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Reader Aids
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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 66, No. 181
Tuesday, September 18, 2001

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

RIN 1076–AE 19

Law and Order on Indian Reservations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Temporary final rule and request for comments.

SUMMARY: The Bureau of Indian Affairs (BIA) is amending its regulations to add the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony (Western Region, Nevada) to the listing of Courts of Indian Offenses. This amendment will establish a Court of Indian Offenses for a period not to exceed one year. It is necessary to establish a Court of Indian Offenses with jurisdiction over the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony in order to protect lives and property.

DATES: This rule is effective on September 18, 2001 and expires on September 18, 2002. Comments must be received on or before November 19, 2001.

ADDRESSES: Send comments on this rule to Ralph Gonzales, Office of Tribal Services, Bureau of Indian Affairs, 1849 C Street NW., MS 4660, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sharlot Johnson, Tribal Government Officer, Western Regional Office, Bureau of Indian Affairs, 400 N. Fifth Street, Phoenix, Arizona, 85004, at (602) 379–6786 [sharlotjohnson@bia.gov]; or Ralph Gonzales, Branch of Judicial Services, Office of Tribal Services, Bureau of Indian Affairs, 1849 C Street NW, MS 4660, Washington, DC 20240, at (202) 208–4401 [ralphgonzales@bia.gov].

SUPPLEMENTARY INFORMATION: The authority to issue this rule is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 9; and 25 U.S.C. 13, which authorizes appropriations for ''Indian judges.'' See *Tillett* v. *Hodel,* 730 F. Supp. 381 (W.D. Okla. 1990), *aff'd,* 931 F.2d 636 (10th Cir. 1991) *United States* v. *Clapox,* 13 Sawy. 349, 35 F. 575 (D. Ore. 1888). This rule is published in exercise of the rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. The Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony's reservation is held by the Federal Government in trust for the Tribe's benefit which establishes federal Indian criminal jurisdiction over the Paiute-Shoshone Tribe of the Fallon Reservation and Colony to wit:

In general—The land described in this subsection is the tract of land, located in the city and county of Churchill, Nevada, upon which the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony is located and more particularly described as all that certain real property, the SE¼ of Section 8, the S½ of Sections 9 & 10 and Sections 15, 16, 17, 20, 21, & 22 Township 19 North, Range 30 East, MDB&M, Nevada containing 4,640 acres in accordance with Department Order dated April 20, 1907. N½ Section 9, N½ of Section 10, SE¼ Section 3 & NW¼NW¼ Section 20 Township 19 North, Range 30 East, MDB&M, Nevada containing 840 acres more or less pursuant to Department Order dated November 21, 1917. Pursuant to PL 95–337 dated August 4, 1978, the S½NW¼NW¼ & SW¼NW¼ Section 29, NW¼ Section 2, N½ & SW¼ Section 3, all section 4, N½ & SW¼ Section 8, S½ Section 33, S½ Section 34, W½SE¼ & SW¼ Section 35, Township 19 North, Range 30 East, MDB&M, Nevada, containing 2,700 acres more or less. SW¼NW¼ Section 29, Township 19 North, Range 29 East, MDB&M, Nevada pursuant to Department Order dated August 13, 1917, containing 40 acres more or less. S12NW¼NW¼ Section 29, Township 19 North, Range 29 East, MDB&M, Nevada withdrawn on March 4, 1958 in aid of legislation, containing 20 acres more or less.

The following described property (37.38 acres) was purchased by the Fallon Tribe pursuant to Public Law 101–618 and taken into trust on October 29, 1997, by the Phoenix Area Director:

Commencing at the south quarter corner of Section 30, Township 19 North, Range 29 East, MDB&M, thence North 02°09′ West a distance of 95.1 feet to the East boundary of the Southern Pacific right-of-way spur track; thence North 00°19′ West along said East Boundary a distance of 209 feet to the Northwest corner of a parcel described in deed to Standard Oil Company as found recorded in Book 12 of Deeds, page 193 of Churchill County Records, Fallon, Nevada; thence North 00°19′ West along said railroad boundary a distance of 416 feet to the beginning of a curve on the East boundary; thence Northeasterly along said curve concave to the Southeast a distance of 992 feet to the South boundary of the main tract right-of-way; thence East along the South boundary of said Southern Pacific Railroad right-of-way a distance of 2113 feet to the East line of said Section 30; thence South along the East line of said Section 30 a distance of 1257 feet to the North Boundary of U.S. Highway #50; thence West along the North boundary of said Highway a distance of 2521 feet to the Southeast corner of a parcel described in deed to above said Standard Oil Company; thence North along East boundary of said parcel a distance of 264 feet to the Northeast corner of said parcel; then West a distance of 165 feet to the true point of beginning. Excepting therefrom the SE¼ of the SE¼ of Section 30, Township 19 North, Range 29 East, MDB&M.

A provisional Court of Indian Offenses must be established for the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony to protect the lives, persons, and property of people residing at or visiting the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony, until the Secretary determines that enforcement of the criminal offenses contained in Part 11 of the Code of Federal Regulations is no longer justified. This court will function for a period not to exceed one year. Judges of the Court of Indian Offenses will be authorized to exercise all the authority provided under 25 CFR part 11 and the Indian Law Enforcement Reform Act, 25 U.S.C. 2803(2) (1998). This final rule is intended to establish a provisional Court of Indian Offenses.

Determination To Issue a Final Rule

The Department has determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply because of the good cause exception under 5 U.S.C. 553(b)(3)(B), which allows the agency to suspend the notice and public procedure when the agency finds for good cause that those requirements are impractical, unnecessary and contrary to the public interest. This amendment will establish a provisional Court of Indian Offenses for the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony. If this provisional court is not established, there is a potential risk to public safety

and a further risk of exposure of the Federal Government to a lawsuit for failure to execute diligently its trust responsibility and provide adequate judicial services for law enforcement on trust land. Delaying this rule to solicit public comment through the proposed rulemaking process would thus be contrary to the public interest.

Determination To Make Rule Effective Immediately

We are making the rule effective on the date of publication in the **Federal Register** as allowed under the good cause exception in 5 U.S.C. 553(d)(3). Delaying the effective date of this rule is unnecessary and contrary to the public interest because there is a critical need to expedite establishment of this Court of Indian Offenses. The Bureau of Indian Affairs Law Enforcement Services has reassumed the Law Enforcement Program from the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony, and a CFR Court is necessary as a judicial forum within the reservation for the adjudication of criminal cases. For these reasons, an immediate effective date is in the public interest and in the interest of the Tribe. Accordingly, this amendment is issued as a final rule effective immediately. We invite comments on any aspect of this rule and we will revise the rule if comments warrant. Send comments on this rule to the address in the **ADDRESSES** section.

Regulatory Planning and Review (Executive Order 12866)

In accordance with the criteria in Executive Order 12866, this rule is not a significant regulatory action. OMB makes the final determination under Executive Order 12866.

(a) This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. The establishment of this Court of Indian Offenses is estimated to cost less than $200,000 annually to operate. The cost associated with the operation of this court will be with the Bureau of Indian Affairs.

(b) This rule will not create inconsistencies with other agencies' actions. The Department of the Interior, through the Bureau of Indian Affairs, has the sole responsibility and authority to establish Courts of Indian Offenses on Indian reservations.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. The establishment of this Court of Indian Offenses will not affect any program rights of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony. Its primary function will be to administer justice for misdemeanor offenses within the Tribe's reservation and colony. The court's jurisdiction will be exercised as provided in 25 CFR part 11.

(d) This rule will not raise novel legal or policy issues. The Solicitor analyzed and upheld the Department of the Interior's authority to establish Courts of Indian Offenses in a memorandum dated February 28, 1935. The Solicitor found that authority to rest principally in the statutes placing supervision of the Indians in the Secretary of the Interior, 25 U.S.C. 2 and 9, and 25 U.S.C. 13, which authorizes appropriations for ''Indian judges.'' The United States Supreme Court recognized the authority of the Secretary to promulgate regulations with respect to Courts of Indian Offenses in *United States* v. *Clapox,* 35 F. 575 (D. Ore. 1888).

Regulatory Flexibility Act

The Department of the Interior, BIA, certifies that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. The amendment to 25 CFR 11.100(a) will establish a Court of Indian Offenses with limited criminal jurisdiction over Indians within a limited geographical area at Fallon, Nevada. Accordingly, there will be no impact on any small entities.

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 or more. The establishment of this Court of Indian Offenses is estimated to cost less than $200,000 annually to operate. The cost associated with the operation of this court will be with the Bureau of Indian Affairs.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This is a Secretarial court established specifically for the administration of misdemeanor justice for Indians located within the boundaries of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony and will not have any cost or price impact on any other entities in the geographical region.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. This is a Secretarial court established specifically for the administration of misdemeanor justice for Indians located within the boundaries of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony, Fallon, Nevada, and will not have an adverse impact on competition, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. The establishment of this Court of Indian Offenses will not have jurisdiction to affect any rights of the small governments. Its primary function will be to administer justice for misdemeanor offenses within the Fallon Indian Reservation and Colony. Its jurisdiction will be limited to criminal offenses provided in 25 CFR part 11.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year; i.e., it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings Implication Assessment (Executive Order 12630)

In accordance with Executive Order 12630, this rule does not have significant takings implications. A takings implication assessment is not required. The amendment to 25 CFR part 11.100(a) will establish a Court of Indian Offenses with limited criminal jurisdiction over Indians within a limited geographical area at Fallon, Nevada on a temporary basis. Accordingly, there will be no jurisdictional basis for the CFR Court to affect adversely any property interest because the court's jurisdiction is limited to personal jurisdiction over Indians.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, this rule does not have significant Federalism effects. A Federalism assessment is not required. The Solicitor found that authority to rest principally in the statutes placing

supervision of the Indians in the Secretary of the Interior, 25 U.S.C. 2 and 9; and 25 U.S.C. 13, which authorizes appropriations for ''Indian judges.'' The United States Supreme Court recognized the authority of the Secretary to promulgate regulations with respect to Courts of Indian Offenses in *United States* v. *Clapox*, 35 F. 575 (D. Ore. 1888).

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The Solicitor analyzed and upheld the Department of the Interior's authority to establish Courts of Indian Offenses in a memorandum dated February 28, 1935. The Solicitor found that authority to rest principally in the statutes placing supervision of the Indians in the Secretary of the Interior, 25 U.S.C. 2 and 9; and 25 U.S.C. 13, which authorizes appropriations for ''Indian judges.'' The United States Supreme Court recognized the authority of the Secretary to promulgate regulations with respect to Courts of Indian Offenses in *United States* v. *Clapox*, 35 F. 575 (D. Ore. 1888). Part 11 also requires the establishment of an appeals court; hence, the judicial system defined in Executive Order 12988 does not involve this judicial process.

Paperwork Reduction Act

This regulation does not require an information collection under the Paperwork Reduction Act. The information collection is not covered by an existing OMB approval. An OMB form 83–I has not been prepared and has not been approved by the Office of Policy Analysis. No information is being collected as a result of the CFR court exercising its limited criminal misdemeanor jurisdiction over Indians within the exterior boundaries of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required. The establishment of this Court of Indian Offenses on a temporary basis conveys personal jurisdiction over the criminal misdemeanor actions of Indians within the exterior boundaries of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony and does not have any impact on the environment.

Consultation and Coordination with Indian Tribal Governments (Executive Order 13175)

Pursuant to Executive Order 13175 of November 6, 2000, ''Consultation and Coordination with Indian Tribal Governments,'' we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects. The amendment to 25 CFR 11.100(a) does not apply to any of the 558 federally recognized tribes, except the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony. The provisional Court of Indian Offenses is established until the Secretary determines that enforcement of the criminal offenses contained in Part 11 of the Code of Federal Regulations is no longer justified. The Department of the Interior, in establishing this provisional court, is fulfilling its trust responsibility and complying with the unique government-to-government relationship that exists between the Federal Government and Indian tribes.

List of Subjects in 25 CFR Part 11

Courts, Indians—Law, Law enforcement, Penalties.

For the reasons stated in the preamble, we are amending part 11, chapter I of title 25 of the Code of Federal Regulations, as set forth below. This amendment is effective from September 18, 2001 to September 18, 2002.

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

1. The authority citation for part 11 continues to read as follows:

Authority: R.S. 463; 25 U.S.C. 2, 38 Stat. 586; 25 U.S.C. 200, unless otherwise noted.

2. Section 11.100 is amended by adding new paragraph (a)(15) to read as follows:

§ 11.100 Listing of Courts of Indian Offenses.

(a) * * *

(15) Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony (land in trust for the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony).

* * * * *

Dated: September 5, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–23198 Filed 9–17–01; 8:45 am]

BILLING CODE 4310–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 103–0044; FRL–7051–4]

Revisions to the Arizona State Implementation Plan, Arizona Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the Arizona Department of Environmental Quality (ADEQ) portion of the Arizona State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on May 11, 2001 and concern affirmative defenses for excess emissions from sources regulated under the Clean Air Act as amended in 1990 (CAA or the Act).

EFFECTIVE DATE: This rule is effective on October 18, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

Arizona Department of Environmental Quality, Air Quality Division, 3033 North Central Avenue, Phoenix, AZ 85012.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1252.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On May 11, 2001 (66 FR 24074), EPA proposed to approve the following rules into the Arizona SIP: R18–2–310, Affirmative Defenses for Excess Emissions Due to Malfunctions, Startup, and Shutdown; and R18–2–310.01, Reporting Requirements.

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements and EPA's September 20, 1999 policy memo regarding excess emissions (State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown). Our proposed action and technical support document contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following parties.

1. Newman Porter, Lewis and Roca, LLP, representing the Arizona Mining Association; letter dated May 22, 2001 and received May 30, 2001.

2. Joy E. Herr Cardillo, Arizona Center for Law in the Public Interest; letter dated June 11, 2001 and received June 11, 2001.

The comments and our responses are summarized below. Our response to comments document contains a more detailed analysis.

The Arizona Mining Association supports EPA's proposal to approve R18–2–310 and 310.01 into the Arizona state implementation plan. The Arizona Center for Law in the Public Interest (ACLPI) acknowledged that the rule generally tracks EPA policy, but pointed out several cases where ADEQ does not incorporate verbatim into Rule R18–2–310 the criteria set out in EPA's excess emissions policy. For example, they noted that under EPA's policy a malfunction must be beyond the control of the operator to qualify for an affirmative defense, whereas Rule 310 requires that it must be beyond the *reasonable* control of the operator. (Emphasis added) ACLPI contends that, because of this and other deviations from EPA's excess emissions policy, Rule 310 is significantly ''less stringent'' than the EPA policy.

The excess emissions policy does not constitute federal rulemaking. Rather, EPA issues policies to provide EPA staff, state regulators and the public with EPA's general interpretation of the Act's requirements. Unlike a regulation, EPA's policy is not binding and each SIP submission must be reviewed on its own merits.

The commenter notes several instances in which the Arizona rules do not include the conditions from EPA policy verbatim. However, the commenter does not expand on why the Arizona provisions are inconsistent with the CAA, instead only making vague allegations that the State rules are less stringent than the sample language in EPA's policy. EPA disagrees with the commenter that the variations in language used by Arizona modify the intent of EPA's policy. We believe that Rules 310 and 310.01 meet the goals of the policy, are consistent with the Act, and will not interfere with attainment and maintenance of the national ambient air quality standards and are therefore approvable.

III. EPA Action

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the Arizona SIP.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing 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.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 November 19, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 30, 2001.

Sally Seymour,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(97) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(97) New and amended rules for the Arizona Department of Environmental Quality were submitted on March 26, 2001, by the Governor's designee.

(i) *Incorporation by reference.*

(A) Rules R18–2–310 and R18–2–310.01 effective on February 15, 2001.

[FR Doc. 01–23001 Filed 9–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301175; FRL–6803–2]

RIN 2070–AB78

Bispyribac-Sodium; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of bispyribac-sodium in or on rice. Valent U.S.A. Corporation (as agent for K-I Chemical U.S.A., Inc.) requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective September 18, 2001. Objections and requests for hearings, identified by docket control number OPP–301175, must be received by EPA on or before November 19, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301175 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: 703–305–5697; and e-mail address: *tompkins.jim@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	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 homepage at *http://www.epa.gov/*. To access this document, on the homepage 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_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–301175. 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 September 20, 2000 (65 FR 56901) (FRL–6742–7), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of

a pesticide petition (PP) for tolerance by Valent U.S.A. Corporation (as agent for K-I Chemical U.S.A., Inc.), 1333 North California Blvd., Suite 600, Walnut Creek, CA 94569. This notice included a summary of the petition prepared by Valent U.S.A. Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended by establishing a tolerance for residues of the herbicide bispyribac-sodium, sodium 2,6-bis[(4,6-dimethoxy-pyrimidin-2-yl)oxy]benzoate, in or on rice, grain and rice, straw at 0.02 part per million (ppm).

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of bispyribac-sodium on rice at 0.02 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by bispyribac-sodium are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90–Day oral toxicity rodents (rat)	NOAEL = 71.9/79.9 mg/kg/day (M/F) LOAEL = 724.0/790.8 mg/kg/day (M/F), based on decreased body weight gain, increased absolute and relative liver weights, increased alkaline phosphatase and gamma-GTP, and increased incidence of grossly dilated bile duct lumen in males, and microscopic lesions in the liver, biliary system and urinary bladder in both sexes.
870.3100	90–Day oral toxicity rodents (mouse)	NOAEL = 68.6/79.0 mg/kg/day (M/F) LOAEL = 699.1/806.1 mg/kg/day (M/F), based on liver cell swelling and slight liver cell granulation in females
870.3150	90–Day oral toxicity in nonrodents (dog)	NOAEL = 100 mg/kg/day LOAEL = 600 mg/kg/day (M/F), based on increased salivation and slight proliferation of intrahepatic bile duct
870.3200	21/28-Day dermal toxicity (rat)	NOAEL = 1,000 mg/kg/day (M/F) LOAEL >1,000 mg/kg/day (M/F). No systemic toxicity or dermal irritation noted.
870.3700	Prenatal developmental in rodents (rat)	*Maternal* NOAEL = 1,000 mg/kg/day LOAEL = >1,000 mg/kg/day *Developmental* NOAEL = 1,000 mg/kg/day LOAEL = >1,000 mg/kg/day
870.3700	Prenatal developmental in nonrodents (rabbit)	*Maternal* NOAEL = 100 mg/kg/day LOAEL = 300 mg/kg/day, based on lethargy, diarrhea, and decreased body weight gain in the range finding study *Developmental* NOAEL = 300 mg/kg/day LOAEL was not established

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

Guideline No.	Study Type	Results
870.3800	Reproduction and fertility effects (rats)	*Parental/Systemic* NOAEL = 1.5 mg/kg/day LOAEL = 75.7 mg/kg/day (M/F), based on trace to mild choledocus *Reproductive* NOAEL = 759.0 mg/kg/day LOAEL = >759 mg/kg/day *Offspring* NOAEL = 75.7 mg/kg/day LOAEL = 759 mg/kg/day (M/F), based on decreased body weights, body weight gains, and liver weights, and increased incidence of consolidation and circumscribed areas in the liver
870.4100	Chronic toxicity (dogs)	NOAEL = 10 mg/kg/day LOAEL = 100 mg/kg/day (M/F), based on dose-related increase in intrahepatic bile duct hyperplasia and liver granulation in females
870.4300	Combined chronic toxicity/carcinogenicity rodents (rat)	NOAEL = 10.9 mg/kg/day LOAEL = 194.5 mg/kg/day (M), based on macrosopic (yellowish liver, dilated choledochus lumen), microscopic (cellular infiltration, vacuolic changes in the bile ducts), and clinical signs (morbundity, wasting, piloerection, subnormal temperature, and decreased spontaneous motor activity. No evidence of carcinogenicity
870.4300	Carcinogenicity (mice)	NOAEL = 14.1/17.4 (M/F) mg/kg/day LOAEL = 353.0/447.8 mg/kg/day (M/F), based on decreased body weight gain, and food efficiency, and increased incidence of microscopic lesions in the liver and gall bladder (M) No evidence of carcinogenicity
870.5100	Gene mutation - reverse gene mutation assay in bacteria	There was no evidence of induced mutant colonies over background
870.5375	Cytogenetics - *in vitro* mammalian cytogenetic assay	Not clastogenic with or without S9 activation, at any dose tested
870.5395	Other effects - *in vivo* mammalian cytogenetic assay	Did not induce micronucleated polychromatic erythrocytes (PMCEs) in bone marrow at any dose
870.5500	Other genotoxic effects - bacterial DNA damage and repair test	No zones of inhibition and the differential killing index suggesting potential DNA damage
870.5550	Other genotoxic effects - UDS synthesis in mammalian cell culture	Did not induce UDS at any dose
870.7485	Metabolism and pharmacokinetics (rat)	A series of rat metabolism studies with ^{14}CPy-bispyribac-sodium and ^{14}C-Bn-bispyribac-sodium indicated that pretreatment, dose level, sex and position of the radiolabel made little effect on the absorption, distribution, elimination and metabolism. It was readily absorbed by male and female rats following intravenous or oral dosing. The total recovery of the administered radioactivity was 95.8 - 101.6% for all treatment groups. Most of the dose (>43%) of the administered dose was excreted in feces within 48 hours and essentially complete within 5 days. Less than 2% of the administered dose remained in the carcass and tissues and <0.1% of the dose was recovered in air. Parent and 5 metabolites were identified in the excreta of male and females following administered of ^{14}Cpy-bispyribac-sodium and Parent and 3 metabolites identified with of ^{14}C-Bn-bispyribac-sodium administration. The parent compound, bispyribac-sodium, was the major component identified in the feces (37 - 69% of the dose) and urine (5 - 41% of the dose), in both sexes. Metabolites identified in the excreta constituted 8.3 - 14.6% and unknown metabolites constituted 0.7 - 5.2% of the dose.
Non-guideline	Serum bile acids (mice)	Bile acids increased 115% and slight cecal enlargement in 9/10 treated mice
Non-guideline	Reversibility (mice)	Bispyribac-sodium was associated with liver lesions, bile duct hyperplasia and dilated gall bladders in subchronic and oncogenicity studies were not replicated in this reversibility study

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

Guideline No.	Study Type	Results
Non-guideline	Serum bile acids (rat)	Total bile acids increased 1,072% (12-fold). The concentration of glycocholic acid, taurocholic acid, deoxycholic acid increased 2,127%, 2,991% and 138%, respectively, where as chenodeoxy cholic acid levels were similar to controls. Hyodeoxycholic acid was reduced from 34.0% to 3.3 of the total bile acids. Treatment altered the degree of conjugation; hyodeoxycholic acid increased 84% and deoxycholic acid increased 1,133%.
Non-guideline	Reversibility (rat)	Bispyribac-sodium was associated with urinary bladder epithelial hyperplasia in subchronic study and bile duct hyperplasia, enlarged bile ducts, and liver cell hypertrophy and fibrosis in chronic study. Upon removal of bispyribac-sodium from the diet, resulted complete recovery in liver enzymes, food consumption, food efficiency, body weights, however, muscular hypertrophy of choledocus was still evident. The study did not duplicate urinary bladder lesions noted in the subchronic study.
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite DesMe-2023 did not induce mutantcolonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite 2,4-dihydroxy-6-mehtoxy pyrimidine did not induce mutant colonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite KIH-2023-M-8-Na did not induce mutant colonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite KIH-2023-M-9-Na did not induce mutant colonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite BIX-180 did not induce mutant colonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite Me2BA did not induce mutant colonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite KIH-2023-I-1 did not induce mutant colonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite KIH-2023-I-2 did not induce mutant colonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite KIH-2023-I-4 did not induce mutant colonies over background

B. Toxicological Endpoints

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

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

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

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure

will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1 x 10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer}= point of departure/exposures) is calculated. A summary of the toxicological endpoints for bispyribac-sodium used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR BISPYRIBAC-SODIUM 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
Chronic dietary (all populations)	NOAEL = 10 mg/kg/day UF = 100 Chronic RfD = 0.1 mg/kg/day	FQPA SF = 1x cPAD = chronic RfD ÷ FQPA SF = 0.1 mg/kg/day	Chronic toxicity study - dog LOAEL = 100 mg/kg/day based on dose-related increases in hyperplasia of the intrahepatic bile ducts in males and females and granulation of the liver in the females.
Short-term incidental oral (1-30 days) (residential)	NOAEL = 100 mg/kg/day	LOC for MOE = 100 (residential, includes the FQPA SF)	Developmental toxicity study - rabbit Maternal LOAEL = 300 mg/kg/day based on lethargy, diarrhea and decreased body weight gain in the range finding study
Intermediate-term incidental oral (1-6 months) (residential)	NOAEL = 100 mg/kg/day	LOC for MOE = 100 (residential, includes the FQPA SF)	90-Day feeding study - dog LOAEL = 600 mg/kg/day based upon salivation and slight proliferation of intrahepatic bile duct
Short-term inhalation (1-30 days) (occupational/residential)	Oral study NOAEL = 100 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (occupational) LOC for MOE = 100 (residential, includes the FQPA SF)	Developmental toxicity study - rabbit Maternal LOAEL = 300 mg/kg/day based on lethargy, diarrhea and decreased body weight gain.
Intermediate-term inhalation (1-6 months) (occupational/residential)	Oral study NOAEL = 100 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Occupational) LOC for MOE = 100 (residential, includes the FQPA SF)	90-Day feeding study - dog LOAEL = 600 mg/kg/day based upon salivation and slight proliferation of intrahepatic bile duct
Long-term inhalation (<6 months) (occupational/residential)	Oral study NOAEL = 10 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (occupational) LOC for MOE = 100 (residential, includes the FQPA SF)	Chronic toxicity study - dog LOAEL = 100 mg/kg/day based on dose-related increases in hyperplasia of the intrahepatic bile ducts in males and females and granulation of the liver in the females.
Cancer (oral, dermal, inhalation)	''not likely''	Not applicable	No evidence of carcinogenic or mutagenic potential. A cancer risk assessment is not required.

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

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* No previous tolerances have been established for the residues of bispyribac-sodium. Risk assessments were conducted by EPA to assess dietary exposures from bispyribac-sodium 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. Acute doses and endpoints were not selected for the general U.S. population (including infants and children) or the females 13–50 years old population subgroup for bispyribac-sodium; therefore, an acute dietary exposure analysis was not performed.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment, the Dietary Exposure Evaluation Model (DEEM) analysis evaluated the individual food consumption as reported by respondents in the USDA insert 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: A conservative, deterministic chronic dietary exposure analysis for bispyribac-sodium was performed for the general U.S. population and all population subgroups using proposed tolerance level residues and 100% crop treated information for all rice commodities. The results of the analysis indicate that the estimated chronic dietary risks associated with the proposed use of bispyribac-sodium do not exceed HED's level of concern for the general U.S. population or any population subgroups.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a

comprehensive dietary exposure analysis and risk assessment for bispyribac-sodium 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 bispyribac-sodium. The SCI-GROW model is used to predict pesticide concentrations in ground water. Because the Agency currently has no official model for calculating the estimated environmental concentrations (EECs) in surface water due to rice culture, a screening calculation method was developed; thus, the resulting EECs are provisional only. Estimates were done for each of the three major rice growing regions in the United States, the Gulf Coast of Louisiana and Texas, the Mississippi Valley including parts of northern Louisiana, Mississippi, Arkansas, and southern Missouri, and California in the Sacramento River Basin. The surface water EEC is a point estimate representing only peak or acute concentrations. However, as no attempt has been made to determine chronic exposure and the chronic exposure should be less than the acute estimate, the resulting EECs can be used for both acute and chronic risk assessments. Since acute risk assessment is not required due to the lack of an acute dietary endpoint for bispyribac-sodium, the resulting EECs will be used for chronic risk assessment.

None of these models or screening calculation methods 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 and calculation methods used are considered to be screening tools in the risk assessment process, the Agency does not use 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 bispyribac-sodium, they are further discussed in the aggregate risk sections below.

Based on the screening calculation method described above and SCI-GROW model the EECs of bispyribac-sodium for acute exposures are estimated to be 0.317 parts per billion (ppb) for surface water and 0.0072 ppb for ground water. The EECs for chronic exposures are estimated to be 0.317 ppb for surface water and 0.0072 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).

Bispyribac-sodium is not registered for use on any sites that would result in residential exposure.

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

EPA does not have, at this time, available data to determine whether bispyribac-sodium 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, bispyribac-sodium 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 bispyribac-sodium has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

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

ii. *Prenatal and postnatal sensitivity*. Based on the lack of developmental and offspring effects in both the developmental studies in rats and rabbits and the reproduction study in rats, the data for bispyribac-sodium demonstrate no indication of quantitative or qualitative increased susceptibility to bispyribac-sodium from prenatal or postnatal exposures.

iii. *Conclusion*. The toxicological data base for bispyribac-sodium is essentially complete with the exception of a 28–day inhalation toxicity study and an *in vitro* mammalian cell gene mutation assay. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed based on the following factors. There is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* or postnatal exposure. In addition, a developmental neurotoxicity study (DNT) with bispyribac-sodium is not required. The dietary food and drinking water exposure assessments will not underestimate the potential exposures for infants and children. Finally, there are currently no registered or proposed residential (non-occupational) uses of bispyribac-sodium.

E. Aggregate Risks and Determination of Safety

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

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values

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

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

1. *Acute risk*. An acute aggregate risk assessment was not performed because an acute dietary endpoint was not selected.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to bispyribac-sodium from food will utilize less than 1% of the cPAD for the U.S. population and all population subgroups. There are no residential uses for bispyribac-sodium that result in chronic residential exposure to bispyribac-sodium. In addition, there is potential for chronic dietary exposure to bispyribac-sodium in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

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

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.1	<1	0.317	0.0072	3,500
All infants (<1 year old)	0.1	<1	0.317	0.0072	1,000
Children (1-6 years old)	0.1	<1	0.317	0.0072	1,000
Children (7-12 years old)	0.1	<1	0.317	0.0072	1,000
Females (13-50 years old)	0.1	<1	0.317	0.0072	3,000
Males (13-19 years old)	0.1	<1	0.317	0.0072	3,500
Males (20+ years old)	0.1	<1	0.317	0.0072	3,500
Seniors (55+ years old)	0.1	<1	0.317	0.0072	3,500

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). Bispyribac-sodium is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Bispyribac-sodium is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. A cancer aggregate risk assessment was not performed because bispyribac-sodium was negative for carcinogenicity and classified as ''not likely human carcinogen.''

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 bispyribac-sodium residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The petitioner has proposed gas chromatography (GC) method RM-35R-2 for the enforcement of tolerances on rice grain and straw. The reported method limits of detection and quatitation for residues of bispyribac-sodium are 0.01 ppm and 0.02 ppm, respectively, in/on rice grain and straw. Adequate radiovalidation and independent laboratory validation data have been submitted for this method. The GC method RM-35R-2 has been forwarded to the EPA's Analytical Chemistry Branch of the Biological Economic Analysis Division for validation. The method includes procedures for confirmation of residues (analysis using a different GC column, and/or analysis by GC with mass selective detection).

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 are currently no established Codex, Canadian, or Mexican maximum residue limits (MRLs) for residues of bispyribac-sodium in/on plant or livestock commodities.

C. Conditions

Registration of bispyribac-sodium on rice is conditional on the acceptable submission of storage stability data for the benzene-labeled rice metabolism study, a poultry feeding study, a 28–day inhalation toxicity study, and an *in vitro* mammalian cell gene mutation assay.

V. Conclusion

Therefore, the tolerance is established for residues of bispyribac-sodium, sodium 2,6-bis[(4,6-dimethoxy-pyrimidin-2-yl)oxy]benzoate, in or on rice, grain and rice, straw at 0.02 ppm.

VI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301175 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 November 19, 2001.

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

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

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

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

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

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301175, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Regulatory Assessment Requirements

This final rule establishes tolerances 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). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). 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 prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children*

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

VIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: September 7, 2001.

James Jones,

Acting Director, 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 180.577 is added to read as follows:

§ 180.577 Bispyribac-sodium; tolerances for residues.

(a) *General.* Tolerances are established for residues of bispyribac-sodium, sodium 2,6-bis[(4,6-dimethoxy-pyrimidin-2-yl)oxy]benzoate, in or on the following raw agricultural commodities:

Commodity	Parts per million
Rice, grain	0.02
Rice, straw	0.02

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 01–23227 Filed 9–17–01; 8:45 am]

BILLING CODE 6560–50–S

Proposed Rules

Federal Register
Vol. 66, No. 181
Tuesday, September 18, 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.

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052–AB98

Loan Policies and Operations; Loans to Designated Parties

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA or we) is reproposing amendments to its regulations for the approval of loans to designated parties. The term ''designated parties'' includes Farm Credit System (FCS or System) ''insiders'' most likely to have a conflict of interest and those FCA and Farm Credit System Insurance Corporation (FCSIC) employees who may legally borrow from the System. The reproposed rule would require the lender's board, or its delegated committee, to approve all loans to a designated party that exceed the greater of $150,000 or 0.5 percent of permanent capital (not to exceed $250,000). The reproposed rule would also eliminate the System banks' approval requirement and include an option allowing an association to enter into an agreement with its affiliated bank to permit the bank to perform the designated party loan approval.

DATES: Please send your comments to us by October 18, 2001.

ADDRESSES: We encourage you to send comments by electronic mail to ''reg-comm@fca.gov'' or by accessing the Pending Regulations section of our Web site at ''www.fca.gov.'' You may also send comments to Thomas G. McKenzie, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or by fax to (703) 734–5784. You may review copies of all comments we receive in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:
Tong-Ching Chang, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,
or
Alison C. Samarias, Attorney Advisor, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of our reproposed amendment are to:

- Provide greater flexibility for banks and associations to approve loans to designated parties, including System ''insiders'' most likely to have a conflict of interest and those FCA and FCSIC employees who may legally borrow from the System;
- Increase accountability of association boards when making decisions on loans to designated parties;
- Require the board of each System institution to adopt policies and procedures to prevent undue influence when making loans to designated parties and ensure that designated parties do not receive loans on more favorable terms than other borrowers;
- Reduce unnecessary burden on System banks by removing the requirement that System banks approve all designated party loans made by their related associations; [1] and
- Make our regulations easier to understand and use.

II. Background

Sections 614.4450, 614.4460, and 614.4470 of FCA regulations require a funding bank to approve all loans that it and its related associations make to designated parties. On August 18, 1998, we published a notice inviting public comment to identify existing regulations and policies that imposed unnecessary burdens on System institutions. *See* 63 FR 44176, August 18, 1998. Among other things, you [2] asked that we update § 614.4460 to remove the obsolete term ''district boards'' [3] and repeal § 614.4470, which requires banks to approve all loans that their affiliated associations make to designated parties.

