINATION OF CONTRACTS

49.001 [Amended]

8. In section 49.001, remove the definitions ''Claim,'' ''Continued portion of the contract,'' ''Partial termination,'' and ''Terminated portion of the contract.''

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

9. Section 52.233–1 is amended by revising the date and paragraph (c) of the clause; and in Alternate I by revising the date and the introductory paragraph to read as follows:

52.233–1 Disputes.

* * * * *

DISPUTES (DATE)

* * * * *

(c) *Claim,* as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding $100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

* * * * *

Alternate I (Date). As prescribed in 33.215, substitute the following paragraph (i) for paragraph (i) of the basic clause:

* * * * *

[FR Doc. 01–20486 Filed 8–14–01; 8:45 am]

BILLING CODE 6820–EP–P

Federal Register

Wednesday,
August 15, 2001

Part IV

Department of Housing and Urban Development

24 CFR Part 903

Public Housing Agency Plans: Deconcentration—Amendments to Established Income Range Definition; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 903

[Docket No. FR–4677–P–01]

RIN 2577–AC31

Public Housing Agency Plans: Deconcentration—Amendments to ''Established Income Range'' Definition

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the deconcentration component of HUD's Public Housing Agency Plans regulations to revise the definition of Established Income Range (EIR) to include within the EIR those developments in which the average income level is at or below 30 percent of the area median income, and therefore ensure that such developments cannot be categorized as having average income ''above'' the Established Income Range. An income level that is at or below 30 percent of the area median income is defined as ''extremely low income'' in HUD's regulations. HUD believes that developments with an average family income at or below 30 percent of the area median income should not be categorized as higher income developments for purposes of income mixing because efforts to place lower income families into these developments would not result in income deconcentration as contemplated by the statute.

DATES: *Comment Due Date* October 15, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Rod Solomon, Deputy Assistant Secretary, Office of Policy, Program and Legislative Initiatives, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4116, Washington, DC 20410; telephone (202) 708–0713 (this is not a toll-free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 2000 (65 FR 81214), HUD amended the deconcentration provisions of its Public Housing Agency Plan regulations to achieve two purposes: (1) To assure that PHAs know what they must do to deconcentrate poverty in the public housing program; and (2) to assure that PHAs know what they must do to affirmatively further fair housing, as it relates to admissions to public housing. The December 22, 2000 final rule was preceded by an April 17, 2000 proposed rule, and took into consideration public comment received on the proposed rule. By a final rule published on February 5, 2001 (66 FR 8897), HUD amended the December 22, 2000 final rule to provide that the first PHA fiscal year that is covered by the new deconcentration requirements of the December 2000 final rule is the PHA fiscal year that begins October 1, 2001. (The December 22, 2000 final rule provided that the first PHA fiscal year that is covered by the new deconcentration requirements is the PHA fiscal year that begins July 1, 2001.)

Since issuance of the December 22, 2000 final rule, HUD has received additional feedback from public housing agencies (PHAs). PHAs have advised HUD that in determining the Established Income Range (EIR) for certain developments, in accordance with the procedures of the rule, the EIR for these developments is sufficiently low that some developments for which the average income is at or below 30 percent of the area median income, actually fall above the EIR. Developments that fall above the EIR are categorized as ''higher income developments,'' and in accordance with the deconcentration requirements, PHAs must undertake efforts to place lower income families into higher income developments. HUD regulations define an income level that is at or below 30 percent of the area median income as ''extremely low income'' (24 CFR 5.603(b)). HUD agrees with PHA concerns that in all practicality deconcentration would not be fostered through efforts to place lower income families in developments categorized as higher income in which the average family income is in fact at the extremely low income level.

While HUD's current regulations allow a PHA to seek an exemption from income mixing by explaining why, in a given case, efforts to income mix would not effectively promote income deconcentration, HUD believes that this situation is widespread enough to merit a change in the regulation rather than PHAs and HUD having to treat developments in which the average family income is extremely low income on a case-by-case basis. HUD agrees that efforts to place lower income families into ''higher income developments'' in which the average income of these ''higher income developments'' is extremely low income would not result in income deconcentration, as contemplated by the statute or HUD's regulation.

This Proposed Rule

This proposed rule would amend the deconcentration component of HUD's Public Housing Agency Plans regulations to revise the definition of Established Income Range to include within the EIR those developments in which the average income level is at or below 30 percent of the area median income. This revision will ensure that such developments cannot be categorized as having average income ''above'' the EIR.

HUD seeks comments and input from PHAs, residents, and other interested parties on this proposed change.

HUD also seeks comments from PHAs on the requirements of the December 22, 2000 final rule for placing ''higher income families'' into ''lower income developments.'' (See 24 CFR 903.2(c)(1)(iv) and (v).) No changes are being proposed to those requirements in this rule. In requesting comments on this issue, however, HUD recognizes that the success of income mixing actions may depend on marketability of a development and therefore may be beyond the PHA's control, at least to a certain extent; and that PHA efforts to achieve deconcentration by supporting resident self-sufficiency efforts as well as necessary admissions efforts should be encouraged. HUD is therefore interested in PHA comments and feedback on the suitability of the December 22, 2000 final rule in this regard. In particular, HUD requests comments on whether the current rule's provisions that allow for explanations and justifications (and require corrective actions in the event HUD determines the explanations are not adequate) are sufficiently flexible to take into account these concerns.

Findings and Certifications

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C.

605(b)), has reviewed and approved this proposed rule, and in so doing certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule would amend the deconcentration component of HUD's Public Housing Agency Plans regulations to revise the definition of Established Income Range to ensure that included within that range are developments in which the average income level is at or below 30 percent of the area median income and therefore such developments cannot be categorized as having average income ''above'' the Established Income Range. This rule would not impose a burden on small entities. This rule would alleviate an administrative burden on PHAs that have developments in which the average income is extremely low income.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

This final rule does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of Executive Order 13132.

Environmental Impact

This issuance involves a discretionary establishment of external administrative or fiscal requirements or procedures related to rate or cost determinations which do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this proposed rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Regulatory Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a ''significant regulatory action,'' as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the proposed rule after its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Department's Office of General Counsel, Regulations Division, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers applicable to the programs affected by this rule are 14.850 and 14.855.

List of Subjects in 24 CFR Part 903

Administrative practice and procedure, Public housing, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, HUD proposes to amend part 903 of title 24 of the Code of Federal Regulations to read as follows:

PART 903—PUBLIC HOUSING AGENCY PLANS

1. The authority for 24 CFR part 903 continues to read as follows:

Authority: 42 U.S.C. 1437c; 42 U.S.C. 3535(d).

2. In § 903.2, paragraph (c)(1)(iii) is revised to read as follows:

§ 903.2 With respect to admissions, what must a PHA do to deconcentrate poverty in its developments and comply with fair housing requirements?

* * * * *

(c) *Deconcentration of poverty and income mixing.*

(1) * * *

(iii) *Step 3.* A PHA shall determine whether each of its covered developments falls above, within or below the Established Income Range. The Established Income Range is 85 percent of the average family income to the greater of either 115 percent (inclusive of 85 percent and 115 percent) of the PHA-wide average income for covered developments as defined in Step 1 or an average family income at which a family would be defined as an extremely low income family under 24 CFR 5.603(b).

* * * * *

Dated: July 12, 2001.

Mel Martinez,

Secretary.

[FR Doc. 01–20565 Filed 8–14–01; 8:45 am]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

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)

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