III. Direct Final Rule and Its Withdrawal

On August 9, 1999, we published a direct final rule with opportunity to comment. *See* 64 FR 43046, August 9, 1999. The direct final rule would have, in relevant part, allowed System banks or associations to make loans to designated parties with the approval of their respective boards of directors. One association provided a significant adverse comment on the revision. Four other associations also provided comments on the revision. Because of these comments, we withdrew the portion of the direct final rule with respect to loans to designated parties on October 14, 1999 (64 FR 55621).

IV. Previously Published Proposed Rule

We revised the provisions on loans to designated parties withdrawn from the direct final rule and published the changes in a proposed rule on March 17, 2000 (65 FR 14491).

The proposed rule updated the definition of ''designated parties'' to include other legal entities and employees of FCA and FCSIC who are allowed to borrow from you.[4] The proposed rule also would have required you to adopt a policy addressing the approval of loans to designated parties. We would have required your policy to describe procedures for loans to designated parties. Depending on the size of the loan, you could have chosen one of three approval options for making loans to designated parties.

The first option would have allowed your board of directors (or a committee of your board) to approve all loans made to designated parties. The second option would have maintained the existing practice of allowing the funding bank to approve loans made by its associations. Finally, the third option would have permitted your board of directors to

[1] Associations may enter into agreements with their funding banks to permit the bank to perform the approvals.

[2] As part of our objective to use plain language in our regulations, we use the word ''you'' to refer to Farm Credit System banks and associations in this preamble and the reproposed regulation.

[3] The district boards were abolished by the Agricultural Credit Technical Corrections Act of 1988, Pub. L. No. 100–399, 102 Stat. 1003 (Aug. 17, 1988).

[4] Most FCA and FCSIC employees are prohibited from borrowing from you under 5 CFR Parts 4101 and 4001. For example, FCA and FCSIC Board members, examiners, procurement personnel, and all employees over a certain civil service grade level cannot legally borrow from System institutions.

delegate approval of loans to designated parties of $25,000 or less to your management with post review by your board.

V. Comments on the March 2000 Proposed Rule

We received seven comment letters on the proposed rule (one each from the Farm Credit Council (Council), two banks, and four associations). A majority of the commenters stated that the proposed rule was more restrictive and burdensome than the existing regulations, would have increased costs, and would not have achieved its stated objectives.[5] Three commenters were opposed to certain provisions as proposed. The commenters also asked us to clarify certain provisions and offered suggestions to improve the regulations. The following summarizes the comments received.

A. Board Approval

The commenters generally viewed the board approval requirement, combined with the other two approval options, as impractical because the boards would have had to approve practically all loans to designated parties. Two commenters indicated that the proposed rule might have encouraged association boards to send all loan approvals for designated parties to their funding banks to avoid their boards' involvement in the burdensome loan approval process. Thus, associations might never assume the responsibility of approving their own loans to designated parties.

Two commenters expressed concerns that the board approval requirement would discourage the best qualified farmers and ranchers from serving on System boards and cause them to take their personal business elsewhere. One commenter stated that board members would not be comfortable knowing financial information of their fellow board members and would not want their own financial information divulged to their peers. Another commenter stated that the institutions do not share detailed information about designated parties in the boardroom because directors are often competitors. Commenters also stated that directors lack the necessary expertise to make credit decisions on complex loans and that requiring board actions on loans to designated parties would delay loan decisions, increase costs, and contribute to making FCS institutions noncompetitive.

Response: Directors are ultimately responsible for all credit decisions their institutions make and are in the best position to approve loans to designated parties. Nevertheless, we agree with some of the commenters' concerns and have modified the board approval requirements in the reproposed rule.

The reproposed rule would permit your board to delegate approval of loans to designated parties to a committee comprised of at least three individuals, as long as directors constitute the majority of the committee. Requiring a majority of directors on the committee would maintain the board's accountability to ensure that decisions on loans to designated parties are not made under undue influence. The reproposed rule would also permit management to serve on the committee to provide directors with the credit expertise needed to approve loans to designated parties in a timely manner.

B. Bank Approval

As an option to System associations, the March 2000 proposed rule continued the existing practice that a funding bank could approve all loans its associations make to designated parties. One bank commented that the Farm Credit Act of 1971, as amended (Act), does not require banks to approve loans made by related associations. The bank and Council suggested that the funding banks should have discretion to voluntarily accept the responsibility of approving loans to designated parties for their associations.

Commenters generally objected to our previously proposed $25,000 management delegation limit because the threshold was too low. Commenters asserted that associations would always want their funding banks to approve associations' loans to designated parties. As a result, associations could abdicate their responsibility and remove themselves from the loan approval process and the banks would have had no relief from the existing regulation. In contrast, one commenter stated that allowing banks to cease approving loans to designated parties made by their associations would increase costs, delay loan decisions, and degrade customer service.

Response: We agree with the Council and bank's comment that the boards of associations generally should be responsible for approving their own loans and that banks should approve loans made by their associations only if the banks agree. The reproposed rule would change the existing regulatory requirement so that a System bank may approve all or any portion of the loans made by related associations to designated parties at the option of both the bank and its related associations. The reproposed rule would require any loans to designated parties approved by the funding bank for its related associations to be reviewed by the association boards at the first board meeting following the loan approval.

C. Management Delegation and Threshold

A majority of the commenters believed that a management delegation threshold of $25,000 would have provided little relief to System boards of directors. A bank noted that the existing regulations permit a bank board to delegate the loan approval authority to bank management without any limitation on the amount. Two commenters suggested that we delete the dollar limit and allow the respective boards to set adequate controls over such approval authority. Two others suggested we increase the delegation limit from $25,000 to $250,000.

Response: Loans to designated parties is one area that requires higher scrutiny and attention by the board of any financial lending institution. Because directors oversee management's performance, management may not be able to exercise independent, objective credit decisions on loans to directors or other superiors. Establishing thresholds for management delegation would limit the degree of risk exposure and inhibit improper lending to designated parties.

However, upon further investigation and comparison to similar limits imposed by other financial regulators, we agree with the commenters that a $25,000 threshold for management delegation would have provided little relief to your boards. The reproposed rule would increase the regulatory threshold for board approval to any loan that, when aggregated with all other loans to a designated party, exceeds the greater of $150,000 or 0.5 percent of your permanent capital (not to exceed $250,000).

We developed the board approval requirement based on our review of the number and size of the System's designated party loans and an approach similar to that used by the Office of the Comptroller of the Currency (OCC) and the Federal Reserve System (FED) on insider lending for commercial banks. *See* 12 CFR parts 31 and 215, respectively. However, we noted that the regulatory threshold for approval does not limit an institution board from setting a lower threshold within its policies and procedures. In some

[5] The stated objectives of the proposed rule were to: (1) Provide greater flexibility for banks and associations to approve loans to designated parties; (2) keep adequate controls on loans that banks and associations make to designated parties; and (3) make our regulations easier to understand and use.

circumstances, a lower threshold may be entirely appropriate.

D. Definitions in the Proposed Rule

1. *Designated Parties.* Two commenters pointed out that the previously proposed definition of ''designated parties'' was not compatible with existing § 614.4460(f). A bank commented that the definition did not consider regional and local cooperative relationships.

Response: We evaluated the bank's comment and believe the comment has merit. We revised the definition of ''designated parties'' to govern parties most likely to have a ''conflict of interest.'' The reproposed definition of ''designated parties'' would include insiders (e.g., directors, officers, employees and their immediate family members) of your institution. However, it also would add clarifying language concerning any borrower who is an ''entity controlled by'' those insiders. The reproposed rule would define the term ''control'' based on a percentage (i.e., 5 percent) of ownership or voting power in a legal entity. We believe the new definition will address the concerns expressed about loans made to entities, such as cooperatives, where a System director, officer, or employee does not exercise control over the entity obtaining the loan or the loan proceeds.

2. *Loans.* A bank asked that we clarify whether the definition of loans covers various loan-servicing actions, such as waivers or extensions.

Response: The definition contained in the reproposed rule would include any loan-servicing actions that increase the lender's exposure to credit risk.

VI. The Reproposed Rule

After a careful review of all comments received, we made several substantive changes to the proposed rule to repeal the existing §§ 614.4450, 614.4460, and 614.4470 and replace them with new §§ 614.4450 and 614.4460 in the reproposed rule.

The reproposed rule would repeal existing § 614.4450, which provides ''the authority for loan approval is vested in the Farm Credit banks and associations.'' More specific regulations providing for System lending authorities make this provision unnecessary.[6] This reproposed rule also would delete all references to district boards.

We believe each direct lender institution should be responsible for decisions made on its loans, including loans to designated parties. Because the Act does not require System banks to approve loans made by associations, the reproposed rule would revise the bank approval requirement found in existing § 614.4470. As an alternative, however, a bank may approve loans to designated parties made by its related associations based on the mutual agreement of the bank and its associations. If no such agreement exists, the board of each association, or a committee of at least three individuals, a majority of whom are directors, will be responsible for approving the association's loans to designated parties. The reproposed rule also changes the level of designated party loans requiring approval by the board. Loans to designated parties that do not exceed the greater of $150,000 or 0.5 percent of your permanent capital (not to exceed $250,000) may be approved in accordance with your policies and procedures for loans to designated parties, which is a significant increase from the proposed rule.

Thus, the reproposed rule provides your board with several options for approving loans to designated parties. First, your board may approve all your loans to designated parties. Second, a committee of at least three individuals, a majority of whom are directors, may approve all your loans to designated parties. Third, your board may also delegate approval of loans to designated parties that fall below the regulatory threshold to appropriate staff as established by your policies and procedures. Finally, your board may enter into an agreement with your affiliated bank to permit the bank to approve your loans to designated parties. In addition, rather than adopting a single option for approvals, your board may adopt a policy that combines the above options.

A discussion of significant provisions of the reproposed rule follows.

A. Section 614.4450—Definitions

The term ''designated party or parties'' as defined in reproposed § 614.4450(b) would include your directors, officers, employees, and their immediate family members. The definition also includes any entity that borrows from you and is an ''entity controlled by'' any of your directors, officers, employees, or their immediate family members.

Under reproposed § 614.4450, director, officer, employee, entity, and person have the same meaning as in § 612.2130 of this chapter. The term ''immediate family member'' defined in reproposed § 614.4450(e) includes the spouse, children, or the parents of an individual.

Under reproposed § 614.4450(c), an ''entity controlled by'' an individual is an entity in which the individual, directly or indirectly, or acting through or in concert with one or more persons:

(1) Owns 5 percent or more of the equity; or

(2) Owns, controls, or has the power to vote 5 percent or more of any class of voting securities.

The term ''entity controlled by'' used in reproposed § 614.4450(c) is similar, but not identical, to the definition of ''entity controlled by'' in FCA's conflict of interest rule in § 612.2130(c). ''Entity controlled by'' in reproposed § 614.4450(c) excludes paragraph (c)(3) of § 612.2130, i.e., individuals with a controlling influence over the management of the entity.

Unless the 5-percent equity ownership or voting power requirement is satisfied, a director or officer of any cooperative or other legal entity is not deemed to have control over the entity by virtue of their position alone. For example, directors or officers of an entity who also sit on your board but do not own 5 percent or more of the entity's equity or voting power would not be subject to the requirements of this reproposed rule when the entity borrows from you.

B. Section 614.4460—Loans to Designated Parties

Your board of directors is ultimately accountable for all decisions made by your institution. After careful consideration of the comments received; however, we revised the board approval requirement to provide your board with greater flexibility in approving loans to designated parties.

The reproposed level of approval is a result of our review of loans made to designated parties in a sample group of recently examined associations and one bank. We found that the number of loans to designated parties is relatively few, but the average loan size is generally greater than the average of all loans held by the institution. We also evaluated the approval requirements imposed by other financial regulators for insider loans. After considering cooperative principles and various comments on the System's unique cooperative relationships, we increased the level of approval for System institutions' designated party loans.

We developed the board approval requirement contained in the reproposed rule based on our review of the number and size of System institutions' designated party loans and an approach similar to that used by the OCC and the FED for ''insider lending.'' The board approval requirement would

[6] *See* 12 CFR Part 614, Subpart A—Lending Authorities.

ensure that System institutions' boards of directors have adequate involvement in approving their institutions' designated party loans. We believe board involvement is an essential ingredient of oversight for this critical area of lending. Board involvement is necessary to avoid the possibility of inappropriate or undue influence on loans to insiders or other designated parties.

Reproposed § 614.4460(a) would require your board to adopt and implement policies and procedures for approving loans to designated parties. Your board must establish appropriate control procedures to ensure that loans to designated parties are not made on terms that are more favorable than those afforded to other borrowers under the same circumstances. Your policies and procedures must not be less stringent than the loan underwriting standards that you adopted under § 614.4150.

Reproposed § 614.4460(b) would require your board, or a committee of at least three individuals, a majority of whom are directors, to approve all loans to designated parties that, in the aggregate, exceed the greater of $150,000 or 0.5 percent of your permanent capital (not to exceed $250,000). Permanent capital as calculated for the most recent calendar quarter will be used for your determination of the board approval requirement. Your board may delegate approval authority for all other designated party loans in accordance with your policies and procedures. Therefore, institution boards may delegate approval authority for designated party loans as follows:

- $150,000 or less—your board may delegate approval authority on all loans of $150,000 or less.
- $150,001 to $250,000—your board may delegate approval authority on loans in an amount not exceeding 0.5 percent of your permanent capital up to a limit of $250,000.
- $250,001 and greater—your board may not delegate approval of loans that exceed $250,000.

Any individual approving designated party loans must be in a position to exercise independent, objective decisions on the approvals. For example, to prevent undue influence and an actual conflict of interest or the appearance of a conflict of interest as described in § 612.2130(b) of this chapter, your policies and procedures could specify that loans to directors, officers, their immediate family members, and entities controlled by any of your directors or executive officers should be approved by a committee rather than an individual. The committee could consist of management alone, directors, or a combination of both as specified in your policies and procedures for loans to designated parties. Similarly, your policies could provide that only individuals with greater authority in the organization than the designated party borrower should approve loans to any other designated parties. We will evaluate the appropriateness and effectiveness of your policies and procedures during our normal examination process.

Reproposed § 614.4460(c) would prohibit designated parties from participating, directly or indirectly, in the deliberations on or the determination to make any loan in which the designated party has an interest as described in § 612.2140(a) of this chapter. Also, all members of the board approval committee must act in accordance with the requirements of 12 CFR part 612—Standards of Conduct.

Reproposed § 614.4460(d) provides that an association may enter into an agreement with its affiliated bank to authorize the affiliated bank to perform any approvals required by reproposed § 614.4460. Therefore, System banks and associations have an option to continue the existing practice when mutually acceptable terms and conditions for approval are established.

In reproposed § 614.4460(e), we require all loans to designated parties not approved by the full board, including all loans approved by the funding bank, to be reported to your board no later than the first board meeting following approval. We believe this is an essential component of proper control and oversight for all loans made to designated parties. A review by your board will help ensure loans made to designated parties are made without undue influence.

List of Subjects in 12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, we propose to amend part 614 of chapter VI, title 12 of the Code of Federal Regulations to read as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a-2, 2279b, 2279c-1, 2279f, 2279f-1, 2279aa, 2279aa-5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

2. Revise subpart M to read as follows:

Subpart M—Approval of Loans to Designated Parties

Sec.

§ 614.4450 Definitions applicable to subpart M.

(a) *You* means a Farm Credit bank or association.

(b) *Designated party or parties* means:

(1) Farm Credit Administration employees allowed to borrow from you under 5 CFR 4101.104;

(2) Farm Credit System Insurance Corporation employees allowed to borrow from you under 5 CFR 4001.104;

(3) Your directors, officers, or employees;

(4) An immediate family member of your directors, officers, or employees;

(5) An entity controlled by your directors, officers, or employees or their immediate family members;

(6) Any of the parties in paragraphs (b)(3), (b)(4), or (b)(5) of this section who have a relationship to a bank or association under a joint management agreement with you;

(7) Directors, officers, or employees of your funding bank if you are an association; and

(8) Other borrowers if any of the designated parties identified in this paragraph are:

(i) Recipients of the proceeds of a loan made by you;

(ii) Stockholders or other equity owners of a borrower that has a material interest in the proceeds of or collateral for a loan made by you; or

(iii) Endorsers, guarantors or comakers on a loan made by you.

(c) *Entity controlled by* means an entity in which an individual identified in paragraph (b)(3) or (b)(4) of this section, directly or indirectly, or acting through or in concert with one or more persons:

(1) Owns 5 percent or more of the equity; or

(2) Owns, controls, or has the power to vote 5 percent or more of any class of voting securities.

(d) *Director, officer, employee, entity, and person* have the same meaning as in § 612.2130 of this chapter.

(e) *Immediate family member* means the spouse of an individual, the children of an individual, or the parents of an individual.

(f) *Loan or loans* means the total of all loans, leases and other extensions of credit, including undisbursed commitments, from you to any designated party.

(g) *Permanent capital* means your permanent capital as calculated for the most recent calendar quarter.

§ 614.4460 Loans to designated parties.

(a) You must adopt and implement policies and procedures for approving loans to designated parties. Your policies must include appropriate controls to ensure that loans to designated parties will not be made on terms or conditions that are more favorable than those afforded to other borrowers under the same circumstances. Your policies and procedures must not be less stringent than the loan underwriting standards that you adopted under § 614.4150.

(b) All loans to any designated party that exceed the greater of $150,000 or 0.5 percent of your permanent capital (not to exceed $250,000) must be approved by your board of directors or by a committee of at least three individuals, a majority of whom are directors.

(c) A designated party must not participate, directly or indirectly, in deliberations on or the determination to make any loan in which the designated party has an interest as described in § 612.2140(a) of this chapter.

(d) Notwithstanding any provision in this section, an association may enter into an agreement with its affiliated bank to permit the affiliated bank to perform any approvals required by this section.

(e) All loans to designated parties not approved by your full board must be reported to your board no later than the first board meeting following approval.

Dated: September 11, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–23208 Filed 9–17–01; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–27–AD]

RIN 2120–AA64

Airworthiness Directives; Enstrom Helicopter Corporation Model TH–28 and 480 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) for Enstrom Helicopter Corporation (EHC) Model TH–28 and 480 helicopters. The AD would require establishing a life limit for certain upper and lower main rotor hub plates of 5000 hours time-in-service (TIS), creating a component history card or equivalent record, and replacing each main rotor hub plate (hub plate) having 5000 or more hours TIS with an airworthy hub plate. This proposal is prompted by a recent reliability-based stress analysis that indicates a 5000-hour TIS life limit should be imposed on certain hub plates. The actions specified by the proposed AD are intended to prevent failure of a hub plate, loss of control of the main rotor, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before November 19, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–27–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.* Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joseph McGarvey, Fatigue Specialist, FAA, Chicago Aircraft Certification Office, Airframe and Administrative Branch, 2300 East Devon Ave., Des Plaines, Illinois 60018, telephone (847) 294–7136, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2001–SW–27–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–27–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes the adoption of a new AD for EHC Model TH–28 and 480 helicopters. This AD would require establishing a life limit of 5000 hours TIS for both upper and lower hub plates, part number (P/N) 28–14280–1 and 28–14281–1. This proposal is prompted by a recent reliability-based stress analysis of loads, their frequency of occurrence, and fatigue strength data, which showed that a life limit of 5000 hours TIS should be established for hub plates, P/N 28–14280–1 and 28–14281–1. The actions specified by the proposed AD are intended to prevent failure of a hub plate, loss of control of the main rotor, and subsequent loss of control of the helicopter.

We have identified an unsafe condition that is likely to exist or develop on other EHC Model TH–28 and 480 helicopters of the same type designs. Therefore, the proposed AD would require establishing a 5000-hour TIS life limit and creating a component history or equivalent record for hub

plates, P/N 28–14280–1 and 28–14281–1. The proposed AD would also require replacing hub plates, P/N 28–14280–1 and 28–14281–1, having 5000 or more hours TIS with airworthy hub plates.

The FAA estimates that 4 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 10 work hours per helicopter to replace the hub plates, and that the average labor rate is $60 per work hour. Creating a component history or equivalent record would take approximately 2 hours. Required parts would cost approximately $5350 to install hub plates, P/N 28–14280–3 and 28–14281–3 and $5000 to install hub plates, P/N 28–14280–5 and 28–14281–5, per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $24,280 maximum, assuming that all hub plates are replaced and that hub plates, P/N 28–14280–3 and 28–14281–3, are installed.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Enstrom Helicopter Corporation: Docket No. 2001–SW–27–AD.

Applicability: Model TH–28 and 480 helicopters, with upper hub plate, part number (P/N) 28–14280–1, and lower hub plate, P/N 28–14281–1, installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a hub plate, loss of control of the main rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 30 days after the effective date of this AD, for upper hub plate, P/N 28–14280–1, and for lower hub plate, P/N 28–14281–1, create a component history card or equivalent record, and determine the total hours time-in-service (TIS). Thereafter, record the hours TIS for each hub plate and replace each hub plate having 5000 or more hours TIS as follows:

(1) Install hub plates, P/N 28–14280–3 and 28–14281–3, on helicopters with main rotor damper, P/N 28–14375–8.

(2) Install hub plates, P/N 28–14280–5 and 28–14281–5, on helicopters with main rotor damper, P/N 28–14375–10.

(b) This AD revises the Limitations section of the applicable maintenance manual by establishing a life limit of 5000 hours TIS for the upper hub plate, P/N 28–14280–1, and for the lower hub plate, P/N 28–14281–1.

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

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

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

Issued in Fort Worth, Texas, on September 6, 2001.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–23250 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. FHWA–2001–10077]

RIN 2125–AE89

Design Standards for Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is requesting comments on a proposed revision to its policy on the design standards which apply to highway construction and reconstruction projects on the National Highway System (NHS). A 2001 revision of the American Association of State Highway and Transportation Officials' (AASHTO) publication entitled *A Policy on Geometric Design of Highways and Streets* has replaced the previous version of this policy published in 1994. If adopted by the FHWA, the new AASHTO publication would constitute the FHWA policy on design standards for highway construction and reconstruction projects on the NHS.

DATES: Comments must be received on or before November 19, 2001.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001, or submit electronically at *http://dmses.dot.gov/submit.* All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: *For technical information:* Mr. Seppo Sillan, Office of Program Administration (HIPA), (202) 366–1327. *For legal information:* Mr. Harold Aikens, Office of the Chief Counsel (HCC–32), (202) 366–1373, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.* Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may also be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may also reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara.*

Background

The standards, policies, and standard specifications that have been approved by the FHWA for application on all construction and reconstruction projects on the NHS are incorporated by reference in 23 CFR part 625. The current document specified in § 625.4(a)(1) is the 1994 edition of *A Policy on Geometric Design of Highways and Streets* (Policy).[1] The AASHTO recently revised the Policy and issued the 2001 edition which the FHWA proposes to adopt as its policy for design standards for all construction and reconstruction projects on the NHS. The primary reason for development of the new document was to update the previous Policy to incorporate the latest design criteria. See ''Summary of Changes'' below for a description of the changes made in the 2001 edition.

The AASHTO is an organization which represents 52 State highway and transportation agencies (including the District of Columbia and Puerto Rico). Its members consist of the duly constituted heads and other chief officials of those agencies. The Secretary of Transportation is an ex officio member, and U.S. DOT officials participate in various AASHTO activities as nonvoting representatives. Among other functions, the AASHTO develops and issues standards, specifications, policies, guides and related materials for use by the States for highway projects. Many of the standards, policies, and standard specifications approved by the FHWA and incorporated into 23 CFR part 625 were developed and issued by the AASHTO. Revisions to such documents of the AASHTO are independently reviewed and adopted by the FHWA before they are applied to NHS projects.

The National Highway System (NHS) was established by the National Highway System Designation Act of 1995, Pub. L. 104–59, Nov. 28, 1995, 109 Stat. 568. The NHS includes the Interstate System and other principal arterials serving major travel destinations and transportation needs, connectors to major transportation terminals, the Strategic Highway Network and connectors, and high priority corridors identified by law.

Generally, the criteria the functional chapters of the Policy on local roads and streets and collectors (Chapters 5 and 6) are not applicable to projects on the NHS. However, if highway segments functionally classified as less than principal arterials are incorporated in the NHS by virtue of being Strategic Highway Network Connectors or Intermodal Connectors, the standards used may be those appropriate for the functional classification of the segment, taking into account the type of traffic using the segment.

Although the standards contained in the Policy do apply to the Interstate System, additional guidance applicable to the design of highways on the Interstate System is included in another AASHTO publication, *A Policy on Design Standards—Interstate System.*[2] The latest edition of this publication is dated July, 1991; no revisions to this document are proposed at this time.

Summary of Changes

The changes in the 2001 Policy were developed as the result of formal research projects and information contributed by the AASHTO and the FHWA staff experts. The formal research projects containing information for the 2001 Policy are shown in the following table:

Research	Subject
NCHRP Report 375	Median Intersection Design.
NCHRP Report 383	Intersection Sight Distance.
NCHRP Report 395	Midblock Left Turn Lanes.
NCHRP Report 400	Stopping Sight Distance.
NCHRP Report 420	Access Management.
NCHRP Report 439	Superelevation and Transitions.
NCHRP Synthesis 241	Truck Operating Characteristics.
NCHRP Synthesis 264	Modern Roundabout Practice.
HCM 2000	Highway Capacity Analysis.
TRB Circular 430	Interchange Operations.
FHWA–RD–97–135	Older Driver Highway Design Handbook.
FHWA–RD–00–067	Roundabouts: An Informational Guide.

The NCHRP is the National Cooperative Highway Research Program, a coordinated program of research projects administered by the Transportation Research Board (TRB) of the National Research Council. All NCHRP documents cited herein are available from the TRB by telephone (202) 334–3213, facsimile (202) 334–

[1] A Policy on Geometric Design of Highways and Streets, 1994, is available from AASHTO by telephone (800) 231–3475, facsimile (800) 525–5562, mail AASHTO, P.O. Box 96716, Washington, DC 20090–6716 or at their web site at *www.transportation.org.*

[2] A Policy on Design Standards—Interstate System, 1991, is available from AASHTO (see footnote 1).

2519, or at their web site *www.nationalacademies.org/trb/bookstore.* The Highway Capacity Manual (HCM) is a traffic analysis document produced by a combination of research projects administered by the TRB and the FHWA. The HCM is available from TRB as described above. The TRB Circular is a compendium of articles written by experts on a specific topic and published by the TRB. The TRB Circular is available from TRB as described above. The last two items in the list are research projects conducted by the FHWA. The FHWA documents are available from the National Technical Information Service by telephone (800) 553–6847, facsimile (703) 605–6900, or at their web site *www.ntis.gov.* In addition, the two FHWA documents may be viewed online at *www.tfhrc.gov/library/library.htm.*

The following paragraphs provide a brief synopsis of the information that is included in each of the ten chapters of the Policy and, as appropriate, any significant additions, revisions or deletions made to the currently approved 1994 AASHTO Policy (old Policy) in the 2001 Policy (new Policy).[3]

All page numbers mentioned in this section refer to the new Policy.

General

All dimensions used throughout the new Policy are expressed in dual units with the Metric value appearing first followed by the U.S. Customary value in square brackets. In the old Policy, only Metric values were given. Throughout the new Policy, pedestrians and bicycles are mentioned and discussed more frequently to increase emphasis on consideration of these transportation modes. Examples of pedestrian considerations can be found on pages 99, 562, and 618 of the new Policy. Examples of bicycle considerations can be found on pages 318, 378, and 482 of the new Policy.

Chapter 1—Highway Functions

In this chapter the concept of functional classification of highways is presented and the various components of the highway are described. This serves as an introduction to functional classification and provides an explanation of how the concept is employed in the Policy. There are no significant changes made in this chapter.

Chapter 2—Design Controls and Criteria

This chapter covers those characteristics of vehicles, pedestrians, bicycles, and traffic that act as criteria for the design of various highway and street functional classes. The design vehicle characteristics and their turning paths (pages 15–43) have been revised by adding four design vehicles, upgrading dimensions to more accurately reflect the existing fleet, and redrawing the turning paths. Information from the FHWA Older Driver Highway Design Handbook[4] has been added (page 47). The definition of design speed has been revised (page 67) to incorporate recommendations from NCHRP Report 400.[5] The coverage of highway capacity (page 74) has been revised to agree with the Highway Capacity Manual 2000 (HCM 2000)[6] and to eliminate redundancy. Access control and access management (page 88) has been revised based on the information contained in NCHRP Report 420.

Chapter 3—Elements of Design

This chapter covers the basic elements of design, such as sight distance, horizontal and vertical alignment, superelevation, widths of turning roadways, and grades.

1. Stopping sight distance values in the new Policy (page 111) are based on vehicle deceleration rates rather than on friction between tires and roadway as was done in the old Policy. A single value in the new Policy (page 112) replaces the range in values from the old Policy. This incorporates recommendations from NCHRP Report 400. For example, given a design speed of 100 km/h, the design stopping sight distance in the new Policy is 185 m compared to a range of 157 to 205 m in the old Policy.

2. The eye height and object height criteria for measuring sight distance have been revised (page 127). The eye height has been raised from 1070 mm in the old Policy to 1080 mm [3.5 ft] in the new Policy.[7] The object height for stopping sight distance has been raised from 150 mm in the old Policy to 600 mm [2 ft] in the new Policy. The object height for passing sight distance has been lowered from 1300 mm in the old Policy to 1080 mm [3.5 ft] in the new Policy. This incorporates recommendations from NCHRP Reports 383 and 400.

3. The design criteria for horizontal curves (page 228) and vertical curves (page 272) has been revised to reflect the changes in stopping sight distance, eye height, and object height discussed in 1 and 2 above. For example, given a design speed of 100 km/h and an algebraic difference in grade of 4%, the criteria for length of crest vertical curve (based on stopping sight distance) is 208 m in the new Policy compared to a range of 248 to 420 m in the old Policy.

4. The section on Transition Design Controls (page 168) has been revised and additional information has been added on spiral curve transitions to incorporate recommendations from NCHRP Report 439.

5. The offtracking section (page 206) has been revised by recalculating values for WB–15 [WB–50] vehicles and adding an exhibit showing adjustment values for other design vehicles.

6. The values in the section on Traveled Way Widening on Horizontal Curves (page 212) have been recalculated based on the design vehicle dimensions specified in Chapter 2 of the new Policy.

7. The speed-distance curves (page 237–238) have been revised for 120 kg/kW [200 lb/hp] trucks which more closely reflect the existing fleet. The critical lengths of grade (page 242) have also been revised for this same design vehicle.

8. A section on Sight Distance at Undercrossings (page 280) has been added.

9. A section on Fencing (page 301) has been added.

Chapter 4—Cross Section Elements

This chapter discusses the cross section elements of a highway, such as lane and shoulder width, pavement cross slope, medians, frontage roads, and roadsides. The section on curbs (page 323) has been revised to change the terminology from barrier and mountable curbs in the old Policy to vertical and sloping curbs in the new Policy. The discussion on parabolic cross section has been eliminated. The section on medians (page 341) has been

[3] A Policy on Geometric Design of Highways and Streets, 2001, is available from AASHTO (see footnote 1).

[4] The Older Driver Highway Design Handbook, January 1998, Publication No. FHWA–RD–97–135, is available from the National Technical Information Service by telephone (800) 553–6847, facsimile (703) 605–6900, or at their web site *www.ntis.gov.* In addition, the document may be viewed online at *www.tfhrc.gov/library/library.htm.*

[5] All NCHRP documents cited herein are available from the TRB (specify NCHRP Report No.) by telephone (202) 334–3213, facsimile (202) 334–2519, or at their web site *www.nationalacademies.org/trb/bookstore.*

[6] The Highway Capacity Manual 2000 is available from the TRB by telephone (202) 334–3213, facsimile (202) 334–2519, or at their web site *www.nationalacademies.org/trb/bookstore.*

[7] The equivalent U.S. Customary value is not shown for the old Policy because it contained only Metric units.

revised to incorporate recommendations from NCHRP Report 375. The section on Pedestrian Facilities (page 361) has been revised and expanded.

Chapter 5—Local Roads and Streets

This chapter covers the design guidance applicable to those roads functionally classified as local rural roads and local urban streets. The chapter has been revised as appropriate to include changes discussed in Chapters 2, 3, 4 and 9. The new Policy points out that the AASHTO is currently evaluating alternative design criteria for local roads that carry less than 400 vehicles per day (pages 383–384).

Chapter 6—Collector Roads and Streets

This chapter covers the design guidance applicable to those roads functionally classified as rural collector roads and urban collector streets. The chapter has been revised as appropriate to include changes discussed in Chapters 2, 3, 4 and 9. The new Policy points out that the AASHTO is currently evaluating alternative design criteria for collector roads that carry less than 400 vehicles per day (page 424).

Chapter 7—Rural and Urban Arterials

This chapter presents the basis for design of the principal and minor arterial road systems in rural and urban areas. The chapter has been revised as appropriate to include changes discussed in Chapters 2, 3, 4 and 9. The sections on medians (pages 460 and 478) have been revised to incorporate recommendations from NCHRP Report 375. The sections on access management (pages 471 and 486) have been revised based on the information contained in NCHRP Report 420. The section on Access Control Through Geometric Design (page 488) has been revised to incorporate recommendations from NCHRP Report 395.

Chapter 8—Freeways

This chapter covers the various types of freeways, their design elements, controls, criteria and cross-sectional elements. The chapter has been revised as appropriate to be consistent with the changes discussed in Chapters 2, 3, 4 and 9.

Chapter 9—Intersections

This chapter describes the basic types of intersections, the elements involved in their design, and the accommodation of turning movements. The chapter has been revised as appropriate to be consistent with the changes discussed in Chapters 2, 3, and 4. The definition of the functional area of an intersection has been added (page 560). A discussion on roundabouts has been added (page 578) to incorporate recommendations from NCHRP Synthesis 264[8] and the FHWA document Roundabouts: An Informational Guide.[9] The section on intersection sight distance (page 654) has been revised to incorporate the gap acceptance procedure developed in NCHRP Report 383. A discussion on offset left turn lanes (page 727) has been added to incorporate recommendations from NCHRP Report 375.

Chapter 10—Grade Separations and Interchanges

This chapter discusses the basic types of interchanges and grade separations, along with the design of their features. A discussion on access separations and control on the crossroad at interchanges (page 753) has been added based on the information contained in TRB Circular 430[10] and NCHRP Report 420. The sections on single point urban interchanges (page 787), superelevation and cross slope (page 834), and two lane entrance ramps (page 860) have been revised.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined preliminarily that this proposed action would not be a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of the U.S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal. Although the new Policy has been revised to incorporate the latest research, the basic criteria remain essentially the same. These proposed changes would not adversely affect, in a material way, any sector of the economy. In addition, these changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this proposed action on small entities and has determined that the proposed action would not have a significant economic impact on a substantial number of small entities. As stated above, although the new Policy has been revised to incorporate the latest research, the basic criteria remain essentially the same. For these reasons, the FHWA certifies that this action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1531 *et seq*).

Executive Order 12630 (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 Interface with Constitutionally Protected Property Rights.

Executive Order 12988 (Civil Justice Reform)

This action 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.

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[8] NCHRP Synthesis 264 is available from TRB by telephone (202) 334–3213, facsimile (202) 334–2519, or at their web site *www.nationalacademies.org/trb/bookstore.*

[9] Roundabouts: An Informational Guide, June 2000, Publication No. FHWA–RD–00–067 is available from the National Technical Information Service by telephone (800) 553–6847, facsimile (703) 605–6900, or at their web site *www.ntis.gov.* In addition, the document may be viewed online at *www.tfhrc.gov/library/library.htm.*

[10] TRB Circular 430 is available from the TRB by telephone (202) 334–3213, facsimile (202) 334–2519, or at their web site *www.nationalacademies.org/trb/bookstore.*

Executive Order 13045 (Protection of Children)

We have analyzed this action 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 safety that may disproportionately affect children.

Executive Order 13132 (Federalism Assessment)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and the FHWA has determined that this proposed action would not have sufficient federalism implications to warrant the preparation of a Federalism assessment. The FHWA has also determined that this proposed action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposed action does not contain collection of information requirements for the purposes of the PRA.

National Environmental Policy Act

The FHWA has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this proposed action would not have any effect on the quality of the environment.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposal under Executive Order 13175, dated November 6, 2000, and believes that the proposed action will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this proposed 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. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 625

Design standards, Grant programs—transportation, highways and roads, Incorporation by reference.

Issued on: September 10, 2001.

Vincent F. Schimmoller,

Deputy Executive Director.

In consideration of the foregoing, the FHWA proposes to amend title 23, Code of Federal Regulations, part 625, as set forth below:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

1. The authority citation for part 625 continues to read as follows:

Authority: 23 U.S.C. 109, 315, and 402; Sec. 1073 of Pub. L. 102–240, 105 Stat. 1914, 2012; 49 CFR 1.48(b) and (n).

2. In § 625.4, revise paragraph (a)(1) to read as follows:

§ 625.4 Standards, policies, and standard specifications.

* * * * *

(a) * * * (1) A Policy on Geometric Design of Highways and Streets, AASHTO 2001. [See § 625.4(d)(1)]

* * * * *

[FR Doc. 01–23260 Filed 9–17–01; 8:45 am]

BILLING CODE 4922–10–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2103; MM Docket No. 01–224, RM–10101]

Radio Broadcasting Services; Shelbyville and La Vergne, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by WYCQ, Inc. proposing the reallotment of Channel 275C1 from Shelbyville to La Vergne, Tennessee, and the modification of Station WZPC(FM)'s license accordingly. Channel 275C1 can be reallotted to La Vergne in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at petitioner's presently licensed site. The coordinates for Channel 275C1 at La Vergne are 35–48–01 North Latitude and 86–37–17 West Longitude.

DATES: Comments must be filed on or before October 29, 2001, and reply comments on or before November 13, 2001.

ADDRESSES: Federal Communications Commission, Washington DC 20054. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Patricia M. Chuh, Pepper & Corazzini, L.L.P., 1776 K Street, NW, Suite 200, Washington, DC 20006 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–224, adopted August 29, 2001, and released September 7, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter

is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—[RADIO BROADCAST SERVICES]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by removing Shelbyville, Channel 275C1 and adding La Vergne, Channel 275C1.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–23183 Filed 9–17–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2102, MM Docket No. 01–223, RM–10157]

Radio Broadcasting Services; Crystal Beach and Stowell, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Tichenor License Corporation requesting the substitution of Channel 287C3 for Channel 287A at Crystal Beach, Texas, modification of the authorization for Station KLTO(FM) to specify operation on Channel 287C3, and reallotment of Channel 287C3 and Station KLTO(FM) from Crystal Beach, Texas, to Stowell, Texas. The coordinates for Channel 287C3 at Stowell 29–47–12 and 94–22–50. In accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 287C3 at Stowell, Texas.

DATES: Comments must be filed on or before October 29, 2001, and reply comments on or before November 13, 2001.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve Tichenor License Corporation's counsel, as follows: Roy R. Russo, Lawrence N. Cohn, Cohn and Marks, 1920 N Street, NW., Suite 300, Washington, DC 20036–1622.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–223, adopted August 29, 2001, and released November 13, 2001. The full text of this Commission decision is available for inspection and copying during regular business hours Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail qualexint@aol.com. Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—[RADIO BROADCAST SERVICES]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 287A at Crystal Beach and adding Stowell, Channel 287C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–23184 Filed 9–17–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2106; MM Docket No. 01–225, RM–10253; MM Docket No. 01–226, RM–10254; MM Docket No. 01–227, RM–10255; MM Docket No. 01–228, RM–10256; MM Docket No. 01–229, RM–10257; MM Docket No. 01–230, RM–10258; MM Docket No. 01–231, RM–10259; MM Docket No. 01–232, RM–10260; MM Docket No. 01–233, RM–10261; MM Docket No. 01–234, RM–10262]

Radio Broadcasting Services; Hartshorne, OK; Mooreland, OK; Reydon, OK; Junction, TX; Caseville, MI; Deckerville, MI; Harbor Beach, MI; Port Sanilac, MI; Alton, MO; and Firth, NE

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes ten allotments in Hartshorne, OK, Moorland, OK, Reydon, OK, Junction, TX, Caseville, MI, Deckerville, MI, Harbor Beach, MI, Port Sanilac, MI, Alton, MO and Firth, NE. The Commission requests comment on a petition filed by Maurice Salsa proposing the allotment of Channel 252A at Hartshorne, Oklahoma, as the community's first local aural broadcast service. Channel 252A can be allotted to Hartshorne in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.5 km (7.8 miles) southwest of Hartshorne. The coordinates for Channel 252A2 at Hartshorne are 34–45–18 North Latitude and 95–38–24 West Longitude. See Supplementary Information infra.

DATES: Comments must be filed on or before October 29, 2001, and reply comments on or before November 13, 2001.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Maurice Salsa,

5615 Evergreen Valley Drive, Kingwood, Texas 77345; Katherine Pyeatt, 6655 Aintree Circle, Dallas, Texas 75214; Jeraldine Anderson, 1702 Cypress Drive, Irving, Texas 75061; Charles Crawford, 4553 Bordeaux Avenue, Dallas, Texas 75205; and Stephen Gajdosik, President, Starboard Broadcasting, Inc., 2470 Crooks Avenue, Kaukauna, Wisconsin 54130.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Mass Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket Nos 01–225, 01–226, 01–227, 01–228, 01–229, 01–230, 01–231, 01–232, 01–233, and 01–234; adopted August 29, 2001 and released September 7, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, S.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY–B402, Washington, D.C. 20554, telephone (202) 863–2893.

The Commission further requests comment on a petition filed by Katherine Pyeatt proposing the allotment of Channel 300C2 at Mooreland, Oklahoma, as the community's second aural broadcast transmission service. Channel 300C2 can be allotted to Mooreland in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.4 km (2.8 miles) northwest of Mooreland. The coordinates for Channel 300C2 at Mooreland are 36–27–59 North Latitude and 99–14–27 West Longitude.

The Commission further requests comments on a petition filed by Katherine Pyeatt, proposing the allotment of Channel 264C2 at Reydon, Oklahoma, as the community's first local aural broadcast service. Channel 264C2 can be allotted to Reydon in compliance with the Commission's minimum distance separation requirements with a site restriction of 29.9 km (18.6 miles) south of Reydon. The coordinates for Channel 264C2 at Reydon are 35–23–11 North Latitude and 99–52–38 West Longitude.

The Commission further requests comment on a petition filed by Jeraldine Anderson proposing the allotment of Channel 284A at Junction, Texas, as potentially the community's fourth FM transmission service. (Two rulemakings are pending to consider allocation of Channels 297A and 277C3 as second and third FM transmission services.) Channel 284A can be allotted to Junction in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.1 km (1.3 miles) southeast of Junction. The coordinates for Channel 284A at Junction are 30–28–19 North Latitude and 99–45–47 West Longitude.

The Commission further requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 289A at Caseville, Michigan, as the community's first local aural broadcast service. Channel 289A can be allotted to Caseville in compliance with the Commission's minimum distance separation requirements with no site restriction at center city coordinates. The coordinates for Channel 289A at Caseville are 43–56–28 North Latitude and 83–16–17 West Longitude. The proposed allotment will require concurrence by Canada because Caseville is located within 320 kilometers (199 miles) of the Canadian border.

The Commission further requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 297A at Deckerville, Michigan, as the community's first local aural broadcast service. Channel 297A can be allotted to Deckerville in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.7 km (5.4 miles) northwest of Deckerville. The coordinates for Channel 297A at Deckerville are 43–34–38 North Latitude and 82–49–05 West Longitude. The proposed allotment will require concurrence by Canada because Deckerville is located within 320 kilometers (199 miles) of the Canadian border.

The Commission further requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 256A at Harbor Beach, Michigan, as the community's second FM allotment. Channel 256A can be allotted to Harbor Beach in compliance with the Commission's minimum distance separation requirements with no site restriction at center city coordinates. The coordinates for Channel 256A at Harbor Beach are 43–50–41 North Latitude and 82–39–05 West Longitude. The proposed allotment will require concurrence by Canada because Harbor Beach is located within 320 kilometers (199 miles) of the Canadian border.

The Commission further requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 225A at Port Sanilac, Michigan, as the community's first local aural broadcast service. Channel 225A can be allotted to Port Sanilac in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.4 km (5.2 miles) west of Port Sanilac. The coordinates for Channel 225A at Port Sanilac are 43–26–57 North Latitude and 82–38–35 West Longitude. The proposed allotment will require concurrence by Canada because Port Sanilac is located within 320 kilometers (199 miles) of the Canadian border.

The Commission further requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 290A at Alton, Missouri, as the community's first local aural broadcast service. Channel 290A can be allotted to Alton in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.6 km (3.5 miles) north of Alton. The coordinates for Channel 290A at Alton are 36–44–39 North Latitude and 91–24–28 West Longitude.

The Commission further requests comment on a petition filed by Starboard Broadcasting, Inc. proposing the allotment of Channel 229A at Firth, Nebraska, as the community's first local aural broadcast service. Channel 229A can be allotted to Firth in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.8 km (6.7 miles) northwest of Firth. The coordinates for Channel 229A at Firth are 40–36–32 North Latitude and 96–41–08 West Longitude.

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Hartshorne, Channel 252A, by adding Channel 300C2 at Mooreland, and by adding Reydon, Channel 264C2.

3. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Caseville, Channel 289A, by adding Deckerville, Channel 297A, by adding Channel 256A at Harbor Beach, and by adding Port Sanilac, Channel 225A.

4. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by adding Alton, Channel 290A.

5. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by adding Firth, Channel 229A.

6. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 284A at Junction.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–23185 Filed 9–17–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 604

[Docket No. FTA–97–2624]

RIN 2132–AA58

Charter Services Demonstration Program

AGENCY: Federal Transit Administration, DOT.

ACTION: Withdrawal of rulemaking.

SUMMARY: This document withdraws the rulemaking in which the Federal Transit Administration (FTA) proposed to amend its requirements on charter bus service. On June 23, 1997, FTA issued a notice of proposed rulemaking (NPRM) in which it sought public comment on proposed amendments to the charter service regulations. Based on a review of the comments to the NPRM, FTA has concluded that there is no consensus that the proposed changes will improve the ability of public operators to utilize the existing regulatory exceptions to the prohibition against providing charter service when a private charter operator is willing and able to do so. Accordingly, FTA hereby withdraws this rulemaking.

FOR FURTHER INFORMATION CONTACT: Elizabeth S. Martineau, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street, SW., Washington, DC 20590, 202–366–1936.

SUPPLEMENTARY INFORMATION: All documents pertaining to this regulatory action, including the comments to the NPRM, may be viewed and copied at the Docket Management Facility, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001 between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document, and all documents entered into this docket, are available on the World Wide Web at http://dms.dot.gov.

Comments may also be viewed on the Internet. To read the comments on the Internet, take the following steps: Go to the Docket Management System (''DMS'') Web page of the Department of Transportation (http://dms.dot.gov). On that page, click on ''search.'' On the next page (http://dms.dot.gov/search), type in the four-digit docket number. The docket number for this rulemaking is 2624. After typing the docket number, click on ''search.'' On the next page, which contains docket snummary information for the docket you selected, click on the desired comments. You may download the comments.

I. Background

Pursuant to Section 3040 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), FTA established a demonstration program that would permit public transit operators to provide charter services for the purpose of meeting the transit needs of the government, civic, charitable, and other community activities that otherwise would not be served in a cost effective and efficient manner. Congress required the creation of this demonstration program in response to public transit operators' concerns that existing charter service regulations were causing certain transit needs to go unmet.

Public transit operators were particularly concerned about the effect of 49 CFR 604.9. This provision prohibits an FTA recipient from using FTA equipment or facilities to provide any charter service where there is at least one private charter operator that is willing and able to provide the charter service, unless one of the exceptions set out in the regulations is met. Some FTA recipients asserted that they were unable to provide needed charter services to their communities when a private operator had indicated that it was ''willing and able'' but actually did not have the desire or capability to provide certain trips.

According to the Conference Report accompanying ISTEA, (H. Rpt. No. 404, 102nd Cong., 1st Sess. 424 (1991)), the demonstration program was intended to provide public transit operators with additional flexibility not afforded under the existing charter regulations, without creating undue competition for privately owned charter operators. The Conference Report also indicated that the results of the demonstration program were expected to provide Congress and FTA with data to determine the most effective method for providing charter services to local communities and whether the current regulations were in need of modification.

FTA selected the following public transit operators in four states encompassing large and medium sized cities, as well as rural areas, to participate in the demonstration program:

Monterey-Salinas Transit, Monterey, California;
Central Oklahoma Transportation and Parking Authority, Oklahoma City, Oklahoma;
Bi-State Development Agency, St. Louis, Missouri;
Yolo County Transit Authority, Yolo, California;
Isabella County Transportation Commission, Isabella County, Michigan;
Capital Area Transit Authority, Lansing, Michigan;
Marquette County Area Transportation Authority, Marquette, Michigan;
Muskegon Area Transit System, Muskegon, Michigan.

FTA authorized these public transit operators to conduct their demonstration programs beginning on August 9, 1993, and continuing through October 31, 1995.

II. Results of the Charter Demonstration Program

The data gathered as a result of the charter demonstration program did not support the public operators' claims of unmet needs for the groups for which the demonstration was primarily intended: government, civic, charitable, and other community activities. Although the public operators in each area identified groups that would not be

otherwise served in a cost-effective manner, the charter service provided during the demonstration did not serve a significant number of these groups or significantly increase the level of service to these groups. This information was submitted to Congress on June 16, 1998.

III. FTA's Recommended Action and Comments to the NPRM

The results of the demonstration program did not indicate the need for FTA to significantly alter its current service regulations. The results, however, did show that there may be a need for minor changes in order to improve the ability of public operators to utilize the existing exceptions to the prohibition against their providing charter service if a private charter operator is willing and able to do so.

In its June 23, 1997, NPRM, found at 62 FR 33793, FTA sought comment on the following proposals. FTA received twenty-five written comments on the NPRM from public transit authorities, private sector charter providers, trade associations, a union, and a member of Congress.

A. Definition of ''Willing and Able'' Private Operators and Review of the ''Willing and Able'' Determination Process

Proposed change: In order to exclude a private charter operator who may be incapable of providing service within a public transit operator's service area, FTA proposed to narrow the definition of ''willing and able'' contained in 49 CFR 604.5. The amended definition would have defined a ''willing and able'' operator as an operator having one bus or one van and possessing the legal authority to operate the service. That authority included having the necessary safety certifications, licenses and other legal prerequisites to provide charter service to parties located within a 125-mile radius of the recipient's service area.

FTA also proposed to amend 49 CFR 604.13(e) to allow public transit operators to look behind evidence that a private charter operator is ''willing and able'' to provide the requested service if it had valid reasons to believe that the operator was unable to effectively serve local charter needs. The public transit operator would have been required to inform FTA of the finding and FTA would then have made a determination regarding the private operator in question.

Comments: The comments filed generally did not support the proposal to limit the definition of ''willing and able'' to private charter operators located within 125 miles of the service area. Only two commenters expressed support for FTA's proposed change. Twelve commenters suggested that the 125-mile radius was too large and should be reduced. Among the reasons relied on by these commenters were increased burdens on public transit agencies due to surveying additional private operators, increased costs to consumers resulting from the extra drive time to reach the charter group, and a low probability that private charter operators would travel the 125 miles to serve some charter groups.

Eleven commenters submitted alternative suggestions for limiting the definition of ''willing and able.'' Seven of these comments proposed modifications of the geographic limit, which ranged from only the service area to a 75-mile radius. Two commenters favored limiting the definition to a radius of a one hour drive from the service area. In addition, two other commenters recommended that FTA change the existing regulations to permit public transit operators to provide charter service to local governments, nonprofit agencies, and community groups.

Four commenters asserted that no change should be made to the current regulations. They reasoned that any change in the current regulations would create unfair competition for private operators and that the 125-mile radius was arbitrary and the proposal was unclear in how the boundary was to be calculated. It was also argued that private charter operators outside the geographic limit should be considered ''willing and able'' because they may choose to serve the area by positioning vehicles in remote locations or by using the terminal facilities or vehicles of competitors.

Three comments were filed supporting FTA's proposal to allow public transit operators to look behind evidence that a private charter operator is ''willing and able'' to provide the requested service where it has valid reasons to believe that the operator is unable to effectively serve the local charter needs. One commenter opposed the change stating that it would only invite disputes between private and public entities.

B. Extension of Non-Urbanized Area Hardship Exception to Small Urbanized Areas

Proposed Change: Under 49 CFR 604.9(b)(3), an FTA recipient may petition FTA for an exception to provide charter service directly to the customer in non-urbanized areas (population under 50,000) if the charter service provided by the ''willing and able'' private operator would create a hardship on the customer due to state-imposed minimum duration requirements. FTA proposed to extend this exception to small urbanized areas (population between 50,000 and 200,000).

Comments: Seven comments were filed supporting an extension of the non-urbanized area hardship exception to small urbanized areas. Four comments were filed objecting to the extension of the hardship exception. These commenters objecting stated that the extension would cause unfair increases in competition and asserted the results of the charter demonstration project failed to provide evidence of unmet needs. Finally, one commenter added that the hardship exception applies to hardship from state-imposed minimum charges and that few states may actually impose such charges.

C. Amendment of the Exception for Formal Agreements With All Private Charter Operators

Proposed Change: Under 49 CFR 604.9(b)(7), if a public transit operator obtains a written agreement with all ''willing and able'' private operators, it can provide certain specified types of charter services directly to the customer. Some FTA recipients have asserted that it is often impossible to obtain such an agreement with all of the various organizations. Therefore, FTA proposed to amend 49 CFR 604.9(b)(7) to provide that only a two-thirds majority of all local private operators would be required for a formal charter agreement.

Comments: Three commenters stated that FTA should not reduce the level of agreement required under the formal agreement exception to two-thirds of local operators. These commenters based their opposition on the possible unfair injury that the change might have on those carriers not a party to the agreement. One of these commenters suggested that if a reduction is necessary, the two-thirds determination should be based on percentage of revenue, passengers miles, or some other criteria in order to ensure that large carriers are not penalized where a sufficient number of small carriers agree to the exception.

Six commenters supported the proposed reduction in the exception for formal agreements to two-thirds. Six other commenters suggested that FTA go further and reduce the minimum required to create a formal agreement to a simple majority of ''willing and able'' charter operators.

D. Implementation of an Outreach Program To Foster a Better Understanding of the Charter Regulations and Exceptions

Proposed Change: The demonstration program revealed that many public and private operators have an incomplete understanding of FTA's charter requirements and how to use them effectively to serve the charter needs in their communities. Therefore, FTA proposed to implement an outreach program for public and private operators to provide them with a better understanding of how to better utilize the charter regulations and exceptions. The outreach program would have included the distribution of brochures and literature to public and private operators describing the charter bus regulations and exceptions, and examples of how to best utilize the exception process. FTA also proposed to sponsor seminars and information sessions on the charter requirements at meetings and conferences sponsored by various industry groups.

Comments: Eight commenters supported the outreach program as set out in the NPRM. One commenter expressed the view that the outreach program should be designed with the customer in mind. Another commenter stated that an outreach program was unnecessary because the regulations are clear, but the problem is that the exceptions are too restrictive. One commenter stated that an outreach program was unnecessary because nearly all public operators were familiar with these long-standing regulations.

IV. Conclusion

FTA has decided not to make any changes to the charter bus regulations in 49 CFR Part 604. The current rule is not being changed at this time because there is no consensus that the proposed changes will improve the ability of public operators to utilize the existing exceptions to the prohibition against their providing charter service when a private charter operator is willing and able to provide such service.

Issued on: September 13, 2001.

Jennifer L. Dorn,

Administrator.

[FR Doc. 01–23256 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–57–M

Notices

Federal Register
Vol. 66, No. 181
Tuesday, September 18, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection: Comment Request—Food Stamp Program Redemption Certificate, Form FNS–278B; Food Stamp Program Wholesaler Redemption Certificate, Form FNS–278–4

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service is publishing for public comment a summary of a proposed information collection. The proposed collection is an extension, with change, of a currently approved information collection of the Food Stamp Program for which approval expires on November 30, 2001. The Food Stamp Act of 1977, as amended, requires that the Food and Nutrition Service will provide all authorized retail food stores and wholesale food concerns with redemption certificates. The redemption certificates are to be used by all authorized retailers and wholesale firms to present food coupons to insured financial institutions for credit or for cash. Requirements in the Food Stamp Program regulations are the basis for the information collected on Form FNS–278B, Food Stamp Redemption Certificate and Form FNS–278–4, Wholesaler Redemption Certificate.

DATES: Comments on this notice must be received by November 19, 2001 to be assured of consideration.

ADDRESSES: Send comments to Karen J. Walker, Chief, Retailer Management Branch, Benefit Redemption Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 404, Alexandria, VA 22302.

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), 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 has 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments will be summarized and included in the request for Office of Management and Budget approval of the information collection. All comments will become matter of public record.

FOR FURTHER INFORMATION CONTACT: Karen J. Walker, (703) 305–2418.

SUPPLEMENTARY INFORMATION:

Title: Food Stamp Redemption Certificate.

OMB Number: 0584–0085.

Expiration Date: November 30, 2001.

Type of Request: Revision of a currently approved information collection.

Abstract: The Food and Nutrition Service (FNS) of the U.S. Department of Agriculture is the Federal Agency responsible for the Food Stamp Program (FSP). Section 10 of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2019) requires that FNS provide for the redemption, through financial institutions, of food coupons accepted by approved retail food stores and wholesale food concerns from program participants. 7 CFR 278.3 and 7 CFR 278.4 of the FSP regulations govern the participation of authorized wholesale food concerns and retail stores in the food coupon redemption process. Form FNS–278B, Food Stamp Redemption Certificate and Form FNS–278–4, Wholesaler Redemption Certificates (RCs) are required to be used by all authorized wholesalers or retailers, and are processed by financial institutions when they are presented for cash or credit. Without the RCs, no vehicle would exist for financial institutions, Federal Reserve Banks, and FNS to track deposits of food coupons.

The burden associated with this form is derived from the number of RCs processed annually, based on information available in our Store Tracking and Redemption System (STARS) database. As of April 2001, the number of program respondents was 158,365 retailers and wholesalers and 5,850 banks participating in the Food Stamp Program. The number of completed RC responses by authorized retailers was 5,521,243 annually. We estimate that it takes an average of 1.2 minutes (or .020 hours) for a retailer to complete the information on the RC and for the financial institution to handle and process the document. For this information collection package, we calculated the burden hours from each year, added them together (2002–2004) and divided by three to obtain the average burden for which we are seeking OMB approval. We estimate the average burden hours for the next three years to be 135,947.02.

The burden for each of the three fiscal years (FYs) are estimated as follows:

In FY 2002, we estimate the number of program respondents will be 152,515 respondents with 5,850 banks continuing to participate in the FSP—reduction of 3,113 (or 2 percent) respondents. We also estimate that the number of completed RC responses by authorized retailers to be 10,497,840 annually—providing for a reduction of 2,624,460 (or 20 percent) annual responses, and a total burden hours calculated to be 209,956.80 hours.

In FY 2003, we estimate the number of program respondents will be 149,465 respondents with 5,850 banks continuing to participate in the FSP—a reduction of 3,050.30 (or 2 percent) respondents. We also estimate that the number of completed RC responses by authorized retailers to be 6,823,596 annually—providing for a reduction of 3,674,244 (or 35 percent) annual responses, and a total burden hours calculated to be 136,471.92 hours.

In FY 2004, we estimate the number of program respondents will be 147,223 respondents with 5,850 banks continuing to participate in the FSP—a reduction of 2,241.97 (or 1.5 percent) respondents. We also estimate that the number of completed RC responses by authorized retailers to be 3,070,618

annually—providing for a reduction of 3,752,977.80 (or 55 percent) annual responses, and a total burden hours calculated to be 61,412.364 hours.

The estimated reduction of respondents and annual burden hours is based on a projected decrease in the number of authorized retailers participating in the FSP, and a decrease in the number of RCs processed as a result of fewer authorized retailers accepting paper food coupons due to the increased use of the Electronic Benefit Transfer system.

Affected Public: Businesses, wholesale food concerns, or other not-for profit financial institutions.

Estimated Average Number of Respondents: 155,584.

Estimated Average Annual Number of Responses per Respondent: 43.68923.

Estimated Total Average Annual Responses: 6,797,351.

Estimate of Burden: Estimated to average .020 hours per response.

Estimated Total Average Annual Burden: 135,947.02 hours.

Dated: September 4, 2001.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 01–23215 Filed 9–17–01; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Child Nutrition Database

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Food and Nutrition Service to request an extension of a currently approved collection. This collection is the voluntary submission of data including nutrient data from the food service industry to expand the Child Nutrition Database in support of the School Meal Initiatives for Healthy Children.

DATES: Comments on this notice must be received by November 19, 2001 to be assured of consideration.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of 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 use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval and will become a matter of public record. Comments may be sent to: William Wagoner, Team Leader, Technical Assistance Section, Nutrition Promotion and Training Branch, Child Nutrition Division, room 632, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instruction should be directed to William Wagoner at (703) 305–2609.

SUPPLEMENTARY INFORMATION:

Title: Data Collection to Expand the Child Nutrition Database.

OMB Number: 0584–0494.

Expiration Date: 02–2002.

Type of Request: Extension of currently approved collection.

Abstract: The development of the Child Nutrition (CN) Database, previously known as the National Nutrient Database for Child Nutrition Programs, is regulated by the United States Department of Agriculture (USDA) School Meal Initiatives for Healthy Children. This database is designed to be incorporated in USDA approved nutrition analysis software programs and provide an accurate source of nutrient data. The software allows schools participating in the National School Lunch (NSLP) and School Breakfast (SBP) Programs to analyze meals and measure the compliance of the menus to established nutrition goals and standards specified in 7 CFR 210.10 for the NSLP and 7 CFR 220.8 for the SBP. The information collection for the CN Database is conducted using an outside contractor. The CN Database needs to be updated with an extensive database of brand name or manufactured foods commonly used in school food service. The Food and Nutrition Service's contractor collects this data from the food industry to expand the CN Database. The submission of data from the food industry will be strictly voluntary, and based on analytical, calculated, or nutrition facts label sources.

Respondents: The respondents are the manufacturers of food products for school food service.

Estimate of Burden

Form FNS–709

Number of Respondents: 60.

Estimated Number of Responses per Respondent: 50.

Estimated Time per Response: 0.33 Hours (20 Minutes).

Total Annual Burden: 1,000 Hours.

Form FNS–710

Number of Respondents: 15.

Estimated Number of Responses per Respondent: 50.

Estimated Time per Response: 2 Hours.

Total Annual Burden: 1500 Hours.

Total Annual Burden for Form 710 & 709: 2500 Hours.

Dated: September 7, 2001.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 01–23216 Filed 9–17–01; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council will meet in Burlington, Vermont, October 4–6, 2001. The purpose of the meeting is to discuss emerging issues in urban and community forestry.

DATES: The meeting will be held October 4–6, 2001. A tour of local projects will be held on October 4 from 8:30 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 1068 Williston Road, Burlington, Vermont. Individuals who wish to speak at the meeting or to propose agenda items must send their names and proposals to Suzanne M. del Villar, Executive Assistant, National Urban and Community Forestry Advisory Council, 20628 Diane Drive, Sonora, CA 95370. Individuals also may fax their names and proposed agenda items to (209) 536–9089.

FOR FURTHER INFORMATION CONTACT: Suzanne M. del Villar, Cooperative Forestry Staff, (209) 536–9201.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Although

council discussion is limited to Forest Service staff and Council members, persons who wish to bring urban and community forestry matters to the attention of the Council may file written statements with the Council staff before or after the meeting. Public input sessions will be provided and individuals who have made written requests by October 1 will have the opportunity to address the Council at those sessions.

Dated: August 30, 2001.

Michael T. Rains,

Deputy Chief, State and Private Forestry.

[FR Doc. 01–23199 Filed 9–17–01; 8:45 am]

BILLING CODE 3410–11–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 18, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: On July 27, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 FR 39142) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are added to the Procurement List:

Services

Central Facility Management

Bureau of Alcohol, Tobacco and Firearms, Canine Training Facility, 122 Calvary Drive, Front Royal, Virginia.

Commissary Shelf Stocking, Custodial & Warehousing

Marine Corps Base, Twenty-Nine Palms, California.

Janitorial/Custodial

Anniston Army Depot, Anniston, Alabama.

Janitorial/Custodial

Naco Border Patrol Station, 2136 Naco Highway, Bisbee, Arizona.

Janitorial/Custodial

Department of the Interior, Main and South Buildings, Washington, DC.

Janitorial/Custodial

USDA/Henry A. Wallace Beltsville Agricultural Center, Beltsville, Maryland.

Records Management Service

USAF Reserve Personnel Center, Denver, Colorado.

Vehicle Registration Service

River's Building, Information Center and Mail Provost Marshall's Office, Fort Hood, Texas.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–23253 Filed 9–17–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 18, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice for each service will be required to procure the service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following service is proposed for addition to Procurement List for production by the nonprofit agencies listed:

Service

Office Supply Store

Federal Aviation Administration, Mike Monroney Aeronautical Center,

Oklahoma City, Oklahoma, NPA: San Antonio Lighthouse, San Antonio, Texas.

Government Agency: Federal Aviation Administration.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for deletion from the Procurement List.

The following commodities are proposed for deletion from the Procurement List:

Commodities

Body Fluids Barrier Kit

6515–01–376–7247

Binder, Note Pad

7510–00–728–8060

Refill, Ballpoint Pen, Stick, Rubberized

7510–01–357–6831
7510–01–357–6832
7510–01–357–6834
7510–01–446–4853
7510–01–446–4854

Ballpoint Pen, Stick, Rubberized Barrel

7520–01–442–3019

Card, Guide, File

7530–00–988–6518
7530–00–988–6521
7530–00–988–6522

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–23254 Filed 9–17–01; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1179]

Grant of Authority; Establishment of a Foreign-Trade Zone in Seminole County, FL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Sanford Airport Authority (the Grantee), a Florida public corporation, has made application to the Board (FTZ Docket 53–2000, filed September 5, 2000), requesting the establishment of a foreign-trade zone at sites in Seminole County, Florida, within the Sanford Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register** (65 FR 55221, September 13, 2000); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 250, at the sites described in the application, and subject to the Act and the Board's regulations, including § 400.28, and subject to the standard 2,000-acre activation limit.

Signed at Washington, DC, this 28th day of August 2001.

Foreign-Trade Zones Board.

Donald L. Evans,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–23243 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1182]

Grant of Authority; Establishment of a Foreign-Trade Zone in Edinburg (Hidalgo County), TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the City of Edinburg, Texas (the Grantee), has made application to the Board (FTZ Docket 55–2000, filed September 22, 2000), requesting the establishment of a foreign-trade zone at a site in Edinburg (Hidalgo County), Texas, adjacent to the Hidalgo/Pharr Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register** (65 FR 58509, September 29, 2000); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 251, at the site described in the application, and subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 28th day of August 2001.

Foreign-Trade Zones Board.

Donald L. Evans,

Secretary of Commerce, Chairman and Executive Officer.

[FR Doc. 01–23244 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1183]

Grant of Authority; Establishment of a Foreign-Trade Zone in Amarillo, TX Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the City of Amarillo, Texas (the Grantee), has made application to the Board (FTZ Docket 6–2001, filed January 22, 2001), requesting the establishment of a foreign-trade zone at sites in the Amarillo/High Plains, Texas, area, adjacent to the Amarillo Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register** *(66 FR 8197, 1/30/01); and,*

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 252, at the sites described in the application, and subject to the Act and the Board's regulations, including Section 400.28, and subject to the standard 2,000-acre activation limit.

Signed at Washington, DC, this 28th day of August 2001.

Foreign-Trade Zones Board.

Donald L. Evans,

Secretary of Commerce, Chairman and Executive Officer.

[FR Doc. 01–23245 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091301A]

North Pacific 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 North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings on October 1–8, 2001, in Seattle, WA. All meetings are open to the public except executive sessions which may be held during the week at which the Council may discuss personnel issues and/or current litigation.

DATES: The Council's Advisory Panel will begin at 8 a.m., Monday, October 1, 2001, and continue through Friday, October 5, 2001. The Scientific and Statistical Committee (SSC) will begin at 8 a.m. on Monday, October 1, 2001, and continue through Wednesday, October 3, 2001. The Council will begin their plenary session at 8 a.m. on Wednesday, October 3, 2001, continuing through Monday, October 8, 2001.

ADDRESSES: All meetings will be held at the Doubletree Hotel, 18740 Pacific Highway South, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, Phone: 907–271–2809.

SUPPLEMENTARY INFORMATION: *Council:* The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports:
   (a) Executive Director's Report.
   (b) State Fisheries Report by Alaska Department of Fish and Game.
   (c) NMFS Management Report.
   (d) Enforcement and Surveillance reports by NMFS and the U.S. Coast Guard.
2. Halibut Charter Individual Fishery Quota (IFQ) Program: The Council will review previous action approving an IFQ program and consider further action as necessary.
3. Steller sea lion (SSL) measures:
   (a) Receive final report from independent review team.
   (b) Take final action on management measures for the protection of SSL for 2002 and beyond.
4. Seabird Avoidance Measures
   (a) Review research results from Washington Sea Grant.
   (b) Final action on revisions to regulations for seabird avoidance measures in the groundfish fisheries, if necessary analyses are available.
5. American Fisheries Act (AFA):
   (a) Review Environmental Impact Statement and proposed rulemaking for 2002; provide comments as appropriate.
   (b) Final comments on Report to Congress.
   (c) Review discussion paper on AFA status and possible extension of current regulations.
   (d) Review status of other AFA-related amendments and contracts.
6. Draft Groundfish Programmatic Supplemental Environmental Impact Statement (SEIS): Receive status report.
7. Essential Fish Habitat (EFH) Environmental Impact Statement:
   (a) Receive scoping summary and EFH Committee report.
   (b) Review final guidelines from the North Pacific Fishery Management Council.
8. Community Development Quota (CDQ) Program:
   (a) Initial review of regulatory amendments for Halibut Areas 4D/4E.
   (b) Initial review of analysis for amendments to the CDQ groundfish regulations.
9. Groundfish Management:
   (a) Review of Stock Assessment and Fishery Evaluation (SAFE) documents for Bering Sea/Aleutian Islands (BSAI) and Gulf of Alaska (GOA) groundfish fisheries for 2002.
   (b) Approve preliminary groundfish harvest specifications for the 2002 groundfish fisheries, including prohibited species catch limits.
10. Crab Management:
   (a) Review the SAFE document for BSAI King and Tanner crab fisheries.
   (b) Receive report from the Crab Plan Team.
11. Staff Tasking: Review current staff tasking and projects to be tasked; provide direction to staff.

Advisory Meetings

Advisory Panel: The agenda for the Advisory Panel will mirror that of the Council listed above, with the exception of the reports under Item 1 and the Halibut Charter IFQ issue (Item 2).

Scientific and Statistical Committee: The Scientific and Statistical Committee will address the following issues:

1. Steller sea lion measures listed under Item 3 of the Council agenda noted above.
2. Seabird avoidance measures (Item 4 on the Council agenda).
3. Groundfish Programmatic SEIS (Item 6 on the Council agenda).
4. SAFE documents for BSAI and GOA groundfish fisheries (Item 9 on the Council agenda).
5. Crab Management SAFE (Item 10 on the Council agenda). Other committees and workgroups may hold impromptu meetings throughout the meeting week. Such meetings will be announced during regularly-scheduled meetings of the Council, Advisory Panel, and SSC, and will be posted at the hotel.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issue arising after publication of this notice that require emergency action under section 305(c) of the Magnuson Stevens Fishery Conservation and Management Act, provided the public has been notified of

the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen at 907–271–2809 at least 7 working days prior to the meeting date.

Dated: September 13, 2001.

Richard W. Surdi,

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

[FR Doc. 01–23252 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090601A]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's (Council) Salmon Technical Team (STT) will hold a work session, which is open to the public.

DATES: The work session will be held Tuesday, October 9, 2001, from 8 a.m. to 4 p.m., and Wednesday, October 10, 2001, from 8 a.m. to 4 p.m.

ADDRESSES: The work session will be held at NMFS Southwest Fisheries Science Center, Santa Cruz Laboratory, Main Conference Room 188, 110 Shaffer Road, Santa Cruz, CA 95060; (831) 420–3900.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy; (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the work session is to finalize the Queets River coho stock assessment report; review the content and process for development of the preseason ocean salmon fishery planning documents; discuss Council Operation Procedures for the STT; and prioritize and schedule upcoming tasks.

Although non-emergency issues not contained in the meeting agenda may come before the STT for discussion, those issues may not be the subject of formal STT action during this meeting. STT action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the STT's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: September 7, 2001.

Richard W. Surdi,

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

[FR Doc. 01–23251 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Technology Administration

Technology Administration Performance Review Board Membership

September 2001.

The Technology Administration Performance Review Board reviews performance appraisals, agreements, and recommended actions pertaining to employees in the Senior Executive Service and reviews performance-related pay increases for ST–3104 employees. The Board makes recommendations to the appropriate appointing authority concerning such matters so as to ensure the fair and equitable treatment of these individuals.

The following is the full membership of the Board:

Bruce P. Mehlman (PAS), Assistant Secretary for Technology Policy, Technology Administration, Washington, D.C. 20230, Appointment Expires: 12/31/03

Gordon W. Day (CR), Chief, Optoelectronics Division, Electronics and Engineering Laboratory Office, National Institute of Standards & Technology, Boulder, CO 80303, Appointment Expires: 12/31/01

Dale E. Hall (CR), Deputy Director, Materials Science and Engineering Laboratory, Materials Science and Engineering Laboratory, National Institute of Standards & Technology, Gaithersburg, MD 20899–8500, Appointment Expires: 12/31/01

Karen H. Brown (GC), Deputy Director, National Institute of Standards &Technology, Gaithersburg, MD 20899–1000, Appointment Expires: 12/31/03

Daniel Hurley (CR), Director of Communication and Information Infrastructure Assurance Program, National Telecommunications and Information Administration, Washington, D.C. 20230, Appointment Expires: 12/31/03

Ronald Lawson (GC), Director, National Technical Information Service, Springfield, VA 22161, Appointment Expires: 12/31/03

Dennis Swyt (CR), Chief, Precision Engineering Division, Manufacturing Engineering Laboratory, National Institute of Standards & Technology, Gaithersburg, MD 20899–8210, Appointment Expires: 12/31/02

Robert F. Moore (CR), Deputy Director for Safety and Facilities, National Institute of Standards & Technology, Gaithersburg, MD 20899–3200, Appointment Expires: 12/31/03

Cynthia Clark (CR), Associate Director for Methodology & Standards, Census Bureau, Washington, DC 20233, Appointment Expires: 12/31/01

Susan Zevin (CR), Deputy Director, Information Technology Laboratory, Information Technology Laboratory, National Institute of Standards & Technology, Gaithersburg, MD 20899–8900, Appointment Expires: 12/31/02

Dated: August 27, 2001.

Samuel W. Bodman,

Deputy Secretary, Department of Commerce.

[FR Doc. 01–23214 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–18–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

September 12, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 18, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota

status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://www.otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 448 is being increased for carryover and swing from the Fabric Group, reducing the limit for the Fabric Group to account for the swing being applied to Category 448.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66730, published on November 7, 2000.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 12, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Turkey and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 18, 2001, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Fabric Group 219, 313–O [2], 314–O [3], 315–O [4], 317–O [5], 326–O [6], 617, 625/626/627/628/629, as a group.	205,092,517 square meters of which not more than 51,611,668 square meters shall be in Category 219; not more than 63,080,926 square meters shall be in Category 313–O; not more than 36,701,630 square meters shall be in Category 314–O; not more than 49,317,818 square meters shall be in Category 315–O; not more than 51,611,668 square meters shall be in Category 317–O; not more than 5,734,628 square meters shall be in Category 326–O, and not more than 34,407,781 square meters shall be in Category 617.
Limits not in a Group 448	46,660 dozen..

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[3] Category 314–O: all HTS numbers except 5209.51.6015.

[4] Category 315–O: all HTS numbers except 5208.52.4055.

[5] Category 317–O: all HTS numbers except 5208.59.2085.

[6] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
Philip J. Martello,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–23207 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

September 12, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 18, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69742, published on November 20, 2000.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 12, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 14, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and

man–made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 18, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
335	149,715 dozen.
347/348	3,326,036 dozen.
361	2,746,360 numbers.
635	559,973 dozen.
647/648	1,865,831 dozen.
Group II	
200–227, 300–326, 332, 359–O [2], 360, 362, 363, 369–O [3], 400–414, 434–438, 440, 442, 444, 448, 459pt. [4], 464, 469pt. [5], 600–607, 613–629, 644, 659–O [6], 666, 669–O [7], 670–O [8], 831, 833–838, 840–846, 850–858 and 859pt. [9], as a group	253,937,335 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); and 6406.99.1550 (359pt.).

[3] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700 (Category 369pt.).

[4] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[5] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[6] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6406.99.1510 and 6406.99.1540 (Category 659pt.).

[7] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040 (Category 669pt.).

[8] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670–L).

[9] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–23206 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–DR–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Meeting

The Board of Directors of the Corporation for National and Community Service gives notice of the following meeting:

DATE AND TIME: September 24, 2001, 9:30 a.m.–12 noon.

PLACE: Corporation for National and Community Service, 1201 New York Avenue NW., 8th Floor, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Committees of the Board of Directors will report on their activities. In addition, the Board will engage in the following reports and discussions: Learning in Deed; State Education Agency Network; Universities and Serve Study.

ACCOMMODATIONS: Anyone who needs an interpreter or other accommodation should notify the Corporation's contact person.

CONTACT PERSON FOR FURTHER INFORMATION: Rhonda Taylor, Deputy Director of Public Liaison, Corporation for National Service, 8th Floor, Room 8619, 1201 New York Avenue NW., Washington, DC 20525. Phone (202) 606–5000 ext. 282. Fax (202) 565–2794. TDD: (202) 565–2799. E-mail: Rtaylor@cns.gov.

Dated: September 14, 2001.

Frank R. Trinity,

Acting General Counsel, Corporation for National and Community Service.

[FR Doc. 01–23339 Filed 9–14–01; 2:03 pm]

BILLING CODE 6050–$$–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0097]

Federal Acquisition Regulation; Submission for OMB Review; Information Reporting to the Internal Revenue Service (IRS) (Taxpayer Identification Number)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0097).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat 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 reporting to the internal revenue service (IRS) (taxpayer identification number). A request for public comments was published at 66 FR 33666, June 25, 2001. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before October 18, 2001.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Laura Smith, Acquisition Policy Division, GSA (202) 208–7279.

SUPPLEMENTARY INFORMATION:

A. Purpose

Subpart 4.9, Information Reporting to the Internal Revenue Service (IRS), and the provision at 52.204–3, Taxpayer Identification, implement statutory and regulatory requirements pertaining to taxpayer identification and reporting.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows:

Respondents: 250,000.
Responses Per Respondent: 12.
Total Responses: 3,000,000.
Hours Per Response: .10.
Total Burden Hours: 300,000.

Obtaining Copies of Proposals

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVP), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0097, Information Reporting to the Internal Revenue Service (IRS) (Taxpayer Identification Number), in all correspondence.

Dated: September 10, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–23195 Filed 9–17–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Proposal To Reissue and Modify Nationwide Permits; Notice

AGENCY: Army Corps of Engineers, DoD.

ACTION: Reschedule nationwide permit public hearing.

SUMMARY: In the August 9, 2001, issue of the **Federal Register** (66 FR 42070) the Corps of Engineers (Corps) announced that it was soliciting comments for the reissuance of the proposed Nationwide Permits (NWPs), General Conditions, and definitions with some modifications. The notice also announced that a public hearing for the proposed Nationwide Permits would be held on September 12, 2001. Due to the attack on the World Trade Center and the Pentagon on September 11, 2001, the hearing was postponed. The hearing has been rescheduled for September 26, 2001.

DATES: The hearing will be held at 12:30 p.m. on September 26, 2001.

ADDRESSES: The hearing will be held at the GAO Building, 441 ''G'' Street, NW., Washington, DC 20314–1000, 7th floor auditorium.

FOR FURTHER INFORMATION CONTACT: Rich White at (202) 761–4599 or access the U.S. Army Corps of Engineers Regulatory homepage at: *http://www.usace.army.mil/inet/functions/cw/cecwo/reg/*. Please send comments in regards to the reissuance of the proposed Nationwide Permits (NWPs), General Conditions, and definitions with some modifications to HQUSACE, ATTN: CECW–OR, 441 ''G'' Street, NW., Washington, DC 20314–1000.

SUPPLEMENTARY INFORMATION: Current security measures require that persons interested in attending the hearing must pre-register with us before 4 p.m. September 25, 2001. Please contact Rich White at 202–761–4599 to pre-register. The public should enter on the ''G'' Street side of the GAO Building. All attendees are required to show photo identification and must be escorted to the auditorium by Corps personnel. Attendee's bags and other possessions are subject to be searched. All attendees arriving between one-half hour before and one-half hour after 12:30 p.m. will be escorted to the hearing. Those that are not pre-registered and/or arriving later than the allotted time will be unable to attend the public hearing.

The public is invited to provide comments on this notice to reissue and modify NWPs. Please send comments to HQUSACE, ATTN: CECW–OR, 441 ''G'' Street, NW., Washington, DC 20314–1000.

Dated: September 13, 2001.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 01–23286 Filed 9–17–01; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 18, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10202, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address Karen _F._Lee@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 12, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New.
Title: International Adult Literacy and Lifestyle Skills Survey.
Frequency: One time.
Affected Public: Businesses or other for-profit.
Reporting and Recordkeeping Hour Burden:
Responses: 2,320.
Burden Hours: 5,140.
Abstract: The International Adult Literacy and Lifeskills Survey (IALL) will collect internationally comparable information on the literacy and numeracy performance of adults from around the world. The IALL will be administered in the general household population aged 16–65 and in selected federally-funded adult education programs. The IALL house assessment

will provide a detailed picture of the literacy and numeracy skills of U.S. adults compared to adults from other countries. The IALL adult education programs and how they differ from the U.S. general population and international populations.

Request for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (540) 776–7742 or via her internet address Kathy.Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–23192 Filed 9–17–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services List of Correspondence

AGENCY: Department of Education.

ACTION: List of correspondence from April 1, 2001 through June 30, 2001.

SUMMARY: The Secretary is publishing the following list pursuant to section 607(d) of the Individuals with Disabilities Education Act (IDEA). Under section 607(d) of IDEA, the Secretary is required, on a quarterly basis, to publish in the **Federal Register** a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of IDEA or the regulations that implement IDEA.

FOR FURTHER INFORMATION CONTACT: Melisande Lee or JoLeta Reynolds. Telephone: (202) 205–5507. If you use a telecommunications device for the deaf (TDD) you may call (202) 205–5465 or the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to Katie Mincey, Director of the Alternate Formats Center. Telephone: (202) 205–8113.

SUPPLEMENTARY INFORMATION: The following list identifies correspondence from the Department issued between April 1, 2001 through June 30, 2001.

Included on the list are those letters that contain interpretations of the requirements of IDEA and its implementing regulations, as well as letters and other documents that the Department believes will assist the public in understanding the requirements of the law and its regulations. The date and topic addressed by a letter are identified, and summary information is also provided, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been deleted, as appropriate.

Part B—Assistance for Education of All Children With Disabilities

Section 611—Authorization; Allotment; Use of Funds; Authorization of Appropriations

Topic Addressed: Distribution of Funds

- Letter dated June 14, 2001 to U.S. Senator Richard J. Lugar, describing actual and proposed increases in Federal funding levels for special education programs and initiatives to reduce the cost of special education.
- OSEP memorandum 01–14 dated June 6, 2001, regarding implementation of the 20 percent rule in 34 CFR 300.233 and clarifying which funds under Part B of IDEA can be included under the 20 percent calculation.
- OSEP memorandum 01–13 dated June 4, 2001, regarding implementation of the new funding formula under IDEA and the year of age cohorts for which a free appropriate public education (FAPE) is ensured.

Topic Addressed: Use of Funds

- Letter dated May 24, 2001 to U.S. Congressman Mac Thornberry, clarifying that although IDEA funds may not be used to pay litigation expenses, these funds may be used to increase cooperative problem solving and to promote the use of alternative dispute resolution.
- Letter dated April 16, 2001 to U.S. Congresswoman Rosa L. DeLauro, regarding the use of non-Federal funding to supplement Federal Part B funds for children with disabilities placed by their parents in private or parochial schools.

Section 612—State Eligibility

Topic Addressed: Free Appropriate Public Education

- Letter dated May 18, 2001 (personally identifiable information redacted), regarding the inability of complaint mechanisms under the IDEA to assist individuals who are well over the age limit in Part B to receive special education services.

Topic Addressed: Children in Private Schools

- Letter dated May 18, 2001 (personally identifiable information redacted), regarding placement of children with disabilities in private schools under Part B and possible funding sources for private school placement.

Topic Addressed: State Educational Agency General Supervisory Authority

- Letter dated May 24, 2001 (personally identifiable information redacted), regarding a State's obligation to ensure that referral and placement of students with disabilities by a local educational agency complies with Federal and State requirements under the IDEA.
- Letter dated April 16, 2001 to U.S. Congressman Wayne T. Gilchrest, and letter dated April 30, 2001 (personally identifiable information redacted), regarding the finality of due process hearings and whether the State statute concerning limitations to reimbursement for private school tuition and exceptions for those limitations complies with the requirements of the IDEA.

Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements Topic Addressed: Evaluations And Reevaluations

- Letter dated April 16, 2001 (personally identifiable information redacted), clarifying the obligations of school districts and the rights of parents regarding reevaluations of children who have or are suspected of having disabilities.

Topic Addressed: Individualized Education Programs

- Letter dated April 16, 2001 to U.S. Congresswoman Jo Ann Emerson, regarding the obligation of public agencies to provide eyeglasses to a student and the procedural safeguards available to parents who disagree with the content of their child's individualized education program.

Section 615—Procedural Safeguards

Topic Addressed: Due Process Hearings

• Letter dated April 19, 2001 to Virginia Department of Education Director Judith A. Douglas, regarding whether a State educational agency is required to convene a due process hearing initiated by someone other than the parent of a child with a disability or a public agency.

Topic Addressed: Surrogate Parents

• Letter dated April 16, 2001 to Pinal County, Arizona Deputy County Attorney Linda L. Harant, regarding the appointment of surrogate parents for children who are wards of a tribal court.

Topic Addressed: Student Discipline

• Letter dated April 16, 2001 to Professor Perry A. Zirkel, regarding the calculation of disciplinary removals of up to 10 school days to determine whether a change in placement has occurred and the provision of FAPE during periods of suspension or expulsion from school.

Section 619—Preschool Grants

Topic Addressed: Use of Funds

• Letter dated June 29, 2001 to Connecticut Bureau of Early Childhood Education and Social Services Chief Paul Flinter, regarding allowable uses of Preschool Grant State set-aside funds.

Part C—Infants and Toddlers with Disabilities

Section 635—Requirements for a Statewide System

Topic Addressed: Eligibility Criteria

• Letter dated May 17, 2001 to South Dakota Office of Special Education Director Deborah Barnett and South Dakota Interagency Coordinating Council Member Joanne Wounded Head, regarding the use of informed clinical opinion in determining eligibility, the provision of respite care and transportation as part of early intervention services, and the need for appropriately trained staff.

• Letter dated May 3, 2001 to Arkansas Department of Human Services Director Kurt Knickrehm, clarifying the need to review public awareness and child find activities to ensure that culturally appropriate materials are provided to all populations in the State and that States can establish initial eligibility criteria but cannot set additional criteria for individual services for a child who has already been determined to be eligible under Part C.

• Letter dated May 2, 2001 to Dr. Garry Gardner, regarding the flexibility that Part C provides States in defining the ''developmental delay'' category for determining the eligibility of infants and toddlers with disabilities and the procedures that States must follow in making changes to this category.

Section 636—Individualized Family Service Plan

Topic Addressed: Early Intervention Services

• Letter dated April 16, 2001 to U.S. Senator Robert C. Byrd, regarding the individualized family service plan (IFSP) process in determining the intensity and frequency of early intervention services under Part C, along with the financial responsibility for these services.

Topic Addressed: Natural Environments

• Letter dated June 14, 2001 to U.S. Congressman Ike Skelton, regarding the history and changes to the natural environments requirements of Part C of IDEA since the early intervention program was originally enacted, and clarifying that the need for parent networking and parent training could be addressed through the provision of appropriate services in the child's individualized family services plan (IFSP).

Other Letters Relevant to the Administration of IDEA Programs

Topic Addressed: Assistance Under Other Federal Programs

• OSEP memorandum 01–09 dated May 24, 2001, regarding information about new regulations affecting the determination of childhood disability under the Social Security Administration's Supplemental Security Income program.

• Letter dated April 16, 2001 to Joseph Kinney, regarding use of Federal Medicaid funds to pay for required services under Part B of the IDEA for children with disabilities.

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(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

Dated: September 13, 2001.

Robert H. Pasternack,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 01–23242 Filed 9–17–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Notice of Intent To Prepare an Environmental Impact Statement for Depleted Uranium Hexafluoride Conversion Facilities

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy (DOE) announces its intention to prepare an Environmental Impact Statement (EIS) for a proposal to construct, operate, maintain, and decontaminate and decommission two depleted uranium hexafluoride (DUF_6) conversion facilities, at Portsmouth, Ohio, and Paducah, Kentucky. DOE would use the proposed facilities to convert its inventory of DUF_6 to a more stable chemical form suitable for storage, beneficial use, or disposal. Approximately 700,000 metric tons of DUF_6 in about 57,700 cylinders are stored at Portsmouth and Paducah, and at an Oak Ridge, Tennessee site. The EIS will address potential environmental impacts of the construction, operation, maintenance, and decontamination and decommissioning of the conversion facilities. DOE will hold public scoping meetings near the three involved sites.

DATES: DOE invites public comments on the proposed scope of the DUF_6 conversion facilities EIS. To ensure consideration, comments must be postmarked by November 26, 2001. Late comments will be considered to the extent practicable. Three public scoping meetings will be held near Portsmouth, Ohio; Paducah, Kentucky; and Oak Ridge, Tennessee. The scoping meetings will provide the public with an opportunity to present comments on the scope of the EIS, and to ask questions and discuss concerns with DOE officials regarding the EIS. The location, date, and time for these public scoping meetings are as follows:

Portsmouth, Ohio: Thursday, November 1, 2001, from 6–9 p.m. at the Vern Riffe Pike County Vocational School,

175 Beaver Creek Road—off State Route 32, Piketon, Ohio 45661.

Paducah, Kentucky: Tuesday, November 6, 2001, from 6–9 p.m. at the Information Age Park Resource Center, 2000 McCracken Blvd., Paducah, Kentucky 42001.

Oak Ridge, Tennessee: Thursday, November 8, 2001, from 6–9 p.m. at the Pollard Auditorium, Oak Ridge Institute for Science and Education, 210 Badger Avenue, Oak Ridge, Tennessee 37831.

ADDRESSES: Please direct comments or suggestions on the scope of the EIS and questions concerning the proposed project to: Kevin Shaw, U.S. Department of Energy, Office of Environmental Management, Office of Site Closure—Oak Ridge Office (EM–32), 19901 Germantown Road, Germantown, Maryland 20874, fax (301) 903–3479, e-mail *DUF_6.Comments@em.doe.gov* (please use ''NOI Comments'' for the subject).

FOR FURTHER INFORMATION CONTACT: For information regarding the proposed project, contact Kevin Shaw, as above. For general information on the DOE NEPA process, please contact Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119, telephone (202) 586–4600 or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

Depleted UF_6 results from the process of making uranium suitable for use as fuel in nuclear reactors or for military applications. The use of uranium in these applications requires increasing the proportion of the uranium-235 isotope found in natural uranium, which is approximately 0.7 percent (by weight), through an isotopic separation process. A U-235 '''enrichment''' process called gaseous diffusion has historically been used in the United States. The gaseous diffusion process uses uranium in the form of UF_6, primarily because UF_6 can conveniently be used in the gas form for processing, in the liquid form for filling or emptying containers, and in the solid form for storage. Solid UF_6 is a white, dense, crystalline material that resembles rock salt.

Over the last five decades, large quantities of uranium were enriched using gaseous diffusion. ''Depleted'' UF_6 (DUF_6) is a product of the process and was stored at the three uranium enrichment sites located at Paducah, Kentucky; Portsmouth, Ohio; and the East Tennessee Technology Park (ETTP—formerly known as the K–25 Site) in Oak Ridge, Tennessee. Depleted uranium is uranium that, through the enrichment process, has been stripped of a portion of the uranium-235 that it once contained so that it has a lower uranium-235 proportion than the 0.7 weight-percent found in nature. The uranium in most of DOE's DUF_6 has between 0.2 to 0.4 weight-percent uranium-235.

DOE has management responsibility for approximately 700,000 metric tons (MT) of DUF_6 contained in about 57,700 steel cylinders at the Portsmouth, Paducah, and ETTP sites, where it has stored such material since the 1950s. The characteristics of UF_6 pose potential health and environmental risks. DUF_6 in cylinders emits low levels of gamma and neutron radiation. Also, when released to the atmosphere, DUF_6 reacts with water vapor in the air to form hydrogen fluoride (HF) and uranyl fluoride (UO_2F_2), both chemically toxic substances. In light of such characteristics, DOE stores DUF_6 in a manner designed to minimize the risk to workers, the public, and the environment.

In October 1992, the Ohio Environmental Protection Agency (OEPA) issued a Notice of Violation (NOV) alleging that DUF_6 stored at the Portsmouth facility is subject to regulation under State hazardous waste laws applicable to the Portsmouth Gaseous Diffusion Plant. The NOV stated that OEPA had determined DUF_6 to be a solid waste and that DOE had violated Ohio laws and regulations by not evaluating whether such waste was hazardous. DOE disagreed with this assessment, and, in February 1998, DOE and OEPA reached an agreement. This agreement sets aside the issue of whether the DUF_6 is subject to Resource Conservation and Recovery Act regulation and institutes a negotiated management plan governing the storage of the Portsmouth DUF_6. The agreement also requires DOE to continue its efforts to evaluate potential use or reuse of the material. The agreement expires in 2008.

In 1994, DOE began work on the Programmatic Environmental Impact Statement for Alternative Strategies for the Long-Term Management and Use of Depleted Uranium Hexafluoride (DUF_6 PEIS). The DUF_6 PEIS was completed in 1999 and identified conversion of DUF_6 to another chemical form for use or long-term storage as part of a preferred management alternative. In the corresponding Record of Decision for the Long-Term Management and Use of Depleted Uranium Hexafluoride (ROD) (64 FR 43358, August 10, 1999), DOE decided to promptly convert the DUF_6 inventory to depleted uranium oxide, depleted uranium metal, or a combination of both. The ROD further explained that depleted uranium oxide will be used as much as possible, and the remaining depleted uranium oxide will be stored for potential future uses or disposal, as necessary. In addition, according to the ROD, conversion to depleted uranium metal will occur only if uses are available.

During the time that DOE was analyzing its long-term strategy for managing the DUF_6 inventory, several other events occurred related to DUF_6 management. In 1995, the Department began an aggressive program to better manage the DUF_6 cylinders, known as the DUF_6 Cylinder Project Management Plan. In part, this program responded to the Defense Nuclear Facilities Safety Board (DNFSB) Recommendation 95–1, Safety of Cylinders Containing Depleted Uranium. This program included more rigorous and frequent inspections, a multi-year program for painting and refurbishing of cylinders, and construction of concrete-pad cylinder yards. Implementation of the DUF_6 Cylinder Project Management Plan has been successful, and, as a result, on December 16, 1999, the DNFSB closed out Recommendation 95–1.

In February 1999, DOE and the Tennessee Department of Environment and Conservation entered into a consent order which included a requirement for the performance of two environmentally beneficial projects: The implementation of a negotiated management plan governing the storage of the small inventory (relative to other sites) of all UF_6 (depleted, low enriched, and natural) cylinders stored at the ETTP site, and the removal of the DUF_6 from the ETTP site or the conversion of the material by December 31, 2009.

In July 1998, the President signed Public Law (P.L.) 105–204. This law directed the Secretary of Energy to prepare '''a plan to ensure that all amounts accrued on the books''' of the United States Enrichment Corporation (USEC) for the disposition of DUF_6 would be used to commence construction of, not later than January 31, 2004, and to operate, an on-site facility at each of the gaseous diffusion plants at Paducah and Portsmouth, to treat and recycle DUF_6 consistent with the National Environmental Policy Act (NEPA). DOE responded to P.L. 105–204 by issuing the Final Plan for the Conversion of Depleted Uranium Hexafluoride (referred to herein as the '''Conversion Plan''') in July 1999. The Conversion Plan describes DOE's intent

to chemically process the DUF_6 to create products that would present both a lower long-term storage hazard and provide a material that would be suitable for use or disposal.

DOE initiated the Conversion Plan with the announced availability of a draft Request for Proposals (RFP) on July 30, 1999, for a contractor to design, construct, and operate DUF_6 conversion facilities at the Paducah and Portsmouth uranium enrichment plant sites. Based on comments received on the draft RFP, DOE revisited some of the assumptions about management of the DUF_6 inventory made previously in the PEIS and ROD. For example, as documented in the Oak Ridge National Laboratory study, Assessment of Preferred Depleted Uranium Disposal Forms (ORNL/TM–2000/161, June 2000), four potential conversion forms (triuranium octoxide (U_30_8), uranium dioxide ($U0_2$), uranium tetrafluoride (UF_4), and uranium metal) were evaluated and found to be acceptable for near-surface disposal at low-level radioactive waste disposal sites such as those at DOE's Nevada Test Site and Envirocare of Utah, Inc. Therefore, the RFP was modified to allow for a wide range of potential conversion product forms and process technologies. However, any of the proposed conversion forms must have an assured environmentally acceptable path for final disposition.

On October 31, 2000, DOE issued a final RFP to procure a contractor to design, construct, and operate DUF_6 conversion facilities at the Paducah and Portsmouth plant sites. Any conversion plants that result from this procurement would convert the DUF_6 to a more stable chemical form that is suitable for either beneficial use or disposal. The selected contractor would design the conversion plants using the technology it proposes and construct the plants. The selected contractor also would operate the plants for a five-year period, which would include maintaining depleted uranium and product inventories, transporting all uranium hexafluoride storage cylinders in Tennessee to a conversion plant at Portsmouth, as appropriate, and transporting converted product for which there is no use to a disposal site. The selected contractor would also prepare excess material for disposal at an appropriate site.

DOE received five proposals in response to the DUF_6 conversion RFP, and DOE anticipates that a contract will be awarded during the first quarter of fiscal year 2002. Since the site-specific NEPA process will not be completed prior to contract award, the contract shall be contingent on completion of the NEPA process and will be structured such that the NEPA process will be completed in advance of a go/no-go decision. (See NEPA Process below.) DOE initiated the NEPA review by issuing an Advance Notice of Intent to prepare an EIS for the DUF_6 conversion facilities on May 7, 2001 (66 FR 23010).

Purpose and Need for Agency Action

DOE needs to convert its inventory of DUF_6 to a more stable chemical form for storage, use, or disposal. This need follows directly from the decision presented in the August 1999 ''Record of Decision for Long-Term Management and Use of Depleted Uranium Hexafluoride,'' namely to begin conversion of the DUF_6 inventory as soon as possible.

This EIS will assess the potential environmental impacts of constructing, operating, maintaining, and decontaminating and decommissioning DUF_6 conversion facilities at the Portsmouth and Paducah sites, as well as other reasonable alternatives. The EIS will aid decision making on DUF_6 conversion by evaluating the environmental impacts of the range of reasonable alternatives, as well as providing a means for public input into the decision making process. DOE is committed to ensuring that the public has ample opportunity to participate in this review.

Relation to the DUF_6 PEIS

This EIS represents the second level of a tiered environmental review process being used to evaluate and implement the DUF_6 management program. Tiering refers to the process of first addressing general (programmatic) matters in a PEIS followed by more narrowly focused (project level) environmental review that incorporates by reference the more general discussions. The DUF_6 PEIS, issued in April 1999, was the first level of this tiered approach.

The DUF_6 PEIS addressed the potential environmental impacts of broad strategy alternatives, including analyses of the impacts of: (1) Continued storage of DUF_6 at DOE's current storage sites; (2) technologies for converting the DUF_6 to depleted U_3O_8, UO_2, or uranium metal; (3) long-term storage of depleted U_3O_8 and UO_2 for subsequent use or disposal; (4) long-term storage of DUF_6 in cylinders at a consolidated site; (5) use of depleted UO_2 and uranium metal conversion products; (6) transportation of materials; and (7) disposal of depleted U_3O_8 and UO_2 at generic disposal sites. The results of the PEIS analysis, as well as supporting documentation, will be incorporated into this EIS to the extent appropriate.

The ROD for the DUF_6 PEIS declared DOE's decision to promptly convert the DUF_6 inventory to a more stable chemical form. This tiered EIS will address specific issues associated with the implementation of the DUF_6 PEIS ROD.

Preliminary Alternatives

Consistent with NEPA implementation requirements, this EIS will assess the range of reasonable alternatives regarding constructing, operating, maintaining, and decontaminating and decommissioning DUF_6 conversion facilities. The following preliminary list of alternatives is subject to modification in response to comments received during the public scoping process.

Preferred Alternative: Under the preferred alternative, two conversion facilities would be built: one at the Paducah Gaseous Diffusion Plant site and another at the Portsmouth Gaseous Diffusion Plant site. The cylinders currently stored at the ETTP site near Oak Ridge, Tennessee, would be transported to Portsmouth for conversion. The conversion products (i.e., depleted uranium as well as fluorine components produced during the conversion process) would be stored, put to beneficial uses, or disposed of at an appropriate disposal facility. This alternative is consistent with the Conversion Plan, which DOE submitted to Congress in July 1999, in response to Public Law 105–204. Subalternatives to be considered for the preferred alternative include:

- Conversion technology processes identified in response to the final RFP for DUF_6 conversion services, plus any other technologies that DOE believes must be considered.
- Local siting alternatives for building and operating conversion facilities within the Paducah and Portsmouth plant boundaries.
- Timing options, such as staggering the start of the construction and operation of the two conversion facilities.

One Conversion Plant Alternative: An alternative of building and operating only one conversion facility at either the Portsmouth or the Paducah site will be considered. This plant could differ in size or production capacity from the two proposed for Portsmouth and Paducah. Technology and local siting subalternatives will be considered as with the preferred alternative.

Use of Existing UF_6 Conversion Capacity Alternative: DOE will consider using already-existing UF_6 conversion

capacity at commercial nuclear fuel fabrication facilities in lieu of constructing one or two new conversion plants. DOE is evaluating the feasibility of using existing conversion capacity, although no expression of interest has been received from such facilities.

No Action Alternative: Under the ''no action'' alternative, cylinder management activities (handling, inspection, monitoring, and maintenance) would continue the ''status quo'' at the three current storage sites indefinitely, consistent with the DUF_6 Cylinder Project Management Plan and the consent orders, which include actions needed to meet safety and environmental requirements.

Where applicable under the alternatives listed above, transportation options, such as truck, rail, and barge, will be considered for shipping DUF_6 cylinders to a conversion facility and conversion products to a storage or disposal facility. Also, for each technology alternative, alternatives for conversion products, including storage, use, and disposal at one or more disposal sites, will be considered. Further, DOE would appreciate comments regarding whether there are additional siting alternatives for one or more new conversion facilities that should be considered.

Identification of Environmental and Other Issues

DOE intends to address the following environmental issues when assessing the potential environmental impacts of the alternatives in this EIS. Additional issues may be identified as a result of the scoping process. DOE invites comment from the Federal agencies, Native American tribes, state and local governments, and the general public on these and any other issues that should be considered in the EIS:

- Potential impacts on health from DUF_6 conversion activities, including potential impacts to workers and the public from exposure to radiation and chemicals during routine and accident conditions for the construction, operation, maintenance, and decontamination and decommissioning of DUF_6 conversion facilities.
- Potential impacts to workers and the public from exposure to radiation and chemicals during routine and accident conditions for the transportation of DUF_6 cylinders from ETTP to one of the conversion sites.
- Potential impacts to workers and the public from exposure to radiation and chemicals during routine and accident conditions for the transportation of conversion products that are not beneficially used to a low-level waste disposal facility.
- Potential impacts to surface water, ground water, and soil during construction activities and from emissions and water use during facility operations.
- Potential impacts on air quality from emissions and from noise during facility construction and operations.
- Potential cumulative impacts of the past, present, and reasonably foreseeable future actions (including impacts resulting from activities of the United States Enrichment Corporation).
- Potential impacts from facility construction on historically significant properties, if present, and on access to traditional use areas.
- Potential impacts from land requirements, potential incompatibilities, and disturbances.
- Potential impacts on local, regional, or national resources from materials and utilities required for construction and operation.
- Potential impacts on ecological resources, including threatened and endangered species, floodplains, and wetlands.
- Potential impacts on local and DOE-wide waste management capabilities.
- Potential impacts on local employment, income, population, housing, and public services from facility construction and operations, and environmental justice issues.
- Pollution prevention, waste minimization, and energy and water use reduction technologies to reduce the use of energy, water, and hazardous substances and to mitigate environmental impacts.

DOE received comments on the Advance Notice of Intent from the Tennessee Department of Environment and Conservation (TDEC) and the Ohio Environmental Protection Agency (OHEPA). TDEC commented that the EIS should provide an adequate platform for coordination of environmental issues between DOE, Ohio, Kentucky, and Tennessee, without additional agreements if certain specified topics were explored in detail in the EIS. TDEC's comments emphasized issues related to the transportation of the ETTP cylinders to Portsmouth. OHEPA's comment concurred in TDEC's comment that the EIS should coordinate environmental issues between DOE, Ohio, Kentucky, and Tennessee, especially emergency management issues associated with the transportation of the ETTP cylinders to Portsmouth.

NEPA Process

The EIS for the proposed project will be prepared pursuant to the NEPA of 1969 (42 U.S.C. 4321 et seq.), Council on Environmental Quality NEPA Regulations (40 CFR parts 1500–1508), and DOE's NEPA Implementing Procedures (10se CFR part 1021). Following the publication of this Notice of Intent, DOE will hold scoping meetings, prepare and distribute the draft EIS for public review, hold public hearings to solicit public comment on the draft EIS, and publish a final EIS. Not less than 30 days after the publication of the U.S. Environmental Protection Agency's Notice of Availability of the final EIS, DOE may issue a ROD documenting its decision concerning the proposed action.

In addition to the above steps, DOE is considering environmental factors in selecting a contractor for the conversion services through the procurement process, including preparation of an environmental critique and an environmental synopsis pursuant to 10 CFR 1021.216. The environmental critique evaluates the environmental data and information submitted by each offeror and is subject to the confidentiality requirements of the procurement process. DOE also is preparing a publicly available environmental synopsis, based on the environmental critique, to document the consideration given to environmental factors in the contractor selection process. The environmental synopsis will be filed with the U.S. Environmental Protection Agency and will be incorporated into the EIS. In accordance with 10 CFR 1021.216(i), since the NEPA process will not be completed prior to contract award, the contract will be structured to allow the NEPA review process to be completed in advance of a go/no-go decision.

Related NEPA Reviews

- Final Programmatic Environmental Impact Statement for Alternative Strategies for the Long-Term Management and Use of Depleted Uranium Hexafluoride (DOE/EIS–0269, April 1999);
- Final Waste Management Programmatic Environmental Impact Statement for Managing Treatment, Storage, and Disposal of Radioactive and Hazardous Waste (DOE/EIS–0200–F, May 1997);
- Disposition of Surplus Highly Enriched Uranium, Final Environmental Impact Statement (DOE/ EIS–0240, June 1996);
- Environmental Assessment for the Refurbishment of Uranium Hexafluoride

Cylinder Storage Yards C–745–K, L, M, N, and P and Construction of a New Uranium Hexafluoride Cylinder Storage Yard (C–745–T) at the Paducah Gaseous Diffusion Plant, Paducah, Kentucky (DOE/EA–1118, July 1996);

• Environmental Assessment for DOE Sale of Surplus Natural and Low Enriched Uranium (DOE/EA–1172, October 1996);

• Environmental Assessment for the Lease of Land and Facilities within the East Tennessee Technology Park, Oak Ridge, Tennessee (DOE/EA–1175, 1997);

• Notice of Intent for Programmatic Environmental Impact Statement for Disposition of Scrap Metals (DOE/EIS–0327) (66 FR 36562, July 12, 2001).

Scoping Meetings

The purpose of this Notice is to encourage early public involvement in the EIS process and to solicit public comments on the proposed scope of the EIS, including the issues and alternatives it would analyze. DOE will hold public scoping meetings near Portsmouth, Ohio; Paducah, Kentucky; and Oak Ridge, Tennessee, to solicit both oral and written comments from interested parties. Oral and written comments will be considered equally in the preparation of the EIS. See **DATES** above for the times and locations of these meetings.

DOE will designate a presiding officer for the scoping meetings. The scoping meetings will not be conducted as evidentiary hearings, and there will be no questioning of the commentors. However, DOE personnel may ask for clarifications to ensure that they fully understand the comments and suggestions. The presiding officer will establish the order of speakers. At the opening of each meeting, the presiding officer will announce any additional procedures necessary for the conduct of the meetings. If necessary to ensure that all persons wishing to make a presentation are given the opportunity, a time limit may be applied for each speaker. Comment cards will also be available for those who would prefer to submit written comments.

DOE will make transcripts of the scoping meetings and other environmental and project-related materials available for public review in the following reading rooms:

DOE Headquarters, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1 E–190, Washington, DC 20585. Telephone: (202) 586–3142.

Oak Ridge/ DOE, Public Reading Room, 230 Warehouse Road, Suite 300, Oak Ridge, Tennessee 37831. Telephone: (865) 241–4780.

Paducah/DOE, Environmental Information Center, Berkley Centre, 115 Memorial Drive, Paducah, Kentucky 42001, Telephone: (270) 554–6979.

Portsmouth/DOE, Environmental Information Center, 3930 U.S. Route 23, Perimeter Road, Piketon, OH 45661. Telephone: (740) 289–3317.

Information is also available through the project web site at http://web.ead.anl.gov/uranium and on the DOE NEPA web site at http://www.tis.eh.doe.gov/nepa.

The EIS will also contain a section summarizing the nature of the comments received during the scoping process and describing any modification to the scope of the EIS in response to the scoping process comments.

EIS Schedule

The draft EIS is scheduled to be published by June 2002. A 45-day comment period on the draft EIS is planned, which will include public hearings to receive oral comments. Availability of the draft EIS, the dates of the public comment period, and information about the public hearings will be announced in the **Federal Register** and in the local news media.

The final EIS for the DUF6 Conversion Facilities is scheduled for January 2003. A ROD would be issued no sooner than 30 days after the U. S. Environmental Protection Agency notice of availability of the final EIS is published in the **Federal Register**.

Signed in Washington, DC, this 10th day of September, 2001.

Steven V. Cary,

Acting Assistant Secretary, Office of Environment, Safety and Health.

[FR Doc. 01–23213 Filed 9–17–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Golden Field Office; Peer Review of DOE's Competitive Solicitation Program

AGENCY: Department of Energy.

ACTION: Announcement of a peer review of the Department of Energy's (DOE's) Competitive Solicitation Program.

SUMMARY: The DOE, Office of Power Technology is announcing its intention to conduct a Peer Review of DOE's Competitive Solicitation Program September 20, 2001 in Golden Colorado. The meeting is open to the public and attendance is free of charge.

DATES: Thursday, September 20, 2001 from 12 Noon to 5 pm (MDT).

ADDRESSES: 1617 Cole Boulevard, Golden, CO 80401, Building 17, 4th Floor Conference Room.

FOR FURTHER INFORMATION CONTACT: Lizana K. Pierce, DOE Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393 or (303) 275–4727 or via facsimile to at (303) 275–4753, or electronically to *lizana—pierce@nrel.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the Peer Review is to: (1) Improve decision-making and program leadership; (2) improve productivity and management; (3) provide stakeholders the opportunity to learn about the program and projects; and (4) provide public accountability for the use of public funds. The Peer Review will examine the: (1) Appropriateness of the program scope and objectives relative to available resources; (2) effectiveness in meeting the stated goals; (3) adequacy in reaching the intended audience; (4) quality of the competitive process; and (5) effectiveness of DOE Program and Project plans. The panel will also be requested to provide recommendations for future activities and ways in which the Program can be improved.

The mission of the Competitive Solicitation Program is to obtain, analyze, and disseminate cost and operational information necessary to overcome the perceptions of risk in selecting renewable energy and hybrid renewable energy generation or cogeneration systems for the competitive electric market. The Competitive Solicitation effort is a technology-focused competitive process aimed at carrying out field validation and education efforts that: (1) Prove the availability of clean, affordable, and reliable electric power supply options for many remote or economically challenged regions of the nation, including at Federal facilities, on Native American lands or at Tribal Colleges; (2) obtain essential data on operational performance, reliability, and benefits of renewable energy and hybrid renewable energy generation or cogeneration systems in various geographic locations and climatic conditions; or (3) enhance the public's understanding and use of renewable energy technologies.

The Competitive Solicitation Program was proposed as a six-year program with two components: (1) Feasibility studies, and (2) field verification projects. However, the only component of the Competitive Solicitation Program funded in Fiscal Year 2000 (FY00) was the Native American solicitation for renewable energy feasibility studies at Tribal colleges and universities.

Therefore, the resulting solicitation, entitled Feasibility Studies for Potential Application of Renewable Energy Technologies at Tribal Colleges and Universities is the focus of the Peer Review. However, preceding projects, competitively selected under the Remote Applications of Renewable Power Technologies on Native American Lands solicitation, will be included as representative field verification projects.

The Peer Review will be open to the public, and the public will have an opportunity to address DOE representatives and the panel. DOE will also accept written comments through October 5, 2001. Approximately 40 days after the meeting, a report documenting the results of the review will be issued and posted on the DOE Golden homepage at www.golden.doe.gov.

Issued in Golden, Colorado, on September 5, 2001.

Jerry L. Zimmer,

Director, Office of Acquisition and Financial Assistance.

[FR Doc. 01–23212 Filed 9–17–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–2537–000 ER01–2543–000, ER01–2544–000, ER01–2545–000, ER01–2546–000, ER01–2547–000, and ER01–2548–000]

CalPeak Power—Midway LLC, et. al., Notice of Issuance of Order

September 12, 2001.

CalPeak Power—Midway LLC, CalPeak Power—Ponoche LLC, CalPeak—Vaca Dixon, CalPeak Power—El Cajon LLC, CalPeak—Enterprise LLC, CalPeak Power—Border LLC, and CalPeak—Mission (collectively, ''CalPeak'') submitted for filing a rate schedule under which CalPeak will engage in wholesale electric power and energy transactions at market-based rates. CalPeak also requested waiver of various Commission regulations. In particular, CalPeak requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by CalPeak.

On September 4, 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 CalPeak 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, CalPeak 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 CalPeak 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 CalPeak's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is October 4, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. The Order may also be viewed on the on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–23203 Filed 9–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2998–000]

Pacific Gas and Electric Company; Notice of Filing

September 7, 2001.

Take notice that on August 31, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Notice of Termination of the 1992 Interconnection Agreement between PG&E and Northern California Power Agency (NCPA) on file with the Commission as First Revised PG&E Rate Schedule FERC No. 142 and a proposed Interconnection Agreement (IA) between PG&E and NCPA. The IA supersedes the 1992 Interconnection Agreement and is intended to provide for the continued interconnection of the PG&E and NCPA electric systems.

Copies of this filing have been served upon NCPA, the California Independent System Operator Corporation and the California Public Utilities Commission.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 21, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site 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. 01–23204 Filed 9–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–79–000]

ANR Pipeline Co.; Notice of Availability of the Environmental Assessment for the Proposed Badger Pipeline Project

September 12, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by ANR Pipeline Company (ANR) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the proposed Badger Pipeline Project facilities including:

• About 12.8 miles of 20-inch-diameter loop along ANR's existing 10- and 12-inch-diameter Racine Laterals between Mainline Valve (MLV) No. 8 (milepost (MP) 0.0) in Burlington Township, Racine County and the existing Somers Meter Station (MP 12.8) in Paris Township, Kenosha County, Wisconsin;

• About 9.5 miles of 20-inch-diameter lateral would be located adjacent to existing rights-of-way (gas pipelines, Wisconsin Electric Power Company's (WEPCo) 345 kV electric transmission line, and the Chicago, Milwaukee, St. Paul and Pacific Railroad) between the Somers Meter Station (MP 12.8) and the planned Badger Generating Plant (MP 22.3) in Pleasant Prairie Township, Kenosha County; and

• Aboveground facilities consisting of a pig trap/launcher assembly at the tie-in of the proposed pipeline on the existing MLV No. 8 site (MP 0.0); a mainline valve and crossover piping at the existing Somers Meter Station (MP 12.8); and a meter station, valve, and pig trap/receiver assembly to be located at the planned Badger Generating Plant site (MP 22.3).

ANR proposed the Badger Pipeline Project to provide up to 210,000,000 cubic feet per day of gas to Badger Generating Company, LLC's (Badger) proposed 1,050 megawatt gas-fired power plant to be constructed in the Village of Pleasant Prairie in Kenosha County, Wisconsin.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

• Send an original and two copies of your comments to: Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;

• Label one copy of the comments for the attention of the Gas Group 1, PJ11.1.

• Reference Docket No. CP01–79–000; and

• Mail your comments so that they will be received in Washington, DC on or before October 12, 2001.

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.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs, at (202) 208–1088 or on the FERC Internet website (www.ferc.gov) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket#'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket#'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 01–23202 Filed 9–17–01; 8:45 am]

BILLING CODE 6717–01–P

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Sixth Interstate Natural Gas Facility-Planning Seminar; Presentation of Staff's Findings

September 7, 2001.

The Office of Energy Projects will hold the sixth in a series of public meetings for the purpose of exploring and enhancing strategies for constructive public participation in the earliest stages of natural gas facility planning. This seminar will be held in Washington, DC at the Federal Energy Regulatory Commission on Thursday, September 20, 2001. The seminar will focus on the staff's report entitled: ''Ideas For Better Stakeholder Involvement In The Interstate Natural Gas Pipeline Planning Pre-Filing Process'' and provide an opportunity for an open discussion of the report.

We are inviting all attendees from our previous seminars and any other interested persons; natural gas companies; Federal, state and local agencies; landowners and non-governmental organizations with an interest in searching for improved ways to do business to join us. We will specifically discuss the findings in staff's report and the overall facility planning process, not the merits of any pending or planned pipeline projects.

The staff report is being provided, along with this notice, to each participant in our past seminars. The report can also be downloaded from the FERC web-site at www.ferc.gov or requested by e-mail at: gas outreach-feedback@ferc.fed.us.

At the seminar, the staff of the Commission's Office of Energy Projects will give a presentation on the findings in the staff report. These were compiled from our first five seminars in Albany, New York; Chicago, Illinois; Tampa, Florida; Seattle, Washington; and Portsmouth, New Hampshire. We will discuss each set of action options stakeholders can use as tools to improve their involvement in the pre-filing planning process.

The meeting will be held in the FERC Headquarters at 888 1st St., NE., Washington, DC. The meeting is

scheduled to start at 9:30 a.m. and finish at 12 noon.

If you plan to attend, please email our team by September 17, 2001 at gasoutreach@ferc.fed.us. Or, you can respond via facsimile to Pennie Lewis-Partee at 202–208–0353. Please include in the response the names, addresses, and telephone numbers of all attendees from your organization. We will send an acknowledgment of your request.

If you have any questions, you may contact any of the staff listed below:

Richard Hoffmann, 202/208–0066

Lauren O'Donnell, 202/208–0325

Jeff Shenot, 202/219–2178

Howard Wheeler, 202/208–2299

J. Mark Robinson,

Director, Office of Energy Projects.

[FR Doc. 01–23201 Filed 9–17–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00739; FRL–6801–3]

Application for New and Amended Pesticide Registration; Renewal of Pesticide Information Collection Activities and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) this notice announces that EPA is seeking public comment on the following Information Collection Request (ICR): ''Application for New and Amended Pesticide Registration'' (EPA ICR No. 0277.13, OMB No. 2070–0060). This is a request to renew an existing ICR that is currently approved and due to expire April 30, 2002. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket control number OPP–00739, must be received on or before November 19, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00739 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Nancy Vogel, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6475; fax number: (703) 305–5884; e-mail address: *vogel.nancy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are an individual or entity engaged in activities related to the registration of a pesticide product. Potentially affected categories and entities may include, but are not limited to:

Category	NAICS codes	SIC codes	Examples of potentially affected entities
Pesticide and other agricultural chemical manufacturing	325320	286—Industrial organic chemicals 287—Agricultural chemicals	Individuals or entities engaged in activities related to the registration of a pesticide product.

This table 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 and the Standard Industrial Classification (SIC) 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**.

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

A. Electronically

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet homepage at *http://www.epa.gov/*. On the homepage 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/*.

B. Fax-on-Demand

Using a faxphone call (202) 401–0527 and select item 6090 for a copy of the ICR.

C. In Person

The Agency has established an official record for this action under docket control number OPP–00739. 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.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit the 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–00739 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 and/or data electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in Units III.A.1. and III.A.2. 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–00739. Electronic comments may also be filed online at many Federal Depository Libraries.

B. 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**.

C. What Should I Consider when 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 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.

D. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are 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 estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: Application for New and Amended Pesticide Registration.

ICR numbers: EPA ICR No. 0277.13, OMB No. 2070–0060.

ICR status: This ICR is a renewal of an existing ICR that is currently approved by OMB and is due to expire April 30, 2002.

Abstract: This data collection program is designed to provide EPA with necessary data to evaluate an application of a pesticide product as required under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

An individual or entity wanting to obtain a registration for a pesticide product must submit an application package consisting of information relating to the identity and composition of the product, proposed labeling, and supporting data (or compensation for others' data) for the product as outlined in 40 CFR part 158. The EPA bases registration decisions for pesticides on its evaluation of a battery of test data provided primarily by applicants for registration. Required studies include testing to show whether a pesticide has the potential to cause unreasonable adverse human health or environmental effects. The Agency currently collects data on physical chemistry, acute and chronic toxicology, environmental fate, ecological effects, worker exposure, residue chemistry, environmental chemistry, and product performance. If EPA's evaluation of the data show that the statutory requirements of FIFRA are met, then a registration is approved. Under FIFRA, all pesticides must be registered by EPA before they may be sold or distributed in U.S. commerce.

Registrants of EPA-registered pesticide products at times become subject to regulations or guidance that include labeling revisions. The revised labeling is submitted as an amendment to the Agency along with the completed application form. Normally, data are not required or reviewed for revised labeling regulations or guidance; however, it is necessary that the revised labeling be reviewed and approved. This review is most often accomplished by a Product Manager (PM) or Team Leader, in one of the three regulatory divisions responsible for pesticide registration (the Registration Division, the Antimicrobial Division, and the Biopesticides and Pollution Prevention Division), who ensure that revisions are in compliance with the applicable labeling requirement or guidance.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, ''burden'' means the total time, effort, or financial resources

expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this ICR is estimated to be 231,280 hours, with an annual respondent cost of $16,426,080. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Individuals or entities engaged in activities related to the registration of a pesticide product.

Estimated total number of potential respondents: 2,100.

Frequency of response: As needed.

Estimated total/average number of responses for each respondent: 3–5.

Estimated total annual burden hours: 231,280.

Estimated total annual burden costs: $16,426,080.

VI. Are There Changes in the Estimates from the Last Approval?

The total respondent burden hour estimate under this ICR has increased from 212,640 to 231,280 hours per year, or a total net increase of 18,640 hours. The total applicant costs have increased from approximately $6.0 million to $16.4 million per year, for a total net increase of approximately $10.4 million. This increase in costs is due mainly to the update in the loaded labor hourly rates used to calculate the costs. There are no capital costs associated with this information collection activity.

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: September 6, 2001.

Susan B. Hazen,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 01–23226 Filed 9–17–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7054–8]

Gulf of Mexico Program Management Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Act, Public Law 92463, EPA gives notice of a Meeting of the Gulf of Mexico Program (GMP) Management Committee.

DATES: The meeting will be held on Wednesday, October 17, 2001, from 1 p.m. to 5:45 p.m. and on Thursday, October 18, 2001, from 8 a.m. to 12:30 p.m.

ADDRESSES: The meetings will be held at the Embassy Suites Hotel, 315 Julia Street, New Orleans, LA, (504–525–1993).

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Building 1103, Room 202, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: Proposed agenda is attached.

The meeting is open to the public.

Dated: August 30, 2001.

Gloria D. Car,

Designated Federal Officer.

Gulf of Mexico Program Management Committee Meeting, Embassy Suites Hotel, New Orleans, Louisiana

October 17–18, 2001.

Wednesday, October 17

1:00 Welcome and Introductions (Bruce Moulton)

1:10 Progress Report—Implementation of the GMP FY2001 Workplan (Bryon Griffith)

Purpose: Review GMP annual performance goals for 2001 and accomplishments.

Decision: Informational.

1:45 GMP FY2002/2003 Objectives and FY2002 Workplan (Jim Giattina)

Purpose: Review revised objectives and FY2002 Workplan.

Decision: Management Committee endorsement of revised objectives and workplan.

2:15 Presentation of Gulf of Mexico Research Needs/Strategy (Ray Wilhour)

Purpose: To review findings, proposed strategy, and recommendations developed by Expert Panels under the Monitoring, Modeling, and Research Committee.

Decision: Endorsement of the strategy and recommendations, and endorsement to forward these to the Policy Review Board for their consideration in developing the 2002 recommendations to the Administrator as the Federal Advisory Committee.

3:00 Break

3:15 Mercury Contamination in Gulf Seafood (Fred Kopfler)

Purpose: Review recent press coverage of mercury issues in the Gulf and discuss appropriate actions for the GMP to take as a follow-up to our Mercury Report.

Decision: Agreement on next steps for the GMP.

4:00 Gulf of Mexico—Aquatic Nuisance Species Regional Panel (Herb Kumpf)

Purpose: Review FY2001 annual report outline and suggested recommendations to the National ANS Task Force.

Decision: Endorsement or revision of report outline and recommendations.

4:30 Coastal America—Regional Implementation Team (Bob Bosenberg and Bryon Griffith)

Purpose: Review status of key projects and activities undertaken by the GMP in support of Coastal America.

Decision: Informational.

5:00 ISSC Vibrio vulnificus Management Plan Requirements (Tom Herrington)

Purpose: Review recent decisions reached by the ISSC regarding disease reduction targets and post-harvest treatment.

Decision: Discuss role of GMP in assisting ISSC and Gulf States in developing and implementing Management Plan.

5:45 Adjourn for Social in Atrium Lounge at the Embassy Suites, Dinner on your own

Thursday, October 18

8:00 Citizens Advisory Committee Report (Casi Callaway and Robert Crowe)

Purpose: Provide update on CAC activities.

Decision: Informational.

8:15 Harmful Algal Bloom Observing System Pilot Project (Jim Giattina)

Purpose: Review work underway to develop an early warning system for HABs to support Gulf State management responses and future plans.

Decision: Informational.

9:00 GEMS—New Directions and Support Opportunities (Quenton Dokken)

Purpose: Report on partnership formed with NOAA's Community-Based Habitat Restoration Program.

Decision: Informational.

9:30 The Nature Conservancy—Development of a Gulf Ecoregion Conservation Plan (Bob Bendick)

Purpose: Report on TNC efforts to link land-based ecoregion plans with Northern Gulf Ecoregion Plan to protect critical habitats for biodiversity and to discuss strategic linkages with GEMS/NOAA partnership to aid in implementation.

Decision: Informational.

10:00 Gulf Hypoxia Action Plan Implementation (Mary Beth Van Pelt)

Purpose: Review status of national efforts.

Decision: Agreement on next steps the GMP should take to support national efforts.

10:30 Break

10:45 GMP Recommendations for the Administrator of EPA. (Jim Giattina)

Purpose: Review proposed issues and recommendations for the Policy Review Board.

Decision: Agree on topics to be covered and schedule for completing final recommendations for 2002.

11:45 Ocean Act of 2000 (Gloria Car)

Purpose: Provide an overview of the Ocean Act requirements and schedule.

Decision: Discuss opportunities for GMP to interact with Ocean Council.

12:00 Review Action Items

12:30 Adjourn

[FR Doc. 01–23221 Filed 9–17–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of Certain Receiverships by the FDIC in the Fourth Quarter of 2001

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice.

SUMMARY: Notice is hereby given that the FDIC, for itself or as successor in interest to the Resolution Trust Corporation, in its capacity as Receiver for the Institutions set forth below (the Receiver) intends to terminate these receiverships during the fourth calendar quarter of 2001.

FOR FURTHER INFORMATION CONTACT: Division of Resolutions and Receiverships, Terminations Section, 1–800–568–9161.

SUPPLEMENTARY INFORMATION:

Financial institution number and name		City	State
1232	First Federal Savings and Loan Association	Pontiac	MI
1263	Far West Federal Savings Bank	Portland	OR
1208	Valley Federal Savings and Loan Association	Van Nuys	CA
2101	American Pioneer Federal Savings Bank	Orlando	FL
2184	AmeriFirst Federal Savings Bank	Miami	FL
4497	American Savings Bank	White Plains	NY
4511	The Union Savings Bank	Patchoque	NY
4576	American Commerce National Bank	Anaheim	CA
4616	Bank of Newport	Newport Beach	CA
4642	Monument National Bank	Ridgecrest	CA
4648	The Malta National Bank	Malta	OH
6003	Mutual Federal Savings Bank of Atlanta	Atlanta	GA
7119	Gibraltar Savings, F.A	Simi Valley	CA
7275	Pima Federal Savings and Loan Association	Tucson	AZ
7281	Commonwealth Federal Savings and Loan Association	Ft. Lauderdale	FL
7439	Columbia Savings and Loan Association, F.A	Beverly Hills	CA

The liquidation of the assets of these receiverships is expected to be completed no later than December 31, 2001. To the extent permitted by available funds and in accordance with law, the Receiver for these institutions will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of such receiverships will serve no useful purpose. Consequently, notice is given that the receiverships will be terminated, as soon as practicable but no sooner than thirty (30) days after the date this Notice is published.

If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date this Notice is published to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Terminations Department, 1910 Pacific Avenue, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: September 11, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–23190 Filed 9–17–01; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their

views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 2, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. The Jennings Qualified Family, L.P., Hawkinsville, Georgia; to acquire voting shares of SunMark Bancshares, Inc., Hawkinsville, Georgia, and thereby indirectly acquire voting shares of SunMark Community Bank, Hawkinsville, Georgia.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. J.D. Bergman Corporation, Hinsdale, Illinois, and Jay D. Bergman, Joliet, Illinois; to acquire voting shares of American Heartland Bancshares, Inc., Sugar Grove, Illinois, and thereby indirectly acquire voting shares of American Heartland Bank and Trust, Sugar Grove, Illinois.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Betty Lynn Woodside, Jackson, Tennessee; to retain voting shares of Hardeman County Investment Company, Inc., Bolivar, Tennessee, and thereby indirectly retain voting shares of First South Bank, Bolivar, Tennessee.

Board of Governors of the Federal Reserve System, September 12, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23187 Filed 9–17–00; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 12, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Northstar Financial Group, Inc., Bad Axe, Michigan; to acquire 100 percent of the voting shares of Seaway Community Bank, St. Clair, Michigan (in organization).

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Outsource Holdings, Inc., Lubbock, Texas, and Outsource Delaware Holdings, Inc., Dover, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Falcon Bancorporation, Inc., Memphis, Texas, and First Bank & Trust of Memphis, Memphis, Texas.

Board of Governors of the Federal Reserve System, September 12, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23188 Filed 9–17–00; 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: 11 a.m., Monday, September 24, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 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: September 14, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23331 Filed 9–14–01; 1:36 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—08/20/2001			
20012220	Sumitomo Metal Industrial	Mitsubishi Materials Corporation	Mitsubishi Material Quartz Corp. Mitsubishi Materials Silicon Corp.
20012221	Mitsubishi Materials Corporation	Sumitomo Metal Industries, Ltd.	K.K. Silicotech, Wakayama Sitix Solar. K.K. K.K. Sitix Service, Sumitomo Sitix Silcon, Inc.
20012234	HCA Inc	HCA Inc	El Paso Healthcare System, Ltd.
20012246	The Charles Schwab Corporation	Robin Jackson	Bunker Capital, LLC. J.L. Management, LLC.
20012247	The Charles Schwab Corporation	Lawrence Leibowitz	J.L. Management, LLC.
20012250	Brian L. Roberts	Global Sports, Inc	Global Sports, Inc.
20012252	Hewlett-Packard Company	StorageApps Inc	StorageApps Inc.
20012268	FleetBoston Financial Corporation	Liberty Mutual Insurance Company	Crabbe Huson Group, Inc. Liberty Asset Management Company. Liberty Funds Group, L.L.C. Liberty Newport Holdings, Limited. Liberty Wagner Asset Management, L.P. Newport Fund Management, Inc. Progress Investment Management Company. WAM Acquisition GP, Inc.
2001227	ValueClick, Inc	Mediaplex, Inc	Mediaplex, Inc.
20012276	HCC Insurance Holdings, Inc	Mark E. Rattner	Marshall Rattner, Inc.
20012277	HCC Insurance Holdings, Inc	David F. Rattner	Marshall Rattner, Inc.
20012283	Ameritrade Holding Corporation	Deutsche Bank AG	National Discount Brokers Group, Inc.
20012284	The News Corporation Limited	Golden Books Family Entertainment, Inc., debtor-in-possession.	Golden Books Publishing Company, Inc.
Transactions Granted Early Termination—08/21/2001			
20012239	Household International, Inc	Vereniging AEGON	Transamerica Bank N.A. Transamerica Retail Financial Services Corporation.
20012274	Homestore.com, Inc	Memberworks Incorporated	iPlace, Inc.
20012282	Deutsche Bank AG	Ameritrade Holding Corporation	Ameritrade Holding Corporation.
20012288	Massachusetts Mutual Life Insurance Company.	Trement Advisors, Inc.	Tremont Advisors, Inc.
Transactions Granted Early Termination—08/22/2001			
20012230	General Electric Company	Data Critical Corporation	Data Critical Corporation.
20012235	Aid Association for Lutherans	Lutheran Brotherhood	Lutheran Brotherhood.
20012258	divine, inc	eshare Communication, Inc	eshare Communications, Inc.
20012264	Xcel Energy Inc	Edison International	Capistrano Cogeneration Company. Eastern Sierra Energy Company. Hanover Energy Company.
Transactions Granted Early Termination—08/23/2001			
20012300	Cadbury Schweppes plc	Eagle Family Foods Holdings, Inc	Eagle Family Foods Holdings, Inc.
Transactions Granted Early Termination—08/24/2001			
20011704	AmeriSource Health Corporation	Bergen Brunswig Corporation	Bergen Brunswig Corporation.
20012225	UnitedHealth Group Incorporated	Spectera, Inc	Spectera, Inc.
20012226	Parker Hannifin Corporation	Eaton Corporation	Eaton AC&R, Ltd. Eaton Aeroquip Inc.
20012289	Motorola, Inc	RiverDelta Networks, Inc	RiverDelta Networks, Inc.
20012292	Novartis AG	Novo Nordisk A/S	Novo Nordisk A/S.
20012295	Mirant Corporation	Edison International	EMC del Caribe.
20012297	Mirant Corporation	Enron Corp	Enron LNG Power (Atlantic) Ltd.
20012299	APAX Europe V–A LP	Siemens AG	Krauss-Maffei Corporation. Mannesmann Plastics Machinery AG. Netstal Maschinen AG. Van Dorn Corporation.
20012301	Berkshire Hathaway Inc	XTRA Corporation	XTRA Corporation.
20012306	SBC Communications Inc	Leap Wireless International, Inc	Cricket Licensee IX, Inc.

Trans #	Acquiring	Acquired	Entities
20012307	Boston Ventures Limited Partnership VI.	Reed International P.L.C	The Cahners Travel Group.
20012308	Boston Ventures Limited Partnership IV.	Elsevier NV	The Cahners Travel Group.
20012316	The Right Start, Inc	Zany Brainy, Inc	Zany Brainy, Inc.
20012329	Eli Lilly and Company	Isis Phamaceuticals, Inc	Isis Pharmaceuticals, Inc.
20012330	Eli Lilly and Company	Isis Pharmaceuticals, Inc.	Isis Pharmaceuticals, Inc.
Transactions Granted Early Termination—08/27/2001			
20012242	Amphenol Corporation	AB Holdings LLC	AssembleTech, L.P.
Transactions Granted Early Termination—08/28/2001			
20012212	Terex Corporation	CMI Corporation	CMI Corporation
20012279	Sonoco Products Company	Phoenix Packaging Corporation	Phoenix Packaging Corporation
20012290	United Overseas Bank Limited	Overseas Union Bank Limited	Overseas Union Bank Limited
Transactions Granted Early Termination—08/29/2001			
20012263	Performance Food Group Company	Mr. Joseph A. Cambi	Springfield Foodservice Corporation
Transactions Granted Early Termination—08/30/2001			
20011877	Reuters Group plc	Bridge Information Systems, Inc. (Debtor-in-Possession).	Bridge Data Co., Bridge Information Systems America, Inc. Bridge Trading Co. UK Ltd., Bridge Trading Co. UK Nominees. Bridge Trading Co., Bridge Trading Co., Asia, Ltd. Bridge Transaction Services Asia Pacific, Ltd. Bridge Transaction Services, Inc., StockVal, Inc. Wall Street on Demand, Inc.
20011878	Reuters Group plc	Bridge Information Systems, Inc. (Debtor-in-Possession).	Bridge Trading Technologies, Inc. Wall Street on Demand, Inc., StockVal, Inc.
20012287	Performance Food Group Company	Fresh International Corporation	Fresh International Corporation
20012291	Sumner M. Redstone	WMS Industries Inc	WMS Industries Inc.
20012313	Teradyne, Inc	McCown De Leeuw & Co. IV, L.P	Electro Mechanical Solutions, Inc.
20012328	Marvin M. Schwan Great, Great Grandchildren's Trust.	Edwards Holding Corp	Edwards Holding Corp.
Transactions Granted Early Termination—08/31/2001			
20012280	General Electric Company	Westinghouse Air Brake Technologies Corporation.	Engine Systems, Inc. G&G Locotronics. MotivePower, Inc. Motor Coils Manufacturing Corp. Wabtec Distribution.
20012315	Mirant Corporation	Limestone Electron Trust	Shady Hills 20Power Company, L.L.C. West Georgia Generating Company, L.L.C.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives. Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–23232 Filed 9–17–01; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 011 0011]

Chevron Corp., et al.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of

federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 9, 2001.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Phillip Broyles, FTC/S–2105, 600 Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–2805.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 7, 2001), on the World Wide Web, at ''http://www.ftc.gov/os/2001/09/index.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania. Ave., NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'' or ''FTC'') has issued a complaint (''Complaint'') alleging that the proposed merger of Chevron Corporation (''Chevron'') and Texaco Inc. (''Texaco'') (collectively ''Respondents'') would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and has entered into an agreement containing consent orders (''Agreement Containing Consent Orders'') pursuant to which Respondents agree to be bound by a proposed consent order that requires divestiture of certain assets (''Proposed Consent Order'') and a hold separate order that requires Respondents to hold separate and maintain certain assets pending divestiture (''Hold Separate Order''). The Proposed Order remedies the likely anticompetitive effects arising from Respondents' proposed merger, as alleged in the Complaint. The Hold Separate Order preserves competition pending divestiture.

II. Description of the Parties and the Transaction

Chevron, headquartered in San Francisco, California, is one of the world's largest integrated oil companies. Chevron is engaged, either directly or through affiliates, in the exploration for, and production of, oil and natural gas; the pipeline transportation of crude oil, natural gas, and natural gas liquids; the refining of crude oil into refined petroleum products, including gasoline, aviation fuel, and other light petroleum products; the transportation, terminaling, and marketing of gasoline and aviation fuel; and other related businesses. During fiscal year 1999, Chevron had worldwide revenues of approximately $35.4 billion and net income of approximately $2.1 billion.

Chevron sold its natural gas and natural gas liquids transportation, distribution and marketing operations to NGC Corporation in 1996 and retained a stock interest in the company. NGC subsequently became Dynegy Inc. Dynegy is engaged in the gathering, processing, fractionation, transmission, terminaling, storage, and marketing of natural gas and natural gas liquids. Chevron owns approximately 26% of Dynegy. Chevron has a long-term strategic alliance with Dynegy for the marketing of Chevron's natural gas and natural gas liquids, and the supply of natural gas and natural gas liquids to Chevron's refineries in the lower 48 states of the United States. Chevron has three positions on Dynegy's Board of Directors. This relationship gives Chevron access to information concerning Dynegy's business and allows Chevron to participate in Dynegy's business decisions.

Texaco, headquartered in White Plains, New York, is one of the world's largest integrated oil companies. Among its other businesses, Texaco is engaged, either directly or through affiliates, in the exploration for, and production of, oil and natural gas; the pipeline transportation of natural gas and natural gas liquids; the pipeline transportation of crude oil; the refining of crude oil into refined petroleum products, including gasoline, aviation fuel, and other light petroleum products; the transportation, terminaling, and marketing of gasoline and aviation fuel; and other related businesses. During fiscal year 1999, Texaco had worldwide revenues of approximately $35.7 billion and net income of approximately $1.2 billion.

In 1998, Texaco contributed its U.S. petroleum refining, marketing and transportation businesses to two joint ventures and retained an interest in the ventures. The joint ventures are Equilon Enterprises, LLC (''Equilon''), which is owned by Texaco and Shell Oil Company (''Shell''), and Motiva Enterprises, LLC (''Motiva''), which is owned by Shell, Texaco, and Saudi Refining, Inc. (''SRI''). The two joint ventures are referred to collectively as ''the Alliance.''

Equilon consists of Texaco's and Shell's western and midwestern U.S. refining and marketing businesses, and their nationwide transportation and lubricants businesses. Texaco and Shell jointly control Equilon. Equilon's major assets include full or partial ownership in four refineries, seven lubricants plants, about 65 terminals, and various pipelines. Equilon markets through approximately 9,700 branded gasoline retail outlets in the U.S.

Motiva consists of Texaco's, Shell's, and SRI's U.S. eastern and Gulf Coast refining and marketing businesses. Texaco, Shell and SRI jointly control Motiva. Motiva's major assets include full or partial ownership in four refineries and about 50 terminals. Motiva markets through approximately 14,000 branded gasoline retail outlets.

Pursuant to an agreement and plan of merger dated October 15, 2000, Chevron has agreed to acquire all of the outstanding common stock of Texaco in exchange for stock of Chevron. As a result of the merger, Chevron's shareholders will hold approximately 61%, and Texaco's shareholders will hold approximately 39%, of the new combined entity.

III. The Investigation and the Complaint

The Complaint alleges that the merger of Chevron and Texaco would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by substantially lessening competition in each of the following markets: (1) The marketing of gasoline in the western United States (including the States of Arizona, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming), the southern United States (including the States of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, Tennessee, Texas, Virginia, and West Virginia), the States of Alaska and Hawaii, and smaller areas contained therein; (2) the marketing of CARB gasoline in the State of California; (3) the refining and bulk supply of CARB gasoline for sale in the State of California; (4) the refining and bulk supply of gasoline and jet fuel in the Pacific Northwest, i.e., the States of Washington and Oregon west of the Cascade mountains; (5) the bulk supply of Phase II Reformulated Gasoline (''RFG II'') in the St. Louis metropolitan area; (6) the terminaling of gasoline and other light petroleum products in Arizona (Phoenix and Tucson), California (San Diego and Ventura), Mississippi (Collins), and Texas (El Paso), and the islands of Hawaii, Kauai, Maui, and Oahu in Hawaii; (7) the pipeline transportation of crude oil from California's San Joaquin Valley; (8) the pipeline transportation of crude oil from portions of the Eastern Gulf of Mexico; (9) the pipeline transportation of offshore natural gas to shore from locations in the Central Gulf of Mexico; (10) the fractionation of raw mix into natural gas liquids specification products in the vicinity of Mont Belvieu, TX; and (11) the marketing and distribution of aviation fuel, including aviation gasoline and jet fuel, to general aviation customers in the western United States, including the States of Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington, and the southeastern United States, including the States of Alabama, Florida, Georgia, Louisiana, Mississippi, and Tennessee, and smaller areas contained therein.

To remedy the alleged anticompetitive effects of the merger, the Proposed Order requires Respondents to divest all of Texaco's interests in the Alliance (including both Equilon and Motiva), which includes (among other businesses) all of Texaco's interests in the following: (a) Gasoline marketing in the States of Alaska and Hawaii, in the Western United States (Arizona, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming), and the Southern (Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, Tennessee, Texas, Virginia, and West Virginia); (b) marketing of CARB gasoline in California; (c) refining and bulk supply of CARB gasoline for sale in California; (d) refining and bulk supply of gasoline and jet fuel in the Pacific Northwest; (e) the Explorer Pipeline and the bulk supply of RFG II into St. Louis; (f) terminaling of gasoline and other light products in ten metropolitan areas in Arizona, California, Mississippi, and Texas, and four islands in Hawaii; (g) the Equilon pipeline that transports crude oil from California's San Joaquin Valley; and (h) the Equilon crude oil pipeline in the Eastern Gulf of Mexico. In addition to its interest in the Alliance, Texaco must divest its one-third interest in the Discovery pipeline system; its interest in the Enterprise fractionating plant in Mont Belvieu; and its general aviation business in fourteen states (Alaska, Alabama, Arizona, California, Florida, Georgia, Idaho, Louisiana, Mississippi, Nevada, Oregon, Tennessee, Utah, and Washington) to Avfuel Corporation.

The Complaint alleges in 11 counts that the merger would violate the antitrust laws in various lines of business and sections of the country, each of which is discussed below.

A. Count I—Marketing of Gasoline

Chevron and Texaco, through its ownership interest in the Alliance (including Equilon and Motiva), are competitors in the marketing of gasoline in the Western and Southern United States and in the States of Alaska and Hawaii. The marketing of gasoline in numerous markets within these areas would become highly concentrated, or significantly more concentrated, as a result of the proposed merger.[1] For example, in some markets in the states of Louisiana, Mississippi, Oregon and Washington, the proposed merger would increase concentration by more than 1,000 points to HHI levels above 3,000. In many other markets, the proposed merger would result in significant increases in concentration to levels at which competition may be harmed. Complete divestiture of Texaco's ownership interest in the Alliance is the most practical solution to resolve the anticompetitive effects in these markets that would result from the proposed acquisition. This total divestiture will achieve relief in all markets where the merger would substantially lessen competition.

The marketing of gasoline is a relevant line of commerce, i.e., a relevant product market, for which the proposed merger may lead to an increase in price. Gasoline is a motor fuel used in automobiles and other vehicles. It is produced in various grades and types, including conventional unleaded gasoline, reformulated gasoline (''RFG''), California Air Resources Board (''CARB'') gasoline, and others. There is no substitute for gasoline as a fuel for automobiles and other vehicles that are designed to use gasoline.

The Complaint alleges that the proposed transaction would lessen competition in the western United States (Arizona, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming), the southern United States (Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, Tennessee, Texas, Virginia, and West Virginia), the States of the Alaska and Hawaii, and in smaller areas contained therein. Numerous metropolitan areas in the western United States[2] and the southern United States,[3] would be affected by the proposed acquisition. The Commission used metropolitan statistical areas (''MSAs'') as a reasonable

[1] The Commission measures market concentration using the Herfindahl-Hirschman Index (''HHI''), which is calculated as the sum of the squares of the shares of all firms in the market. FTC and Department of Justice Horizontal Merger Guidelines (''Merger Guidelines'') § 1.5. Markets with HHIs between 1000 and 1800 are deemed ''moderately concentrated,'' and markets with HHIs exceeding 1800 are deemed ''highly concentrated.'' Merger Guidelines § 1.51.

[2] Phoenix and Tucson, AZ; Boise, ID; Las Vegas and Reno, NV; Albuquerque-Santa Fe, NM; Eugene, Klamath Falls-Medford, and Portland, OR; Salt Lake City, UT; Seattle-Tacoma, Spokane, and Yakima, WA; and Casper-Riverton, WY. In addition, in Alaska, the relevant areas are Anchorage, Fairbanks, Juneau, Ketchikan, and Sitka. In Hawaii, there are four individual islands, Hawaii, Kauai, Maui, and Oahu, that would be affected by the proposed transaction.

[3] Anniston, Birmingham, Decatur-Huntsville, Dothan, and Montgomery, AL; Mobile-Pensacola, AL/FL; Fort Lauderdale-Miami, Fort Pierce-West Palm Beach, Gainesville, and Panama City, FL; Albany, Atlanta, Columbus, Macon, and Savannah, GA; Lexington and Paducah, KY; Alexandria, Baton Rouge, El Dorado-Monroe, Lafayette, Lake Charles, New Orleans, and Shreveport, LA; Biloxi-Gulfport, Columbus-Tupelo-West Point, Hattiesburg-Laurel, Jackson, and Meridian, MS; Greenville-New Bern-Washington, NC; Ada-Ardmore, OK; Lawton-Wichita Falls, OK/TX; Chattanooga, TN; Bristol-Johnson City-Kingsport, TN/VA; Abilene-Sweetwater, Amarillo, Austin, Beaumont-Port Arthur, Brownsville-Harlingen-Weslaco, Corpus Christi, Dallas, El Paso, Fort Worth, Houston, Lubbock, Midland-Odessa, San Angelo, San Antonio, Temple-Waco, and Tyler, TX; Lynchburg-Roanoke and Petersburg-Richmond, VA; and Beckley-Bluefield-Oak Hill, WV.

approximation of geographic markets for gasoline marketing in *Shell Oil Co.,* C–3803 (1998), *British Petroleum Co.,* C–3868 (1999), and *Exxon,* C–3907 (2000).

The marketing segment of the business involves the wholesale and retail sale of branded and unbranded gasoline. Branded gasoline is sold under an oil company trade name (or ''flag'') such as Chevron, Texaco, Exxon or Shell. Unbranded gasoline is typically sold under a private label or independent trade name. Gasoline is generally sold to the general public through several different types of retail outlets, including: (1) Company-operated stations, which are owned and operated by the parent oil company; (2) lessee-dealers, stations leased from the parent oil company, but operated by independent dealers; (3) open dealers, stations owned and operated by independent dealers under a franchise agreement with the parent oil company or under a supply agreement with a distributor; and (4) distributors (or ''jobbers''), who own and operate a network of stations in a particular area under a franchise agreement with the parent oil company.

Branded oil companies set the retail prices of gasoline on a station-by-station basis at the stores they operate. Lessee-dealers and many open dealers purchase from the branded company at a delivered price (''dealer tank wagon'' or ''DTW''). DTW prices charged by major oil companies are typically set using ''price zones.'' Price zones, and the prices used within them, take account of the competitive conditions faced by particular stations or groups of stations and are generally unrelated to the cost of hauling fuel from the terminal to the retail store. Distributors or jobbers typically purchase branded gasoline from the branded company at a terminal (paying a terminal ''rack'' price), and deliver the gasoline to their own stations or to jobber-supplied stations at prices set by the distributor.

New entry is unlikely to constrain anticompetitive behavior in the markets at issue. New entrants typically face significant obstacles to becoming effective competitors, including obtaining a reliable supply of gasoline at a competitive price, and gaining access to a sufficient number of retail outlets. As a result, it is unlikely that entry will constrain a price increase resulting from the merger.

The Complaint alleges that Texaco, through the Alliance, and Chevron are direct competitors in the marketing of motor gasoline in the relevant geographic areas. The Commission is concerned that the proposed merger would increase the likelihood of coordination among the few participants in the relevant areas, by effectively combining the Chevron, Texaco and Shell brands, which would lead to an increase in the price of gasoline in the affected areas. To address the overlap in gasoline marketing between Chevron and Texaco in the relevant markets, the Proposed Order requires Texaco to divest its interest in Equilon and Motiva.

B. Count II—Marketing of CARB Gasoline

Texaco, through Equilon, and Chevron are competitors in the marketing of CARB gasoline for sale throughout the State of California. The merger would result in highly concentrated markets throughout the State of California.[4] Concentration in some markets, such as Bakersfield, Fresno-Visalia, and Palm Springs, would increase to HHI levels above 2,500. The proposed merger would increase concentration in each of the California markets alleged in the complaint by more than 100 points to HHI levels above 2,000.

The refining and marketing of gasoline in California is tightly integrated, and there are only a small number of independent retail outlets that might purchase from an out-of market firm attempting to take advantage of a price increase by incumbent refiner-marketers. The extensive integration of refining and marketing makes it more difficult for the few non-integrated marketers to turn to imports as a source of supply, since individual independents lack the scale to import cargoes economically and thus must rely on California refiners for their usual supply. Refiners that lack marketing in California, and marketers that lack refineries in these relevant markets, do not effectively constrain the price and output decisions of incumbent refiner-marketers. Entry is not likely to constrain an anticompetitive price increase.

The marketing of CARB gasoline in metropolitan areas in California is a relevant market. CARB gasoline is a motor fuel used in automobiles that meets the specifications of the California Air Resources Board (''CARB''). CARB gasoline is cleaner burning and causes less air pollution than conventional gasoline. Since 1996, the sale or use of any gasoline other than CARB gasoline has been prohibited in California. There are no substitutes for CARB gasoline as a fuel for automobiles and other vehicles that use gasoline in California. In the current investigation and in past decisions, the Commission concluded that the marketing of CARB gasoline in metropolitan areas in California is a relevant market.[5]

More than 90% of the CARB gasoline sold in California is refined by seven vertically-integrated refiners (Chevron, Equilon, BP, Ultramar, Valero, ExxonMobil and Tosco). These seven firms also control more than 90% of retail sales of gasoline in California through gas stations under their brands.

CARB gasoline is a homogeneous product, and wholesale and retail prices are publicly available and widely reported to the industry. Integrated refiner-marketers carefully monitor the prices charged by their competitors' retail outlets, and therefore can readily identify firms that deviate from a coordinated or collusive price.]

California is largely isolated from most external sources of supply. CARB gasoline is generally manufactured primarily at refineries in California and at one other refinery located in Anacortes, Washington. The next closest refineries, located in the U.S. Virgin Islands and in Texas and Louisiana, do not supply CARB gasoline to California except during supply disruptions at California refineries. Non-West Coast refineries are unlikely to supply CARB gasoline to California in response to a small but significant and nontransitory increase in price because of the price volatility risks associated with opportunistic shipments.

The Complaint charges that the proposed merger, absent relief, is likely to result in an increased likelihood of coordination in the marketing of CARB gasoline on the West Coast, and is likely to lead to higher prices of CARB gasoline in California. The Complaint further charges that Chevron/Texaco would likely be able to unilaterally increase prices in California in the absence of coordination. To remedy the likely harm, the Proposed Order requires Texaco to divest its interest in Equilon, which holds Texaco's marketing interests in the State of California.

C. Count III—Refining and Bulk Supply of CARB Gasoline

Texaco, through Equilon, and Chevron are competitors in the refining and bulk supply of CARB gasoline for

[4] The metropolitan areas alleged in the Complaint are Bakersfield, Chico-Redding, Fresno-Visalia, Los Angeles, Modesto-Sacramento-Stockton, Monterey-Salinas, Oakland-San Francisco-San Jose, Palm Springs, San Diego, and San Luis Obispo-Santa Barbara-Santa Maria.

[5] *Shell Oil Co.,* C–3803 (1998); *Exxon*, C–3907 (2000).

sale in the State of California.[6] The market for the refining and bulk supply of CARB gasoline would be highly concentrated following the proposed merger. Based on CARB refining capacity, the proposed merger would increase concentration for the refining of CARB gasoline by West Coast refineries by more than 500 points to an HHI level above 2,000.

The refining and bulk supply of CARB gasoline is a relevant product market, and the West Coast is a relevant geographic market. As explained in Count II, only CARB gasoline can be legally sold in the State of California. No refineries outside of California and one Washington refinery regularly produce CARB gasoline in significant quantities. The relevant geographic market is the West Coast. The West Coast is geographically isolated, and California's volatile wholesale gasoline prices discourage imports. Refiners outside of the West Coast are unlikely to bring in CARB gasoline to defeat a price increase. The extensive integration of refining and marketing makes it more difficult for the few non-integrated marketers to turn to imports as a source of supply, since individual independents lack the scale to import cargoes economically and thus must rely on California refiners for their usual supply.

Entry is difficult and unlikely. New refineries are not likely to be built, and the lack of independent buyers in California makes it unlikely that regular supplies would be brought to California by a non-West Coast refiner. A new refinery would face severe environmental constraints and substantial sunk costs.

The Complaint charges that the proposed merger would likely reduce competition in the refining and bulk supply of CARB gasoline in California, thereby increasing wholesale prices of CARB gasoline. The proposed merger increases the likelihood of coordination among refiners, as well as unilateral reduction in output by Chevron/Texaco. The Proposed Order requires Texaco to divest its interest in Equilon, which holds Texaco's interest in the refineries that produce CARB gasoline for sale in California.

D. Count IV—Refining and Bulk Supply of Gasoline and Jet Fuel

Texaco, through Equilon, and Chevron are competitors in the refining and bulk supply of gasoline and jet fuel in the Pacific Northwest, i.e., the States of Washington and Oregon west of the Cascade mountains. The market for the refining and bulk supply of gasoline and jet fuel for the Pacific Northwest would be highly concentrated following the proposed merger. The proposed merger would increase concentration in this market by more than 600 points to an HHI level above 2,000.

Gasoline and jet fuel constitute relevant product markets. There are no substitutes for gasoline in gasoline-fueled automobiles. Jet fuel is a motor fuel used in jet engines. Jet engines must use fuel that meets stringent specifications and cannot switch to any other type of fuel. There is no substitute for jet fuel for jet engines designed to use such fuel.

The Pacific Northwest is a relevant geographic market. Customers in the Pacific Northwest cannot practicably turn outside of the market to obtain supplies in sufficient quantities in response to a small but significant and nontransitory increase in price.

Entry by a refiner would not be likely, timely or sufficient to defeat an anticompetitive price increase. The West Coast as a whole is supply-constrained both in terms of available local production and its geographic isolation from other refining centers. A new entrant would face severe environmental constraints and substantial sunk costs.

The Complaint charges that the proposed merger would eliminate direct competition in the refining and bulk supply of gasoline and jet fuel between Chevron and Texaco, and would increase the likelihood of collusion or coordinated interaction between Respondents and their competitors, which would likely result in increased prices for the refining and bulk supply of gasoline and jet fuel in the Pacific Northwest. The Proposed Order requires Texaco to divest its interest in Equilon, which holds Texaco's interest in the Alliance's West Coast refineries, to remedy the overlap presented by the merger.

E. Count V—Bulk Supply of Phase II Reformulated Gasoline

Phase II Reformulated Gasoline, referred to as ''RFG II,'' is a motor fuel used in automobiles. RFG II is cleaner burning than some other types of gasoline and causes less air pollution. The United States Environmental Protection Agency requires the use of RFG II in certain areas, including the St. Louis metropolitan area. RFG II is supplied in bulk from facilities that have the ability to deliver large quantities of the product on a continuing basis, such as pipelines or local refineries.

The bulk supply of RFG II is a relevant product market. There are no substitutes for pipelines or refineries for the bulk supply of RFG II. Smaller facilities that deliver RFG II in small quantities, such as tank trucks, are not cost competitive with pipelines or refineries.

One area in which RFG II is required is the St. Louis metropolitan area. Customers in the St. Louis area cannot turn to RFG suppliers outside of the area in response to a small but significant and nontransitory increase in the price of RFG II in the St. Louis area.

Texaco, through Equilon, and Chevron each hold substantial interests in the market for the bulk supply of RFG II in the St. Louis metropolitan area. Chevron owns approximately 16.7% of Explorer Pipeline, and Texaco holds interests totaling approximately 35.9% of Explorer. The Explorer Pipeline is the largest pipeline provider of bulk RFG II supply in the St. Louis metropolitan area. Equilon also has a long-term contract through which it obtains supplies of RFG II for the St. Louis metropolitan area.

The market for the bulk supply of RFG II into the St. Louis metropolitan area is highly concentrated and would become significantly more concentrated following the proposed merger. The proposed merger would increase concentration in this market by more than 1,600 points to an HHI level of 5,000. Entry would not be likely, timely or sufficient to prevent anticompetitive effects resulting from the proposed merger.

The Complaint charges that the proposed merger would substantially lessen competition in the market for the bulk supply of RFG II in the St. Louis metropolitan area by eliminating direct competition between Chevron and Texaco, and by increasing the likelihood of collusion or coordinated interaction in the bulk supply of RFG II in the St. Louis area. The Proposed Order requires Texaco to divest Equilon, which will prevent the increase in concentration that would result from the merger.

F. Count VI—Terminaling

Texaco, through the Alliance, and Chevron are competitors in the terminaling of gasoline and other light petroleum products in metropolitan areas in Arizona, California, Mississippi, and Texas, and on certain islands in the State of Hawaii. The terminaling of gasoline and other light petroleum products in each of these markets would be highly concentrated following the proposed merger. The

[6] A bulk supply market consists of firms that have the ability to deliver large quantities of gasoline on a regular and continuing basis, such as pipelines or local refineries.

proposed merger would increase concentration in each of these markets by more than 300 points to HHI levels above 2,000.

The terminaling of gasoline and other light petroleum products is a relevant product market. Terminals are specialized facilities with large storage tanks used for the receipt and local distribution of large quantities of gasoline and other products. There are no substitutes for terminals for these uses. The proposed merger would be likely to lessen competition in Phoenix and Tucson, AZ, San Diego and Ventura, CA, Collins, MS, and El Paso, TX, and on the islands of Hawaii, Kauai, Maui, and Oahu, HI.

Entry is not likely to defeat an anticompetitive increase in the cost of terminaling in the affected areas. The combination of sunk costs, significant scale economies, and environmental regulations make terminal entry unlikely.

The Complaint alleges that the effect of the proposed merger would be to substantially lessen competition in the terminaling of gasoline and other light petroleum products in the relevant markets. Respondents, either unilaterally or in coordination with other terminal operators, would likely be able to increase the price of terminaling gasoline and other light petroleum products in the relevant sections of the country as a result of the merger. The Proposed Order requires Texaco to divest its interests in the Alliance, which holds its interests in the terminals in the relevant areas.

G. Count VII—Crude Oil Pipelines Out of San Joaquin Valley, CA

Texaco, through Equilon, and Chevron are competitors in the pipeline transportation of crude oil from California's San Joaquin Valley. This market is highly concentrated and would become significantly more concentrated as a result of the proposed merger. The proposed merger would increase concentration in this market by more than 800 points to an HHI level above 3,300.

Crude oil pipelines are specialized pipelines for the transportation of crude oil from production fields to refineries or to locations where the crude oil can be transported to refineries by other means. Chevron and Equilon each own a crude oil pipeline that transports crude oil out of the San Joaquin Valley in California. There are no alternatives to pipelines for the transportation of crude oil out of the San Joaquin Valley.

New entry is unlikely to constrain anticompetitive behavior in this market. New pipeline construction requires substantial sunk costs, and existing pipelines have a significant cost advantage over new entrants.

The Complaint alleges that the proposed merger eliminates direct competition between Chevron and Texaco and that the merger, if consummated, increases the likelihood of coordinated interaction for the pipeline transportation of crude oil from the San Joaquin Valley. In order to remedy the anticompetitive effects arising from the proposed merger, the Proposed Order requires Texaco to divest its interest in Equilon, which owns one of the pipelines that transports crude oil from the San Joaquin Valley.

H. Count VIII—Crude Oil Pipelines From the Eastern Gulf of Mexico

Texaco, through Equilon, and Chevron are competitors in the pipeline transportation of crude oil from portions of the Eastern Gulf of Mexico to on-shore terminals. The pipeline transportation of crude oil from locations in the Eastern Gulf of Mexico is highly concentrated and would become significantly more highly concentrated as a result of the proposed merger. The proposed merger would give the combined Chevron/Texaco substantial ownership interests in the only two pipelines that compete to transport crude oil from certain locations in the Eastern Gulf of Mexico.

A relevant product market is the pipeline transportation of crude oil. A relevant geographic market consists of locations in the Eastern Gulf of Mexico, including the Main Pass, Viosca Knoll, South Pass and West Delta Areas, as defined by the Department of Interior Minerals Management Service. There are two pipeline systems that transport crude oil from locations in the Eastern Gulf of Mexico to on-shore terminals: the Delta Pipeline System and the Cypress Pipeline System. The Delta system is wholly owned by Equilon. Chevron owns 50% of the Cypress system and is the operator. There are no alternatives to these two pipelines for the transportation of crude oil from locations in the Eastern Gulf of Mexico to on-shore terminals. Moreover, new entry into this market is unlikely because of the large economies of scale enjoyed by existing pipeline carriers.

The Complaint alleges that Chevron and Texaco are direct competitors in the pipeline transportation of crude oil from portions of the Eastern Gulf of Mexico to on-shore terminals, and that the proposed merger would give Respondents the ability to unilaterally raise prices for the pipeline transportation of crude oil from locations in the Eastern Gulf. To remedy the Commission's concerns, the Proposed Order requires Texaco to divest its interest in Equilon, which owns the Delta pipeline system.

I. Count IX—Offshore Pipeline Transportation of Natural Gas

Chevron and Texaco own interests in competing offshore natural gas pipelines in the Central Gulf of Mexico. Chevron and its affiliate Dynegy own a combined 77% interest in the Venice Gathering System. Texaco owns approximately 33% of the Discovery Gas Transmission System. Texaco's ownership share is sufficient to allow it to effectively exercise veto control over important aspects of the business of the Discovery pipeline. The pipeline transportation of offshore natural gas to shore from each of the markets alleged in the Complaint is highly concentrated and would become significantly more concentrated as a result of the proposed merger. The proposed merger would give the combined Chevron and Texaco controlling interests in the only two pipelines, or two of only three pipelines, in each of these markets.

The pipeline transportation of natural gas from locations in the Central Gulf of Mexico is a relevant market. Natural gas pipelines are specialized pipelines used to transport natural gas from offshore producing platforms to shore for processing and distribution. There are no alternatives to pipelines for the transportation of natural gas from offshore locations to shore.

The affected areas are certain individual lease blocks [7] in the Central Gulf of Mexico, in areas including the South Timbalier and Grand Isle Areas, and their South Additions, as defined by the Department of Interior Minerals Management Service. Producers within these areas have few or no alternatives to the Discovery and Venice pipelines for transporting natural gas to shore.

Entry is difficult and unlikely. New pipeline construction requires substantial sunk costs, giving existing pipelines a significant cost advantage over new entrants.

The Complaint alleges that the proposed merger will decrease competition in the offshore pipeline transportation of natural gas from the specified blocks in the affected areas. The proposed merger would enable the combined Chevron/Texaco to

[7] South Timbalier Blocks 30, 37, 38, 44, 45, 58, 59, 61–63, 86–88, 123–35, 151–53, 157, 158, 178–80, 185–87, and 205–08; South Timbalier South Addition Blocks 223–27, 231, 233–37, 248, 251, 256, and 257; Grand Isle Blocks 52, 53, 59, 62, 63, 70–76, 84, and 85; and Grand Isle South Addition Block 86.

unilaterally increase price for those areas that have no alternative to Respondents' pipelines, and would increase the likelihood of coordination among pipelines for producers who have only limited alternatives to Respondents' pipelines. To remedy the Commission's competitive concerns, the Proposed Consent Order requires Respondents to divest Texaco's entire interest in the Discovery System, including the offshore natural gas pipeline, processing plant and fractionation plant.

J. Count X—Fractionation of Natural Gas Liquids at Mont Belvieu, TX

Texaco competes with Chevron's affiliate, Dynegy, in the market for the fractionation of natural gas liquids at Mont Belvieu, Texas. Fractionators are specialized facilities that separate raw mix natural gas liquids into specification products such as ethane or ethane-propane, propane, iso-butane, normal-butane, and natural gasoline by means of a series of distillation processes. These specification products are ultimately used in the manufacture of petrochemicals, in the refining of gasoline, and as bottled fuel, among other uses. There are no substitutes for fractionators for the conversion of raw mix natural gas liquids into individual specification products.

Mont Belvieu, TX, is an important hub for the fractionation of raw mix natural gas liquids and the subsequent sale of fractionated specification products. Producers of raw mix natural gas liquids throughout the areas served by Mont Belvieu, which includes much of Texas, New Mexico, and other states, would not likely turn to fractionators located outside Mont Belvieu for their fractionation needs.

There are four facilities providing fractionation services at Mont Belvieu. Chevron's affiliate Dynegy owns large interests in two of the Mont Belvieu fractionators, the Cedar Bayou fractionator and the Gulf Coast fractionator. Chevron's 26% ownership of Dynegy gives it representation on Dynegy's Board of Directors as well as a direct financial stake in Dynegy's prices and profits. Texaco owns a minority interest in another fractionator known as the Enterprise fractionator.

Competitive concern arises from the ability of a firm in Chevron's position to lessen competition among the few separate facilities in this market. Competitive vigor could be compromised if, for example, sensitive information about one competitor's plans or costs were to become known by another competitor in the market. Also, Texaco's minority interest could provide a swing vote that could prevent the Enterprise fractionating facility from making a competitive move against either of the other two facilities affiliated with Chevron.

The Complaint charges that the proposed merger would lessen competition by eliminating direct competition between Texaco and Chevron's affiliate Dynegy in the fractionation of natural gas liquids at Mont Belvieu; by providing Dynegy with access to sensitive competitive information about one of its most important competitors in Mont Belvieu; by providing Chevron, through its control of Texaco's voting at the fractionator in which Texaco has an interest, with the ability to prevent competition from that fractionator against the other fractionators in Mont Belvieu in which Dynegy has an interest; and by increasing the likelihood that the combination of Chevron and Texaco will unilaterally exercise market power. The Proposed Order requires Chevron to divest Texaco's interest in the Enterprise fractionator within six months to a purchaser approved by the Commission.

K. Count XI—Marketing of Aviation Fuel

Chevron and Texaco are competitors in the marketing of aviation gasoline and jet fuel to general aviation customers in the western United States (Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington) and the southeastern United States (Alabama, Florida, Georgia, Louisiana, Mississippi, and Tennessee).

Aviation fuel is used as a motor fuel for aircraft. There are two types of aviation fuel: aviation gasoline and jet fuel. Aviation gasoline is used in piston-powered aircraft engines, while jet fuel is used in jet engines. There are no substitutes for aviation gasoline or jet fuel for aircraft designed to use such fuels. Aviation fuel is sold through several channels of distribution, including the general aviation channel. This channel consists of fixed base operators (''FBOs'') that sell fuel at retail to customers at airports, and distributors that sell to FBOs. FBOs in turn sell fuel to general aviation customers such as corporate aircraft, crop dusters, owners of private airplanes, and similar users (other than commercial airlines and military aircraft).

Chevron and Texaco are among only a few marketers of aviation fuel to general aviation customers in the western and southeastern United States. The marketing of aviation fuel to general aviation customers in each of these markets would be highly concentrated as a result of the merger. The proposed merger would increase concentration in the southeastern United States by more than 250 points to an HHI level above 1,900, and would increase concentration in the western United States by more than 1,600 points to an HHI level above 3,400.

The Complaint alleges that the proposed merger will likely lessen competition in the marketing and distribution of aviation fuel to general aviation customers in the western United States and the southeastern United States, by increasing the likelihood that the merged firm will unilaterally exercise market power, and by increasing the likelihood of collusion or coordinated interaction. The Proposed Consent Order requires Respondents to divest Texaco's general aviation business in the western and southeastern United States to an up-front buyer, Avfuel Corporation, within ten (10) days following the merger, to remedy the Commission's concerns.

IV. Resolution of the Competitive Concerns

The Commission has provisionally entered into the Agreement Containing Consent Orders with Chevron and Texaco in settlement of the Complaint. The Agreement Containing Consent Orders contemplates that the Commission would issue the Complaint and enter the Proposed Order and the Hold Separate Order for the divestiture of certain assets described below.

A. The Alliance

The proposed combination of Chevron and Texaco would effectively combine the downstream operations of Chevron, Shell, and Texaco in the United States. In order to deal with the overlap issues involving the downstream segments of the businesses, Paragraphs II—III of the Proposed Order require Respondents to divest Texaco's entire interest in the Alliance. Paragraph IV contains provisions dealing with the licensing of the Texaco brand and Chevron's ability to compete for dealers and distributors using the Texaco brand following the merger.

Paragraph II of the Proposed Order requires Respondents to divest either (a) the Alliance interests to Shell (and SRI in the case of Motiva) no later than the date of the Chevron/Texaco merger, or (b) within eight months after the Chevron/Texaco merger, at no minimum price, either (i) the Alliance interests to Shell (and SRI in the case of Motiva), or (ii) the Texaco subsidiaries that own the Alliance interests (TRMI and TRMI

East)[8] to an acquirer or acquirers approved by the Commission. Shell and SRI are appropriate buyers of the assets because they already are partners with Texaco in the Alliance. All assets in each portion of the Alliance already are under common ownership and control, and divestiture of these interests to Shell and SRI would closely maintain the situation that currently exists. If the required divestitures occur prior to or on the date of the Chevron/Texaco merger, they are to be accomplished by Respondents; if they occur after the merger date, they are to be accomplished by a divestiture trustee pursuant to the provisions of Paragraph III of the Proposed Order.

Paragraph II further provides that Chevron and Texaco may not consummate the merger unless and until Texaco has either divested the Alliance interests to Shell and/or SRI, or has transferred TRMI and TRMI East to a trustee. The paragraph also contains provisions that ensure that Shell's and SRI's rights under the agreements establishing the Alliance will be protected. It also provides that, if the trust is rescinded, unwound, dissolved or otherwise terminated at any time before the divestitures have been accomplished, then Respondents will hold TRMI and TRMI East separate and apart from Respondents pursuant to the Hold Separate Order.

If the divestiture has not occurred before the merger, Paragraph III of the Proposed Order requires Respondents to enter into a trust agreement and transfer TRMI and TRMI East to the trustee. A divestiture trustee will then have the sole and exclusive power and authority to divest the Alliance interests, subject to the prior approval of the Commission. The trustee will have eight months to accomplish the divestitures, at no minimum price, to a buyer or buyers approved by the Commission (which could still include Shell and/or SRI). Respondents' transfer of the Alliance interests into trust does not prevent Shell and/or SRI from exercising any rights they may have under the applicable joint venture agreement to acquire Texaco's interests in Equilon or Motiva. Further, if Shell or SRI decline to exercise their rights to acquire Equilon or Motiva under the joint venture agreements, then they may offer to acquire the interests from the trustee, on equal footing with any other interested buyers.

The trust will have a divestiture trustee to accomplish the divestitures, and two operating trustees (one for TRMI and one for TRMI East) to manage and operate the Alliance interests separate and apart from Respondents' operations. The proposed Divestiture Trustee is Robert A. Falise, who most recently has been Chairman and Managing Trustee of the Manville Personal Injury Settlement Trust. Mr. Falise is an attorney and businessman with extensive experience in mergers and acquisitions. The proposed Operating Trustees are Joe B. Foster and John Linehan. Mr. Foster is the Chairman of Newfield Exploration Company, a Houston-based oil and gas exploration and production company that he founded in 1989. Mr. Linehan most recently served as Executive Vice President and Chief Financial Officer of Kerr-McGee Corporation. Both Mr. Foster and Mr. Linehan have extensive experience in the types of business engaged in by the Alliance.

Paragraph IV of the Proposed Order deals with issues concerning the licensing of the Texaco brand. It provides that Respondents shall offer to extend the license for the Texaco brand provided to Equilon and Motiva, on terms and conditions comparable to those in existence when the Agreement Containing Consent Orders was signed, on an exclusive basis until June 30, 2002 for Equilon and June 30, 2003 for Motiva. These dates correspond with the dates when the franchise agreements expire for many of the Equilon and Motiva distributors.

If Equilon agrees to waive certain provisions in its contracts with distributors and dealers requiring the distributors and dealers to repay money that has been paid or reimbursed by Equilon for various Alliance programs during the past few years, such as station re-imaging, and if it agrees to waive any deed restrictions prohibiting or restricting the sale of motor fuel not sold by Equilon at any retail outlet that does not agree to become a Shell branded outlet, then Texaco shall offer Equilon an additional year of exclusivity (so exclusivity would expire at the same time for both Equilon and Motiva). If Equilon and Motiva waive the provisions described above, Texaco shall offer additional license extensions, on a non-exclusive basis, until June 30, 2006, for all retail outlets for which Equilon and Motiva have entered into agreements for re-branding under the Shell brand. If Equilon or Motiva do not waive the contract provisions requiring repayment from dealers and distributors, then Respondents are required to indemnify the dealers and distributors for all such amounts (plus litigation and arbitration costs), provided that (1) the dealer or distributor has declined a request for payment from Equilon or Motiva, (2) Equilon or Motiva has commenced litigation or arbitration to compel payment, and (3) the dealer or distributor has either defended the litigation or afforded Respondents the right to do so. In addition, no indemnification need be provided for any retail outlet (1) as to which the dealer or distributor terminates its brand relationship prior to the date on which Equilon and Motiva lose their license exclusivity for the Texaco brand (June 30, 2002 or June 30, 2003), (2) which becomes a Shell branded outlet, or (3) which receives compensation for such amounts from another source.

Paragraph IV also provides that, for a period of one year following the date on which Equilon or Motiva stops supplying gasoline under the Texaco brand to any retail outlet branded Texaco as of the date the Agreement Containing Consent Orders is executed by Respondents, Respondents shall not enter into any agreement for the sale of branded gasoline to such retail outlet, sell branded gasoline to such retail outlet, or approve the branding of such retail outlet, under the Texaco brand or under any brand that contains the Texaco brand, unless either (1) such agreement, sale, or approval would not result in an increase in concentration in the sale of gasoline in any metropolitan area (or county outside a metropolitan area), or (2) there are no sales of Chevron branded gasoline in that market. The purpose of this provision is to prevent Respondents from defeating the purpose of the Proposed Order by supplying Texaco-branded gasoline to the same stations that resulted in the original violation.

By requiring divestiture of Texaco's interests in the Alliance, the Proposed Order remedies anticompetitive effects in the following markets: (a) Gasoline marketing in markets in the western United States, the southern United States, and the States of Alaska and Hawaii; (b) the marketing of CARB gasoline in California; (c) the refining and bulk supply of CARB gasoline for sale in California; (d) the refining and bulk supply of gasoline and jet fuel in the Pacific Northwest; (e) the bulk supply of RFG II gasoline into St. Louis; (f) the terminaling of gasoline and other light products in markets in the States of Arizona, California, Hawaii, Mississippi, and Texas; (g) the pipeline transportation of crude oil from California's San Joaquin Valley; and (h)

[8] Texaco's interest in the Alliance is held by a Texaco subsidiary, Texaco Refining and Marketing, Inc. (''TRMI''). A subsidiary of TRMI, known as TRMI East, holds Texaco's interest in Motiva.

the transportation of crude oil from locations in the Eastern Gulf of Mexico.

B. The Non-Alliance Operations

Paragraphs V through VIII of the Proposed Order deal with the divestitures that are required outside of the Alliance.

1. Pipeline Transportation of Offshore Louisiana Natural Gas

Paragraph V of the Proposed Order requires Texaco to divest its interest in the Discovery pipeline, including the associated processing plant and fractionator (collectively the ''Discovery System''), within six months of the date of the merger, at no minimum price, to a buyer or buyers that receive the approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture of Texaco's interest in the Discovery System is to eliminate the overlap of ownership between the Discovery System and the Venice System and to remedy the lessening of competition resulting from the proposed merger as alleged in the Commission's Complaint.

The Proposed Order also provides that Texaco shall resign its position as operator of the Discovery System immediately after it obtains the approvals of the other partners in the Discovery System. In addition, prior to divestiture of Texaco's interest in the Discovery System, Respondents are to offer to enter into an agreement with the acquirer for the purchase, sale or exchange of natural gas liquids that is no less favorable for the acquirer than the terms of an existing contract with one of Texaco's partners in the Discovery System. Texaco owns a natural gas liquids pipeline that transports liquids away from the Discovery fractionator. Williams, a co-owner of the Discovery System, currently has a contract with Texaco for the disposition of its natural gas liquids that are processed at the Discovery fractionator. The purpose of this provision is to ensure that Respondents do not attempt to impose rates or terms for pipeline transportation to markets from the Discovery System's fractionating plant that would impede the ability of the Discovery System to compete for natural gas transportation from the relevant areas in the Central Gulf of Mexico.

2. Fractionation of Natural Gas Liquids at Mont Belvieu, Texas

Paragraph VI of the Proposed Order requires Respondents to divest Texaco's interest in the Enterprise fractionator at Mont Belvieu, at no minimum price, within six months after the merger, to an acquirer that receives the prior approval of the Commission and in a manner that receives the prior approval of the Commission. The purpose of the divestiture of Texaco's interest in the Enterprise fractionator is to eliminate the overlap of ownership between the Enterprise fractionator and other fractionating plants at Mont Belvieu, Texas, in which Respondents or their affiliates own interests, and to remedy the lessening of competition resulting from the proposed merger.

3. Marketing of Aviation Fuel

Paragraph VII of the Proposed Order requires Respondents to divest, within ten days of the merger date, Texaco's general aviation business in 14 states (Alabama, Alaska, Arizona, California, Florida, Georgia, Idaho, Louisiana, Mississippi, Nevada, Oregon, Tennessee, Utah, and Washington), to an up-front buyer, Avfuel Corporation (''Avfuel''). Respondents must sell Texaco's general aviation business to Avfuel pursuant to an agreement approved by the Commission.

Avfuel is an existing marketer of aviation fuel that, unlike most other marketers, is not vertically integrated into the production of aviation gasoline or jet fuel. The company is well regarded as an independent competitive force in the industry, and appears to be particularly well situated to purchase just the assets relating to these 14 states and successfully integrate them into its business. An up-front buyer is preferable for these assets because they consist largely of contractual relationships rather than an on-going divestible business. In addition, because the business being divested consists largely of contractual relationships, an existing participant in the business is likely to have advantages with respect to maintaining and growing these relationships.

In the event Respondents fail to divest Texaco's general aviation business in the relevant areas to Avfuel, the Proposed Order requires Respondents to divest an alternative asset package that is broader than the initial divestiture assets. The broader package consists of Texaco's entire general aviation marketing business in the United States. The package is broader than the package being divested to Avfuel because other buyers may need the entire business in order to be viable. If this broader package is divested, the Order requires that the divestiture be accomplished within four months of the merger date, at no minimum price, to an acquirer that receives the prior approval of the Commission. If neither the divestiture to Avfuel nor the divestiture of the broader package has occurred within four months after the merger, then the Commission will appoint a trustee to divest Texaco's entire general aviation marketing business in the United States.

If the business is not sold to Avfuel pursuant to the agreement, Respondents are required to assign to the other post-merger acquirer all agreements used in or relating to Texaco's domestic general aviation business. If Respondents fail to obtain any such assignments, Respondents are to substitute arrangements sufficient to enable the acquirer to operate the business in the same manner and at the same level and quality as Texaco operated it at the time of the merger's announcement. At the option of the acquirer, Respondents are to enter into an agreement that grants the acquirer, for a period of up to ten years from the date of such agreement, a license to use the Texaco brand in connection with the operation of Texaco's general aviation business in the U.S. For twelve months following the discontinuation of the supply of Texaco-branded aviation fuel to a fixed base operator or distributor, Respondents may not enter into any contract or agreement for the supply of Texaco-branded aviation fuel to such fixed base operator or distributor, or approve the branding of such fixed base operator or distributor with the Texaco brand. In addition, for six months following the consummation of any post-merger divestiture, Respondents are not to compete for the direct supply of branded aviation fuel to any fixed base operator or distributor that had an agreement for the sale of Texaco-branded aviation fuel in the U.S.

Pursuant to Paragraph VIII of the Proposed Order, if Respondents have failed to divest either: (1) Texaco's general aviation business in the relevant overlap areas, or (2) Texaco's domestic general aviation business within four months of the merger date, the Commission may appoint a trustee to divest Texaco's domestic general aviation business, at no minimum price, to a buyer approved by the Commission.

The purpose of the divestiture of Texaco's general aviation business in the affected areas, or of Texaco's entire domestic general aviation business, is to ensure the continuation of such assets in the same business in which the assets were engaged at the time of the announcement of the merger by a person other than Respondents, and to remedy the lessening of competition alleged in the Complaint.

C. Other Terms

Paragraphs IX–XIII of the Proposed Order detail certain general provisions. Pursuant to Paragraph IX, Respondents are required to provide the Commission with a report of compliance with the Proposed Order every sixty days until the divestitures are completed. Paragraph X requires that Respondents provide the Commission with access to their facilities and employees for the purposes of determining or securing compliance with the Proposed Order.

Paragraph XI provides that, no less than 30 days prior to the merger, Respondents must notify Shell and SRI of the projected merger date and provide copies of the Agreement Containing Consent Orders and all non-confidential documents attached thereto to Shell and SRI.

Paragraph XII provides for notification to the Commission in the event of any changes in the corporate Respondents. Finally, Paragraph XIII provides that if a State fails to approve any of the divestitures contemplated by the Proposed Order, then the period of time required under the Proposed Order for such divestiture shall be extended for sixty days.

V. Opportunity for Public Comment

The Proposed Order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. The Commission, pursuant to a change in its Rules of Practice, has also issued its Complaint in this matter, as well as the Hold Separate Order. Comments received during this thirty day comment period will become part of the public record. After thirty (30) days, the Commission will again review the Proposed Order and the comments received and will decide whether it should withdraw from the Proposed Order or make final the agreement's Proposed Order.

By accepting the Proposed Order subject to final approval, the Commission anticipates that the competitive problems alleged in the Complaint will be resolved. The purpose of this analysis is to invite public comment on the Proposed Order, including the proposed divestitures, and to aid the Commission in its determination of whether it should make final the Proposed Order contained in the agreement. This analysis is not intended to constitute an official interpretation of the Proposed Order, nor is it intended to modify the terms of the Proposed Order in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–23233 Filed 9–17–01; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 001 0186]

Metso Oyj, et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 9, 2001.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joseph Simons or Matthew Reilly, FTC/H–374, 600 Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–3667 or 326–2350.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 7, 2001), on the World Wide Web, at ''http://www.ftc.gov/os/2001/09/index.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania. Ave., NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Orders To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Metso Oyj (''Metso'') and Svedala Industri AB (''Svedala''), which is designed to remedy the anticompetitive effects resulting from Metso's acquisition of Svedala. Under the terms of the Consent Agreement, Metso and Svedala will be required to divest Metso's global primary gyratory crusher and grinding mills businesses and Svedala's global cone crusher and jaw crusher businesses. The three crusher businesses will be divested to Sandvik AB (''Sandvik''). The grinding mill business will be divested to Outokumpu Oyj (''Outokumpu''). Both divestitures will take place no later than twenty (20) days from the date Metso consummates its acquisition of Svedala.

The proposed Consent Agreement has been placed on the public record for thirty (30) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement or make final the Decision and Order.

Pursuant to a cash tender offer announced on June 21, 2000, Metso proposes to acquire all of the issued and outstanding shares and convertible debentures of Svedala. The total value of the transaction is approximately $1.6 billion. The Commission's complaint alleges that the proposed acquisition, if consummated, would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the global markets for the research, development, manufacture and sale of: (1) Cone crushers; (2) jaw crushers; (3) primary gyratory crushers; and (4) grinding mills.

Metso, through its Metso Minerals (formerly known as Nordberg)

subsidiary, and Svedala, are the two largest suppliers of rock processing equipment in the world. Rock processing equipment includes, among other products: (1) Cone crushers; (2) jaw crushers; (3) primary gyratory crushers; and (4) grinding mills. Rock processing equipment is used by both aggregate and mineral producers to crush and pulverize large rock formations in order to manufacture aggregates and retrieve minerals. Aggregate and mineral producers use a series of different types of rock processing equipment in a circuit to crush the rock into the desired size, shape and form. Customers of these products state that they purchase the type and size of rock processing equipment that is optimal for their circuit and, because of the unique performance characteristics of each type and size of equipment, there is little opportunity to switch to alternative equipment.

The global markets for cone crushers, jaw crushers, primary gyratory crushers and grinding mills are highly concentrated. If the proposed acquisition is consummated, Metso's market share would exceed 50 percent in each of the global markets for: (1) Cone crushers; (2) jaw crushers; (3) primary gyratory crushers; and (4) grinding mills. In some of these markets, Metso and Svedala are the largest and second largest suppliers. If the acquisition is consummated, Metso would have a market share many times higher than its next-closest competitor.

Metso and Svedala regularly bid against each other for rock processing equipment. By eliminating competition between these two leading suppliers, the proposed acquisition would allow Metso to exercise market power unilaterally for certain bids, thereby increasing the likelihood that purchasers of cone crushers, jaw crushers, primary gyratory crushers and grinding mills would be forced to pay higher prices and that innovation in these markets would decrease. Metso's proposed acquisition of Svedala would also increase the likelihood that the remaining suppliers of cone crushers, jaw crushers, primary gyratory crushers and grinding mills could collude to the detriment of customers in the relevant markets.

Significant impediments to new entry exist in each of the global markets for cone crushers, jaw crushers, primary gyratory crushers and grinding mills. First, a supplier must design and develop a prototype of the particular type of rock processing equipment, which requires significant amounts of money and time. After a new prototype is developed, suppliers devote additional money and time to testing the prototype at a customer's mine or quarry. The testing stage often lasts as long as two years because many flaws cannot be detected until the equipment has been in continuous operation for a significant period of time. It is imperative that the rock processing equipment that suppliers offer to customers have a track record of reliability and high performance because failure of such equipment would substantially decrease or halt production at a site, costing the customer thousands of dollars an hour in production losses. The steps involved in developing a prototype, testing it, and gaining customer acceptance for a new piece of equipment are difficult, expensive and time-consuming. For these reasons, new entry into the markets for cone crushers, jaw crushers, primary gyratory crushers and grinding mills would not be accomplished in a timely manner or be likely to occur at all even if prices increased substantially after the proposed acquisition.

The Consent Agreement effectively remedies the acquisition's anticompetitive effects in the global markets for cone crushers, jaw crushers, primary gyratory crushers and grinding mills by requiring Metso to divest its worldwide primary gyratory crusher and grinding mill businesses and by requiring Svedala to divest its worldwide cone crusher and jaw crusher businesses. Pursuant to the Consent Agreement, the three crusher businesses will be divested to Sandvik. The grinding mill business will be divested to Outokumpu. Both divestitures will take place no later than twenty (20) days from the date Metso consummates its acquisition. If the Commission determines that Sandvik or Outokumpu is not an acceptable buyer or that the manner of either divestiture is not acceptable, Metso and Svedala must unwind the sale(s) and divest the crusher businesses or the grinding mill business to a Commission-approved buyer. Should they fail to do so, the Commission may appoint a trustee to divest the crusher businesses or the grinding mill business.

The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the acquisition. A proposed buyer of divested assets must not itself present competitive problems. The Commission is satisfied that both Sandvik and Outokumpu are well-qualified acquirers of the divested assets. Sandvik is a publicly-traded Swedish corporation and a leading global supplier of drilling and excavation machinery, equipment and tools for mining and construction industries. Outokumpu is a diversified Finnish metals corporation involved primarily in the mining, production and fabrication of steel, chromium, zinc, copper and nickel. Both Sandvik and Outokumpu have the necessary industry expertise to replace the competition that existed prior to the proposed acquisition. Furthermore, Sandvik and Outokumpu do not pose separate competitive issues as acquirers of the divested assets.

The Consent Agreement contains several provisions designed to ensure that the divestitures of the crusher businesses and the grinding mill business are successful. The Consent Agreement requires Metso and Svedala to provide incentives to all of the employees that Sandvik and Outokumpu want to hire to continue in their positions until the divestitures are accomplished. For a period of one (1) year from the date the divestitures of the businesses are accomplished, Metso and Svedala are prohibited from soliciting or inducing any employees or agents of the rock processing equipment businesses involved in the divestitures to terminate their employment with Sandvik or Outokumpu. Furthermore, in order to enable Sandvik and Outokumpu to develop and manufacture rock processing equipment in the same manner and quality achieved by Metso and Svedala, the Consent Agreement requires Metso and Svedala for a period of one (1) year to provide technical assistance and training at cost to Sandvik and Outokumpu.

Metso and Svedala are also required to provide transitional manufacturing services for the production of jaw crushers to enable Sandvik to deliver jaw crushers to customers without delay. The transitional manufacturing provision only covers the production of jaw crushers because Svedala currently manufactures a substantial portion of its jaw crushers in its Brazilian facility, which will not be divested. Svedala also manufactures some jaw crushers at its Swedish facility which will be divested under the proposed Consent Agreement. Less than 24 months ago, Svedala manufactured all of its jaw crushers in the Swedish facility. Thus, the primary production assets for the manufacture of jaw crushers already exist in the Swedish facility. Sandvik will also manufacture all of its jaw crushers at the Swedish facility. The Commission will appoint an Interim Monitor to oversee the transfer of Svedala's jaw crusher assets located in Brazil and to insure compliance with the transitional manufacturing agreement. The Interim

Monitor has the requisite capability and applicable business knowledge to supervise the proper transfer of divested assets and monitor the critical manufacturing and supply activities of Metso and Svedala. Thus, the transitional manufacturing agreement, in conjunction with the Interim Monitor, provides a guarantee to Sandvik that its production of jaw crushers will be seamless and uninterrupted after the divestiture.

In order to ensure that the Commission remains informed about the status of the crushing businesses and the grinding mill business pending divestiture, and about the efforts being made to accomplish the divestitures, the Consent Agreement requires Metso and Svedala to file reports with the Commission within thirty (30) days of the date they sign the Consent Agreement, and periodically thereafter, until the divestitures are accomplished.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the Consent Agreement or to modify in any way its terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–23234 Filed 9–17–01; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering and Environmental Laboratory Health Effects Subcommittee (INEELHES)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering and Environmental Laboratory Health Effects Subcommittee (INEELHES).

Times and Dates: 8:30 a.m.–4:45 p.m., October 16, 2001; 8:30 a.m.—3:45 p.m., October 17, 2001.

Place: WestCoast Pocatello Hotel, 1555 Pocatello Creek Road, Pocatello, Idaho 83201, telephone, (208) 233–2200, fax (208) 234–4524.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, and replaced by MOUs signed in 1996 and 2000, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992, 1996, and in 2000, between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator ATSDR, regarding community concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to provide a forum for community interaction and serve as a vehicle for community concerns to be expressed as advice and recommendations to CDC and ATSDR.

Matters to be Discussed: Agenda items include an update regarding progress of current studies; a review of the COSMOS evaluation report; strategies to develop INEELHES' internal evaluation; an overview of Idaho National Engineering and Environmental Laboratory; and a presentation on Health Consult by ATSDR.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Paul G. Renard, Executive Secretary, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 1600 Clifton Road, NE (E–39), Atlanta, GA 30333, telephone (404) 498–1800, fax (404) 498–1811.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: September 7, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–23246 Filed 9–17–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–4026–PN]

RIN 0938–ZA21

Medicare Program; Medicare+Choice Organizations—Application by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) for Approval of Deeming Authority for Medicare+Choice Organizations That Are Licensed as Health Maintenance Organizations (HMOs) or Preferred Provider Organizations (PPOs)

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed notice.

SUMMARY: This proposed notice announces the receipt of an application from the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) for recognition as a national accreditation program for health maintenance organizations (HMOs) and preferred provider organizations (PPOs) that wish to participate in the Medicare+Choice program. Regulations set forth at 42 CFR 422.157(b)(1) specify that a **Federal Register** notice will announce our receipt of the accreditation organization's application for approval, describe the criteria we will use in evaluating the application, and provide at least a 30-day public comment period.

DATES: We will consider comments if we receive them at the appropriate

address, as provided below, no later than 5 p.m. on October 18, 2001.

ADDRESSES: In commenting, please refer to file code CMS–4026–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. Mail written comments (one original and three copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–4026–PN, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Patricia Kurtz, (410) 786–4670.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments

Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (410) 786–7197.

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services either through Medicare's traditional fee-for-service program, or through a managed care organization (MCO) that has a Medicare+Choice (M+C) contract with the Centers for Medicare & Medicaid Services (CMS). The regulations specifying the Medicare requirements that must be met in order for an MCO to qualify for and enter into an M+C contract with CMS are located at 42 CFR part 422. These regulations implement Part C of Title XVIII of the Social Security Act (the Act), which specifies the services that an MCO must provide and the requirements that the organization must meet to be an M+C contractor. Other relevant sections of the Act are Parts A and B of Title XVIII and Part A of Title XI pertaining to the provision of services by Medicare certified providers and suppliers.

Generally, for an organization to enter into an M+C contract, the organization must be licensed by the State as a risk bearing organization as set forth in part 422. Additionally, the organization must file an application demonstrating that other Medicare requirements in part 422 are met. Following approval of the contract, CMS engages in routine monitoring of the M+C organization to ensure continuing compliance. The monitoring process is comprehensive and uses a written protocol that itemizes the Medicare requirements the M+C organization must meet.

However, an M+C organization may be exempt from CMS monitoring of certain requirements in subsets listed in section 1852(e)(4)(C) of the Act as a result of an M+C organization's accreditation by a CMS-approved accrediting organization (AO). In essence, the Secretary ''deems'' those Medicare requirements to have been met by the M+C organization, based on his determination that the AO's standards are at least as stringent as Medicare requirements. The term for which an AO may be approved by CMS may not exceed 6 years, as stated in § 422.157(b)(2)(ii). For continuing approval, the AO will have to re-apply to CMS.

The applicant organization is generally recognized as an entity that accredits MCOs that are licensed as an HMO or a Preferred Provider Organization. At this time the JCAHO is applying for the M+C deeming approval for HMOs and PPOs.

II. Approval of Deeming Organizations

Section 1852(e)(4)(C) of the Act requires that within 210 days of receipt of an application, the Secretary shall determine whether the applicant meets criteria specified in section 1852(e)(4) of the Act. Under these criteria, the Secretary will consider for a national accreditation body, its requirements for accreditation, its survey procedures, its ability to provide adequate resources for conducting required surveys and supplying information for use in enforcement activities, its monitoring procedures for provider entities found out of compliance with the conditions or requirements, and its ability to provide the Secretary with necessary data for validation.

The purpose of this proposed notice is to inform the public of our consideration of JCAHO's application for approval of deeming authority of M+C organizations that are licensed as HMOs or PPOs for the following six categories:

- Quality assurance.
- Access to services.
- Antidiscrimination.
- Information on advance directives.
- Provider participation rules.
- Confidentiality and accuracy of enrollees' records.

This notice also solicits public comment on the ability of the applicant's accreditation program to meet or exceed the Medicare requirements for which it seeks authority to deem.

III. Evaluation of Deeming Request

On August 1, 2001, JCAHO submitted all the necessary information to permit us to make a determination concerning its request for approval as a deeming authority for M+C organizations that are licensed as an HMO or a PPO. Under § 422.158(a), our review and evaluation of a national accreditation organization will consider, but not necessarily be limited to, the following information and criteria:

- The equivalency of JCAHO's requirements for HMOs and PPOs to CMS's comparable M+C organization requirements.
- JCAHO's survey process, to determine the following:
  - —The frequency of surveys and whether the surveys are announced or unannounced.
  - —The types of forms, guidelines and instructions used by surveyors.
  - —Descriptions of the accreditation decision making process, deficiency notification and monitoring process, and compliance enforcement process.
- Detailed information about individuals who perform accreditation surveys including—
  - —Size and composition of the survey team for each type of plan under review;
  - —Education and experience requirements for the surveyors;
  - —In-service training required for surveyor personnel;
  - —Surveyor performance evaluation systems; and
  - —Conflict of interest policies relating to individuals in the survey and accreditation decision process.
- Descriptions of the organization's—
  - —Data management and analysis system;
  - —Policies and procedures for investigating and responding to

complaints against accredited organizations;

—Policies and procedures when a determination is made that an M+C organization is not in compliance;

—Types and categories of accreditation offered and M+C organizations currently accredited within those types and categories.

In accordance with § 422.158(b), the applicant must provide documentation relating to—

—Its ability to provide data in a CMS-compatible format;

—The adequacy of personnel and other resources necessary to perform the required surveys and other activities; and

—Assurances that it will comply with ongoing responsibility requirements specified in § 422.157(c).

Additionally, the accrediting organization must provide CMS the opportunity to observe its accreditation process for managed care organizations and must provide other information required by CMS to prepare for an onsite visit to the AO's offices to verify representations made in the application and to make a determination on the application.

IV. Response to Comments and Notice Upon Completion of Evaluation

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a notice in the **Federal Register** announcing the result of our evaluation.

In accordance with the provisions of E.O. 12866, this proposed notice was not reviewed by the Office of Management and Budget.

Section 1853(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w–23(a)(1)(B))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance; and Program No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: August 31, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 01–23194 Filed 9–17–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Announcement of a Cooperative Agreement for Assessing the Provision of Genetic Services and Factors Affecting the Supply and Demand for Genetic Services

The Health Resources and Services Administration (HRSA) announces its intention to award a sole-source Cooperative Agreement to the University of Maryland at Baltimore (UMB) to fund a national study that assesses the delivery of genetic services and the roles of geneticists and other health professionals in genetic service delivery. Specifically, this project will describe the current and emerging health care models for providing genetic services, the genetics specialist workforce, the role of primary care physicians and other clinicians in genetic services, and factors influencing the supply and demand for services across the country. This study will serve as a baseline for building longitudinal analyses of these issues.

The purpose of this Cooperative Agreement is to support a study that will provide: (1) Baseline information; (2) an understanding of the models for delivering genetic services; (3) the factors affecting the demand for genetic services; (4) and the health personnel involved with the delivery of genetic services. This information will be shared with policymakers, the genetics community, health care professionals and educators, and those involved with delivering or planning for genetic services.

UMB will manage this project in collaboration with four HRSA-funded university-based health workforce research centers (State University of New York at Albany; University of Illinois at Chicago (UIC); University of California at San Francisco (UCSF); and the University of Washington at Seattle).

Each of the four collaborating Centers will have faculty and staff participating on the research team. All four have been actively involved in specific projects and tasks which relate to their respective strengths and expertise, which allows this proposed project to draw upon their experience and on their established collaborative relationships. For example, the Suny/Albany Center is leading the survey of geneticists, and the UW Center is helping to lead the survey of primary clinicians.

Authorizing Legislation

This Cooperative Agreement will be awarded under the following authorities: (1) Section 485B of the Public Health Service (PHS) Act, which authorizes the National Center for Human Genome Research to plan and coordinate research goals of the genome project; (2) section 761 as amended of the PHS Act, which authorizes the collection of data and the analysis of workforce related issues; (3) and section 501(a)(2) of the Social Security Act, which authorizes special projects of regional and national significance with respect to maternal and child health and children with special health care needs.

The Federal role in the conduct of this Cooperative Agreement allows for substantial Federal programmatic involvement with planning, development, administration, and evaluation. The Federal role in this Cooperative Agreement will include the following:

(a) Participation in the planning and development of all phases of this project, including review and consultation regarding contracts and agreements developed during the implementation of project activities.

(b) Participation in the development of an evaluation plan for the project.

(c) Assistance in establishing priorities for each budget year that will be consistent with the overall mission of the Federal funding agencies and within the scope of work of the approved project.

(d) Participation in the annual program review and development of specific objectives for each subsequent year.

(e) Consultation on Federal and other organizational contacts necessary to carry out the program.

(f) Participation in the approval of study protocols and methodologies.

(g) Assistance in identifying Federal and other national organizations and coalitions with whom collaboration is essential in order to further the cooperative agreement (mission) and develop specific strategies to support the work of these related groups.

Availability of Funds

Approximately $500,000 is available to fund this sole-source Cooperative Agreement in FY 2001. HRSA's Bureau of Health Professions (BHPr) will be joined by HRSA's Maternal and Child

Health Bureau (MCHB), and the National Human Genome Research Institute's (NHGRI) Ethical, Legal, and Social Implications (ELSI) Program in funding this national study of the delivery of genetics services and the roles of geneticists and other health professionals in service delivery. One-third of the funds will be provided by BHPr, MCHB, and the NHGRI/ELSI Program, respectively. The project period will be 3 years. Competing renewals of the project are not anticipated. UMB may request up to $500,000 per year in total costs (direct plus indirect costs) for up to 3 years. Funding for years after the first year will depend on satisfactory performance and the availability of appropriations.

UMB must share in the cost of the program as follows: for each year funds are awarded under this program, the matching contribution must be at least one-third of the amount of the Federal award for that year. Up to 50 percent of UMB's matching contribution may be in the form of in-kind contributions such as faculty time, staff time, use of computers and other shared resources.

Background

Led by UMB, this collaborative project will provide baseline information and descriptions of the models for delivering genetics services, the factors affecting the demand for genetic services, and the health personnel involved with the delivery of such services. This information will be shared with policymakers, the genetics community, health care professionals and educators, and those involved with delivering or planning for genetics services.

The project's specific research aims are to:

1. Assess the current providers of genetics services through survey studies of genetic specialists and primary care clinicians, and develop a system to monitor changes in delivery of services, the demand for services, and profession practice over time;

2. Describe the current models for delivering genetics services and variations in providing the services within these models, and identify ways that various groups have met the demand for genetic services and potential best practice models;

3. Describe the ways genetic services are provided in a representative sample of communities across the country, identifying the factors that affect service delivery, such as local health care organization, the supply and roles of various health care personnel, referral patterns, providers for underserved groups, insurers and managed care plans, regulation, and competition;

4. Describe and assess the factors that influence demand for genetics services such as genetic testing volume, coverage and payment by health insurers and managed care plans, state and federal policies and regulations, public awareness and advocacy groups efforts;

5. Develop working relationships and efficient communications with key public and private organizations and stakeholders involved with planning for genetics services, and disseminate study findings to these and other relevant stakeholders.

Eligible Applicants

Single Source

Assistance will be provided only to the University of Maryland at Baltimore (UMB). No other applications are solicited. UMB is uniquely qualified to conduct this complex and comprehensive study of genetic services under this Cooperative Agreement because it has a unique set of resources and research capacity which include:

1. Comprehensive genetic clinical service and training programs;

2. Leadership in genetics organizations and advisory groups; and

3. Faculty expertise in health profession workforce studies.

UMB will conduct high-quality research and disseminate its findings to colleagues and policymakers at the institutional, Federal, and State levels. Also from its findings, UMB will produce reports that move the field forward, in the form of peer reviewed publications, web-based documents and other publications as well as presentations at national, regional or State forums.

Additional Information

Questions concerning programmatic aspects of the Cooperative Agreement may be directed to Herb Traxler, PhD, National Center for Health Workforce Information and Analysis, Bureau of Health Professions, HRSA, Room 8–55, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20867; or e-mail address at *Htraxler@hrsa.gov.* Herb Traxler's telephone number is (301) 443–3148.

Dated: September 7, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01–23200 Filed 9–17–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

[ID–095–9260–00]

Bureau of Land Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency shooting closure in Payette County

SUMMARY: This emergency shooting closure closes 5 acres of Public Land around the Wild West Fire Guard camp to all shooting of rifles, pistols, muzzle loaders, and shotguns. This is a year around closure. Shooting into or across the closure is prohibited. The closure boundaries will be posted. All law enforcement personnel or local, State or Federal officials are exempt from this closure while performing their official duties.

The legal description of the closure is: 5 acres on the west side of the quarter corner common to sections 11 and 16 in Township 6 North, Range 4 West, Boise Meridian, Payette County, Idaho.

Recent increased shooting activity around the camp from ground squirrel hunters and target shooters has created an unsafe situation. This shooting activity endangers the BLM Fire Fighters living and working in the camp. Recently, three bullet holes were found in the buildings in the camp.

EFFECTIVE DATE: This closure is effective when signed by the authorized officer and posted.

ADDRESSES: Lower Snake River District, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Ranger Lynn Miracle, Four Rivers Field Office, (208) 384–3345.

SUPPLEMENTARY INFORMATION: Any person who fails to comply with a closure or restriction order issued under 43 CFR 8364.1 may be subject to the penalties provided in 43 CFR 8360.0–7.

Dated: July 18, 2001.

Katherine Kitchell,

Lower Snake River District Manager.

[FR Doc. 01–23189 Filed 9–17–01; 8:45 am]

BILLING CODE 4310–GG–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

The National Credit Union Administration Board determined that its business required the deletion of the following item from the previously announced closed meeting (**Federal Register**, Vol. 66, No. 176, page 47247,

September 11, 2001) scheduled for Thursday, September 13, 2001.

1. Administrative Action under section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

The Board voted unanimously that agency business required that this item be removed from the closed agenda. Earlier announcement of this change was not possible.

The previously announced items were:

1. Administrative Action under section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

2. Two (2) Administrative Actions under part 704 of NCUA's Rules and Regulations. Closed pursuant to exemption (8).

3. Corporate Examination Review Task Force Report and Recommendations. Closed pursuant to exemption (8).

4. One (1) Personnel Matter. Closed pursuant to exemptions (2) and (6).

In addition, it has been determined that an item on the NCUA Board's Open Agenda for September 13, 2001, was inadvertently placed in the wrong category. One of the requests listed under open agenda item number 2 was, in fact, a request to add an underserved community to an existing field of membership. It should have been listed as:

Request from a Federal Credit Union to Add an Underserved Community to its Field of Membership.

The previously announced items were:

1. Requests from Three (3) Federal Credit Unions to Convert to Community Charters.

2. Requests from Three (3) Federal Credit Unions to Expand their Community Charters.

3. Proposed Rule: Amendment to part 704, NCUA's Rules and Regulations, Corporate Credit Unions.

4. Final Rule: Amendment to section 701.31(d), NCUA's Rules and Regulations, Nondiscrimination in Advertising.

5. Interim Final Rule: Amendment to part 707, NCUA's Rules and Regulations, Truth in Savings.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 01–23347 Filed 9–14–01; 2:57 pm]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–352 and 50–353]

Exelon Generation Company, LLC; Limerick Generating Station, Unit Nos. 1 and 2; Exemption

1.0 Background

Exelon Generation Company, LLC, (the licensee) is the holder of Facility Operating License Nos. NPF–39 and NPF–85 which authorize operation of the Limerick Generating Station (LGS), Unit Nos. 1 and 2. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of dual unit boiling water reactors located in Montgomery County in Pennsylvania.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), Section 50.71 ''Maintenance of records, making of reports,'' paragraph (e)(4) states, in part, that ''Subsequent revisions [to the Updated Final Safety Analysis Report (UFSAR)] must be filed annually or 6 months after each refueling outage provided the interval between successive updates [to the UFSAR] does not exceed 24 months.'' The two units at LGS share a common UFSAR, therefore, this rule requires the licensee to update the same document annually or within 6 months after each unit's refueling outage. Since each unit is on a staggered 24 month refueling cycle, updating after each refueling outage also results in an annual update. Single unit sites using a 24 month refueling cycle would only be required to update the UFSAR on a 24 month periodicity. The proposed exemption would allow updates to the combined UFSAR for LGS, Unit Nos. 1 and 2, to be submitted within 6 months following completion of each LGS Unit 1 refueling outage, not to exceed 24 months from the previous submittal.

In summary, the licensee has requested an exemption that would allow updates to the LGS UFSAR at a periodicity not to exceed 24 months, similar to the periodicity permitted for single unit sites.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. The last change to 10 CFR 50.71(e)(4) was published in the **Federal Register** (57 FR 39358) on August 31, 1992, and became effective on October 1, 1992. The underlying purpose of the rule change was to relieve licensees of the burden of filing annual UFSAR revisions, especially if there had been no refueling outages since the previous revision. Most of the changes which lead to revision of the UFSAR occur during refueling outages. The revised 10 CFR 50.71(e)(4) also assured that such revisions are made at least every 24 months. However, as written, the burden reduction can only be realized by single-unit facilities, or multiple-unit facilities that maintain separate UFSARs for each unit. In the Summary and Analysis of Public Comments accompanying the 10 CFR 50.71(e)(4) rule change published in the **Federal Register** (57 FR 39355, 1992), the NRC acknowledged that the final rule did not provide burden reduction to multiple-unit facilities sharing a common UFSAR. The NRC stated: ''With respect to the concern about multiple facilities sharing a common FSAR, licensees will have maximum flexibility for scheduling updates on a case-by-case basis.'' Granting this exemption would provide burden reduction to LGS while still assuring that revisions to the LGS UFSAR are made at least every 24 months.

The NRC staff examined the licensee's rationale to support the exemption request and concluded that updating the LGS UFSAR within 6 months following completion of each LGS Unit 1 refueling outage, not to exceed 24 months from the previous submittal, meets the underlying purpose of 10 CFR 50.71(e)(4), since the LGS UFSAR would be updated at least every 24 months, similar to the UFSAR at a single unit site. The requirement to revise the UFSAR annually or within 6 months after the refueling outages for each unit, therefore, is not necessary to achieve the underlying purpose of the rule. In addition, the NRC previously acknowledged that the revision to 10 CFR 50.71(e)(4) did not directly address burden reduction for multiple-unit facilities that share a common UFSAR, but that such situations could be addressed on a case-by-case basis. The NRC staff has reviewed the licensee's request and has concluded that application of the regulation in these circumstances is not necessary to

achieve the underlying purpose of the rule.

Therefore, the NRC staff concludes that pursuant to 10 CFR 50.12(a)(2)(ii) special circumstances are present.

In addition, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

4.0 Conclusion

Accordingly, the Commission hereby grants the licensee an exemption from the requirements of 10 CFR 50.71(e)(4) for LGS Unit Nos. 1 and 2, in that updates to the combined UFSAR for LGS, Unit Nos. 1 and 2, may be submitted within 6 months following completion of each LGS Unit 1 refueling outage, not to exceed 24 months from the previous submittal.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 40300).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 12th day of September, 2001.

For the Nuclear Regulatory Commission.

Claudia M. Craig,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23211 Filed 9–17–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation; 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 No. DPR–28 issued to Vermont Yankee Nuclear Power Corporation (the licensee) for operation of the Vermont Yankee Nuclear Power Station located in Windham County, Vermont.

The proposed amendment would extend the allowed outage time (AOT) for the high pressure coolant injection (HPCI) and reactor core isolation cooling systems from 7 days to 14 days. Requirements were added to immediately assure the availability of alternate means of high pressure coolant makeup. Also clarifying changes were made to Technical Specification (TS) 3.5.E.2 and TS 3.5.G.2 by reformatting the TSs to make nomenclature consistent regarding HPCI and the automatic depressurization system (ADS) as being systems not subsystems.

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.

The Commission has made a proposed determination 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. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's analysis is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated?

The high pressure coolant injection (HPCI) and reactor core isolation cooling (RCIC) systems do not serve any function for preventing accidents, and their unavailability would not affect the probability of accidents previously evaluated. The unavailability of either HPCI or RCIC is not considered to be a potential accident initiator. As such, the inoperability of HPCI or RCIC will not increase the probability of any accident previously evaluated.

Therefore, the proposed change will not increase the probability of any accident previously evaluated.

Emergency core cooling systems (ECCS) are used to mitigate the consequences of an accident. However, RCIC is not an ECCS and is not credited in any accident previously evaluated. HPCI is capable of mitigating small loss-of-coolant accidents, but this function would be met by the available automatic depressurization system (ADS) in conjunction with the low pressure coolant injection or core spray systems, which are the basis for the current 7-day allowed outage time (AOT). The consequences of an event occurring during the proposed 14-day AOT are the same as the consequences of an event occurring during the existing 7-day AOT. Therefore, adequate core cooling would still be provided and the consequences of accidents previously evaluated are not increased.

Therefore, the proposed change will not increase the consequences of any accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated?

This proposed change to the technical specifications will not physically alter the plant. No new or different types of equipment will be installed. Plant operations will remain consistent with current safety analysis assumptions regarding availability of equipment. Thus, no new failure mode not previously analyzed will be introduced.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety?

The proposed change does not involve a significant decrease in a margin of safety because, as in the existing AOT Technical Specifications, the 14-day completion time for restoring HPCI or RCIC is contingent upon the operability of redundant equipment (i.e., for HPCI, RCIC and ADS in conjunction with low-pressure coolant injection/spray subsystems are required to be operable; and for RCIC, HPCI is required to be operable).

Therefore, this change does not involve a significant reduction in a margin of safety.

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 30 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 30-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 30-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 and provide for opportunity for a hearing after 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 October 18, 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 e-mail 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 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 a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. 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 Mr. David R. Lewis, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128, 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 14, 2001, as supplemented on August 21,2001, 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 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 12th day of September 2001.

For the Nuclear Regulatory Commission.

Robert M. Pulsifer,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23210 Filed 9–17–01; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3364]

State of New York

As a result of the President's major disaster declaration on September 11, 2001, I find that Bronx, Kings (Borough of Brooklyn), New York (Borough of Manhattan), Queens and Richmond (Borough of Staten Island) Counties in the State of New York constitute a disaster area due to damages caused by explosions and fires at the World Trade Center which occurred on September 11, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 10, 2001 and for economic injury until the close of business on June 11, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Fl., Niagara Falls, NY 14303–1192.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Nassau and Westchester in the State of New York; Bergen, Hudson, Middlesex and Union counties in the State of New Jersey.

The interest rates are:

	Percent
For Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	6.750
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	3.375
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	7.125
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000

The number assigned to this disaster for physical damage is 336404. For economic injury the number is 9M4900 for New York; and 9M5000 for New Jersey.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 13, 2001.

Herbert L. Mitchell,

Associate Administrator For Disaster Assistance.

[FR Doc. 01–23298 Filed 9–17–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3775]

Bureau of Consular Affairs, Passport Services; Agency Information Collection Activities

AGENCY: U.S. Department of State.

ACTION: 30-Day Notice of Information Collection: Form DS–19, Passport Amendment/Validation Application (Formerly DSP–19) OMB #1405–0007.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Regular—Reinstatement, with change, of a previously approved collection for which approval has expired.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Passport Amendment/Validation Application.

Frequency: On Occasion.

Form Number: DS–19 (Formerly DSP–19).

Respondents: Individuals or Households.

Estimated Number of Respondents: 279,400.

Average Hours Per Response: ½ hr. (5 min).

Total Estimated Burden: 23,283.

Public comments are being solicited to permit the agency to:

- 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 collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202–633–2460.

Dated: August 9, 2001.

Georgia A. Rogers,

Deputy Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 01–23235 Filed 9–17–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 3776]

Bureau of Consular Affairs, Passport Services; Agency Information Collection Activities

AGENCY: Department of State.

ACTION: 30-Day notice of information collection; Form DS–60, affidavit regarding change of name (Formerly DSP–60) OMB #1400–0009.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Regular—Reinstatement, with change, of a previously approved collection for which approval has expired.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Affidavit Regarding Change of Name.

Frequency: On Occasion.

Form Number: DS–60 (Formerly DSP–60).

Respondents: Individuals or Households.

Estimated Number of Respondents: 106,800.

Average Hours Per Response: ¼ hr. (15 min).

Total Estimated Burden: 26,700.

Public comments are being solicited to permit the agency to:

• 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 collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202–633–2460.

Dated: August 9, 2001.

Georgia A. Rogers,

Deputy Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 01–23236 Filed 9–17–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 3777]

Bureau of Consular Affairs, Passport Services; Agency Information Collection Activities

AGENCY: Department of State.

ACTION: 30-Day notice of information Collection; Form DS–64, statement regarding lost or stolen passport (formerly DSP–64) OMB #1405–0014.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Regular—Reinstatement, with change, of a previously approved collection for which approval has expired.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Statement Regarding Lost or Stolen Passport.

Frequency: On occasion.

Form Number: DS–64 (Formerly DSP–64).

Respondents: Individuals or households.

Estimated Number of Respondents: 70,000.

Average Hours Per Response: 1/12 hr. (5 min).

Total Estimated Burden: 5,833.

Public comments are being solicited to permit the agency to:

• 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 collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202–633–2460.

Dated: August 9, 2001.

Georgia A. Rogers,

Deputy Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 01–23237 Filed 9–17–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 3779]

Bureau of Consular Affairs, Passport Services; Agency Information Collection Activities

AGENCY: Department of State.

ACTION: 30-Day notice of information collection; Form DS–10, birth affidavit (formerly DSP–10A) OMB #1400–0010.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Regular—Reinstatement, with change, of a previously approved collection for which approval has expired.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Birth Affidavit.

Frequency: On occasion.

Form Number: DS–10 (Formerly DSP–10A).

Respondents: Individuals or households.

Estimated Number of Respondents: 81,500.

Average Hours Per Response: ¼ hr. (15 min).

Total Estimated Burden: 20,375.

Public comments are being solicited to permit the agency to:

• 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 collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202–633–2460.

Dated: August 9, 2001.

Georgia A. Rogers,

Deputy Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 01–23238 Filed 9–17–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 3780]

Bureau of Consular Affairs, Passport Services; Agency Information Collection Activities

AGENCY: Department of State.

ACTION: 30-day notice of information collection: Form DS–71, Affidavit of Identifying Witness (formerly DSP–71) OMB #1405–0088.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Regular—Reinstatement, with change, of a previously approved collection for which approval has expired.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Affidavit of Identifying Witness.

Frequency: On Occasion.

Form Number: DS–71 (Formerly DSP–71).

Respondents: Individuals or households.

Estimated Number of Respondents: 118,000.

Average Hours Per Response: 1/12 hr. (5 min).

Total Estimated Burden: 9,833.

Public comments are being solicited to permit the agency to:

- 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 collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW, Room H904, Washington, DC 20522, and at 202–633–2460.

Dated: August 9, 2001.

Georgia A. Rogers,

Deputy Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 01–23239 Filed 9–17–01; 8:45 am]

BILLING CODE 4710–06–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 1534)

TIME AND DATE: 9 a.m. (CDT), September 19, 2001

PLACE: The Renaissance Center, 855 Highway 46 South, Dickson, Tennessee

STATUS: Open

Agenda

Approval of minutes of meeting held on August 22, 2001.

New Business

A—Budget and Financing

A1. Approval of short-term borrowing from the United States Treasury.

A2. Rate review and approval of power system operating and capital budgets for Fiscal Year 2002.

B—Purchase Awards

B1. Supplement to Contract No. 583 with Immixtechnology, Inc., for software, maintenance, and professional services.

B2. Contract with Dell Computer Corporation to provide the latest version of Microsoft operating system and office product software.

C—Energy

C1. Supplement to Contract No. 99MJ–232187 with G–UB–MK Constructors for modification and supplemental maintenance work at TVA's eastern region fossil facilities.

C2. Contract with Reinforced Plastic Systems, Inc., to design, fabricate, deliver, and install scrubber absorber recycle piping at Cumberland Fossil Plant.

C3. Supplement to contract with Valmont Industries, Inc., for transmission steel poles and accessories for Transmission/Power Supply Group.

E—Real Property Transactions

E1. Grant of a permanent easement for an electrical transmission line to Fort Loudoun Electric Cooperative, affecting approximately 8.7 acres of land on Tellico Reservoir in Monroe County, Tennessee (Tract No. XTTELR–39T).

E2. Grant of a noncommercial, nonexclusive permanent easement to Douglas and Charlene Cross for construction and maintenance of recreational water-use facilities, affecting approximately 0.02 acre of Tellico Reservoir shoreline in Loudon County, Tennessee (Tract No. XTELR–223RE).

E3. Grant of a permanent easement for a water intake and waterline to Russellville Water and Sewer Board, affecting approximately 1.3 acres of land on Cedar Creek Reservoir in Franklin County, Alabama (Tract No. XTBCCER–IPS).

E4. Approval of updated Guntersville Reservoir Land Management Plan, Jackson and Marshall Counties, Alabama, and Marion County, Tennessee.

E5. Approval of Norris Reservoir Land Management plan, Anderson, Campbell, Claiborne, Grainger, and Union Counties, Tennessee.

F—Other

F1. Approval to file condemnation cases to acquire transmission line easements and rights-of-way affecting Tract No. SLML–1, Wilson Dam—West Point Loop Into State Line, Mississippi, Substation Transmission Line in Marion County, Alabama; and Tract No. WRCPT–77B—West Ringgold—Center Point Transmission Line in Whitfield County, Georgia.

Information Items

1. Amendment to the trust agreement between the Board of Directors of the TVA Retirement System and Fidelity Management Trust Company.

2. Termination of the delegation of authority to enter into cooperative agreements with colleges and universities in the Tennessee Valley region to fund the institution's studies and experiments for power development, environmental research, and economic development.

3. Concurrence in the issuance of up to $1.25 billion in Global Power Bonds.

4. Approval of Abbott Capital Private Equity Partners IV, L.P., as a new investment manager for the TVA Retirement System and approval of the Investment Management Agreement between the Retirement System and the new investment manager.

For more information: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999. People who plan to attend the meeting and have special needs should call (865) 632–6000.

Dated: September 12, 2001.

Maureen H. Dunn,

General Counsel and Secretary.

[FR Doc. 01–23319 Filed 9–14–01; 1:18 pm]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2001–10613]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Number 2115–0003

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of one Information Collection Request (ICR). The ICR comprises Information on Marine Casualties; Testing Personnel of Commercial Vessels for Drugs and Alcohol; and Management Information Systems. Before submitting the ICR to OMB, the Coast Guard is requesting comments on it.

DATES: Comments must reach the Coast Guard on or before November 19, 2001.

ADDRESSES: You may mail comments to the Docket Management System (DMS) [USCG 2001–10613], U. S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The DMS maintains the public docket for this request. Comments will become part of this docket and will be available for inspection or copying in room PL–401, located on the Plaza Level of the Nassif Building at the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at *http://dms.dot.gov*.

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov* and also from Commandant (G–CIM–2), U.S. Coast Guard Headquarters, room 6106 (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; or Dorothy Beard, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–5149, for questions on the docket.

Request for Comments

The Coast Guard encourages interested persons to submit written comments. Persons submitting comments should include their names and addresses, identify this document [USCG 2001–10613], and give the reason for the comments. Please submit all comments and attachments in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped self-addressed postcards or envelopes.

Information Collection Request

1. *Title:* Information on Marine Casualties; Testing Personnel of Commercial Vessels for Drugs and Alcohol; and Management Information Systems.

OMB Control Number: 2115–0003.

Summary: The Coast Guard needs information with which it can investigate mishaps to commercial vessels causing death, extensive damage, and the like, as mandated by Congress. It needs information from chemical testing so it can detect and reduce the use of drugs and alcohol by mariners, also as mandated by Congress. And it needs certain information on management so it can evaluate the effectiveness of its programs.

Need: 46 U.S.C. 6101 authorizes the Coast Guard to prescribe rules for reporting of marine casualties. 46 CFR parts 4 and 16 prescribe the rules governing marine casualties and chemical testing.

Respondents: The owner, agent, master, operator, or person-in-charge of a vessel involved in a marine casualty.

Frequency: On occasion.

Burden Estimate: The estimated burden is 19,195 hours a year.

Dated: Septmeber 12, 2001.

V.S. Crea,

Director of Information and Technology.

[FR Doc. 01–23259 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

High Density Traffic Airports; Slot Allocation and Transfer Method

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Statement of policy.

SUMMARY: This action extends until October 31, 2001 the temporary policy issued on November 11, 2000, regarding the minimum slot usage requirement for slots and slot exemptions at LaGuardia Airport. Additionally, the FAA advises all carriers that in view of recent events in the New York and Washington, DC areas, which resulted in the cessation of commercial air service nationwide, a separate policy providing appropriate relief from the slot usage requirement will be issued in the near future.

EFFECTIVE DATE: September 15, 2001.

FOR FURTHER INFORMATION CONTACT: Lorelei Peter, Office of the Chief Counsel, AGC–220, Federal Aviation Administration, 800 Independence Avenues, SW., Washington, DC 20591; telephone number 202–267–3073.

SUPPLEMENTARY INFORMATION:

Background

On November 17, 2000, the FAA published in the **Federal Register** a statement of policy regarding the slot usage requirement at LaGuardia Airport to address the high level of delay air carriers at LaGuardia experienced due to the increased number of operations under the ''Wendell H. Ford Aviation Investment and Reform Act for the 21st Century'' (''AIR–21'') (65 FR 69601). As a result of AIR–21, air carriers meeting specified criteria could obtain slot exemptions for new entrant service or service to small communities at New York's LaGuardia Airport, John F. Kennedy International Airport, and Chicago's O'Hare International Airport; a separate regime for increasing service opportunities was authorized for Washington DC's Ronald Reagan Washington National Airport. Subsequent to this legislation, the Department of Transportation issued eight orders establishing procedures for the processing of applications for these slot exemptions.

FAA air traffic operations data reported by OPSNET for September 2000 indicated that there were 1,163 average daily operations at LaGuardia, an increase of approximately 18 percent over the September 1999 level of 982 average daily operations. OPSNET also reported that air traffic control delays of 15 minutes or more at LaGuardia increased to 10,515 in September 2000 from 3,108 in September 1999. The percentage of flights recorded with air traffic delays increased to 30.13 percent from 10.55 percent. In comparison, the second highest level of OPSNET reported air traffic delays was at Newark International Airport, where the

percentage of flights delayed showed a small decline to 8.5 percent in September 2000 compared to 8.7 percent in September 1999.

In September 2000, the FAA Air Traffic Control System Command Center regularly implemented traffic management programs to handle the increased volume of flights at LaGuardia. Peak period demand routinely exceeded airport capacity. Delays of one hour or more were frequent, even during ideal weather conditions, and often increased to several hours when adverse aviation weather reduced system capacity. Many airlines operationally addressed the increased delays through various means including waiting for the assigned clearance time, canceling flights, reaccommodating passengers on later flights, and adding flying time to account for increased operating times. Thus, the agency found it necessary to implement a temporary usage policy to accommodate carriers in managing their operations at the airport during this time.

This policy permitted carriers to return temporarily to the FAA the slots or slot exemptions in advance due to scheduled planning or other decisions by the carriers without jeopardizing the permanent loss of the slot or slot exemption. Additionally, the policy provided that the FAA would treat a slot or slot exemption as having been used if the flight was scheduled but canceled for operational reasons and the slot/slot exemption would not otherwise have been subject to withdrawal. Consequently, the policy provided some immediate relief and/or flexibility to carriers to schedule or cancel flights due to the increased level of delay occurring daily at the airport. This policy originally was effective through the April 2001 reporting period. On February 14, 2001, the FAA extended this policy through September 14, 2001, and modified the policy to permit the return of AIR–21 slot exemptions for weekend frequencies only but retained the provision allowing the temporary return of slots (66 FR 10931; February 20, 2001).

As a result of the increased volume of operations described above, and the consequent adverse impact on operations at the airport and across the air traffic system in whole, the FAA limited the number of AIR–21 slot exemptions at LaGuardia and reallocated the slot exemptions by a lottery on December 4, 2000. Through this lottery, the FAA reallocated 159 slot exemptions among participating carriers; this allocation was originally to remain in effect until September 15, 2001, but recently was extended until October 26, 2002 (66 FR 41294; August 7, 2001).

By letter dated August 13, American Airlines, Inc., TWA Airlines LLC, and American Eagle Airlines, Inc. requested an extension of the temporary usage policy until October 26, 2002. By letter dated August 14, Continental and Continental Express requested a similar extension of the usage policy. Both requests stated that since the agency had extended the AIR–21 slot exemption allocation until October 26, 2002, an extension of the policy to coincide with that extension is consistent with FAA's stated rationale when it extended the policy in February 2001. Delta Airlines likewise submitted a request to extend the policy until October 26, 2002, based on the same justification provided by American and Continental. Delta also commented that if the agency determined to not extend the policy, that the September-October reporting period should be extended until December 31, 2001.

Agency Response

The limitation on the number of AIR–21 slot exemptions became effective on January 31, 2001. At the time that the agency extended the temporary usage policy in February 2001, approximately 35 allocated High Density Rule slots and a number of the 159 authorized slot exemptions were not in service due to temporary returns or delays in start-up. Also at that time, the agency did not have a basis on which to assess the operational impact of the limited reallocation and to make any conclusions as to the effect of the limitation on slot exemptions on the operating environment at LaGuardia and the national airspace system. Consequently, the FAA decided to extend the policy to coincide with the slot exemption allocation so that the agency could monitor operations at the airport, discern measurable impact, and provide carriers with sufficient time to adjust their operations given the new reallocation of slot exemptions.

Today, carriers are experiencing a significantly different operating environment at LaGuardia. The FAA has established a limit of 75 scheduled operations per hour, which reflects the airport's capacity, provides opportunity for growth above the High Density Rule limits as provided under AIR–21 provisions, and ensures that scheduled demand will not reach the levels experienced at the airport beginning in September 2000. The operational benefits are reflected in the significant delay reductions after the lottery results were implemented. For example, the number of flights delayed by 15 minutes or more during July 2001 was 2,434, or about 7 percent of total airport operations for the month. Preliminary data for August 2001 indicates approximately 12 percent of airport operations were delayed. In each of the two months preceding the implementation of the temporary usage policy in November 2000, there were over 10,000 monthly delays, impacting up to 30 percent of total airport operations. Although a limited number of weekday slots have been returned under the temporary usage policy and most of the 21 exemptions reallocated in the August 15, 2001 lottery have not begun service, the FAA does not believe their full operation will significantly alter the current operational environment at LaGuardia. The operating environment at the airport has improved significantly from one year ago and the unpredictable delay situation prompted by continuing and significant increases in the number of exemption flights, which warranted adoption of the policy, no longer exists today. The FAA will continue to monitor operations at the airport and will revisit this issue if there is a change in the operating environment that warrants reconsideration of the usage requirement at LaGuardia.

The slot usage requirements under the regulations were last revised in 1992 and at that time, the FAA specifically addressed the fact that adoption of the 80 percent usage threshold takes into account certain factors such as weather and operational delay. The adopted 80 percent usage requirement provides an appropriate balance that ensures limited slot resources are used and allows a reasonable 20 percent level of non-operation due to operational, scheduling, or other reasons. The FAA finds that based on the above factors describing airport operations, there is no current operational reason to maintain the temporary policy until October 26, 2002. In order to accommodate schedules already planned through the remainder of the summer scheduling season, however, the FAA is extending this policy until the end of the September-October reporting period. Therefore, this policy will expire on October 31, 2001. While the agency is not adopting Delta's suggestion to extend the September/October reporting period until December 31, 2001, the FAA notes that under the minimum slot usage provisions, any slot held by a carrier at a High Density Traffic Airport is treated as used on the following days: Thanksgiving Day, the Friday following Thanksgiving Day and the period from

December 24 through the first Saturday in January (14 CFR 93.227(l)). This provision, in addition to the limited extension of the usage policy to accommodate the summer scheduling season, provides carriers with adequate time to adjust their operations if necessary. The FAA also notes that carriers, who may experience usage issues for the September/October or November/December reporting period may utilize the provisions of the buy-sell rule to make slots available to other operators through the transfer process.

In the past when circumstances dictated that relief of general applicability from the slot usage requirement was necessary, the agency has waived the slot usage requirement for all carriers at certain High Density Traffic Airports. The FAA advises that the recent events in the New York and Washington, DC areas, which resulted in the temporary cessation of all commercial air service in the United States, warrant similar consideration. Consequently, the agency currently is considering the appropriate relief and will publish such policy in the **Federal Register** in the near future.

Issued in Washington, DC on September 13, 2001.

David G. Leitch,

Chief Counsel.

[FR Doc. 01–23287 Filed 9–14–01; 11:24 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on the Urban Ring Project Phase II, Located in Boston, Chelsea, Everett, Somerville, Cambridge and Brookline, Massachusetts

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Federal Transit Administration (FTA) and the Massachusetts Bay Transportation Authority (MBTA) intend to prepare an Environmental Impact Statement (EIS) for Phase II of the Urban Ring Project located in Boston and adjacent communities. The EIS will be undertaken in accordance with the National Environmental Policy Act (NEPA). The MBTA will ensure that the EIS also satisfies the requirements of the Massachusetts Environmental Policy Act (MEPA).

The EIS will evaluate the following alternatives: a No-Build alternative; Transportation System Management alternative defined as low cost, operationally oriented improvements to address the transportation problems in the corridor; and a Bus Rapid Transit (BRT) system along existing roadway rights-of-way and other rights-of-way owned by the MBTA and local jurisdictions. Scoping will be accomplished through meetings and correspondence with interested persons, organizations, the general public, Federal, State and local agencies.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered should be sent to the MBTA by October 30, 2001. See **ADDRESSES** below. *Scoping Meeting:* A joint FTA and MBTA public scoping meeting will be held on Wednesday, October 3, 2001, from 4 p.m. to 7 p.m., Massachusetts Transportation Building, 10 Park Plaza, Second Floor, Conference Rooms 2 and 3, Boston, MA 02116. People with special needs should contact Claire Barrett by calling (617) 492–4996 for information and arrangements. The building is accessible to people with disabilities. It is located near MBTA Bus Routes #43 and #55, the Boylston Station stop on the Green Line, and the New England Medical Center stop on the Orange Line. Copies of the Expanded Environmental Notification Form (ENF), including the Executive Summary of the Major Investment Study (MIS) will be available at the meeting. A presentation of the project will be made and comments solicited. See **ADDRESSES** below.

ADDRESSES: Written comments on the scope of the analysis and impacts to be considered should be sent to Mr. Peter C. Calcaterra, Project Manager, Massachusetts Bay Transportation Authority, 10 Park Plaza, Room 5750, Boston, MA 02116. A scoping meeting will be held at the following location: Massachusetts Transportation Building, Conference Rooms 2 and 3, 10 Park Plaza, Boston, Massachusetts.

See **DATES** above.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Doyle, Regional Administrator, Federal Transit Administration Region 1, 55 Broadway, Cambridge, MA 02142, Telephone: (617) 494–2055.

SUPPLEMENTARY INFORMATION:

I. Scoping

The FTA and the MBTA invite interested individuals, organizations and federal, state, and local agencies to participate in: defining the options to be evaluated in the EIS for Phase 2 of the Urban Ring Project; identifying the social, economic and environmental impacts to be evaluated; and suggesting alternative options that are less costly or have fewer environmental impacts while achieving similar transportation objectives. An Expanded Environmental Notification Form (ENF) dated July 26, 2001 prepared in accordance with the provisions of the Massachusetts Environmental Policy Act 301 CMR 11.00 is being circulated to all Federal, state, and local agencies having jurisdiction in the Project. Other interested parties may request this document by contacting Fran Dowling at (978) 371–4221 or by email to fdowling@earthtech.com

II. Description of the Study Area and Transportation Needs

The Urban Ring Project is an initiative of the MBTA to improve the regional transportation system in Greater Boston. The roughly circular Urban Ring Corridor (hereafter known as the Corridor) includes portions of Chelsea, Everett, Somerville, Cambridge, Brookline and Boston. Approximately 15 miles long and one mile wide, the Corridor is growing faster than the regional average and will contain over 314,000 residents and over 360,000 jobs by the year 2025.

The Corridor has been the subject of many past transportation studies that have focused on several critical transportation needs. These studies, which span nearly 40 years, have identified solutions ranging from a highway to a new circumferential rail transit line and new bus routes augmented by low-cost traffic engineering improvements.

Every MBTA commuter rail, heavy and light rail transit line, the Silver Line (currently under construction) as well as over half of all MBTA bus routes, currently cross the Corridor, yet directness of transit travel along the Corridor today remains poor. Transit trips to and from the Corridor require twice as many transfers as the average for the metropolitan region, and transit trips travel at an average speed of less than 8 miles per hour compared to a regional average of over 15 miles per hour. This poor performance is largely due to the indirect routing that transit travelers must currently use for cross-town trips, compounded by inadequate connections with the radial transit and commuter rail system.

To date, improvements have been limited and no comprehensive program to address these mobility problems has been implemented. As summarized below, the project is planned to connect the existing radial transit lines with a multi-modal circumferential transit system to facilitate travel and help to

relieve existing congestion, and to help reduce trip times and frustration for travelers.

III. Alternatives

To address these needs, the MIS developed alternatives ranging from low-cost conventional buses to Bus Rapid Transit (BRT), light and heavy rail systems and various combinations of each. Each alternative was evaluated to identify benefits, costs and potential environmental issues. A community-based planning process was used throughout the study, including extensive participation from citizen, business and environmental groups, and municipalities, as well as representatives from many of the areas largest educational and medical institutions. The extensive public involvement program included workshops, outreach briefings and general public meetings with a working committee and its subcommittees, providing input and guidance throughout the process.

Though this public process, the range of alternatives was steadily reduced from fifteen down to three. All three alternatives consist of Transportation System Management (TSM) measures, BRT service, supporting elements such as new commuter rail stops at Urban Ring interfaces, and rail service. They differ in the type of rail service. Alternatives A1 and B include Light Rail while Alternative A2 utilizes Heavy Rail. A multi-phase implementation concept and schedule was developed where each phase builds upon the previous one until all the components of the alternatives are in place.

Phase I: TSM
Phase II: TSM + BRT and supporting elements
Phase III: TSM + BRT and supporting elements + Rail Transit

The phased approach enables tangible service improvements to occur sooner and enables the level of investment and service to increase with demand and available levels of funding. In Phase I, Transportation System Management (TSM or Bus Optimization) elements not requiring major new construction are proposed. In Phase III, the rail technology and alignment will be determined during a subsequent environmental process. The subject of this EIS, and the focus of the scheduled scoping session, will be the BRT and supporting commuter rail connections proposed in Phase II of the Project.

For Phase II of the Urban Ring Project three alternatives were examined during the MIS. These alternatives will be examined in greater detail during the EIS as follows:

No-Build Alternative: Consists of the transportation network contained in the Regional Transportation Plan for the year 2010 in the absence of any other transportation improvements in the study corridor; *TSM Alternative:* Consists of continued operation of the proposed Phase I TSM bus routes within the 2010 network with no other transportation improvements in the study corridor; and *BRT Alternative:* Consists of the seven proposed BRT routes plus the supporting elements and continued operation of the non-redundant Phase I bus routes. A more detailed description of the BRT Alternative follows.

For Phase II, a fleet of low emission, low-floor, 60-foot articulated BRT vehicles would be purchased and additional BRT vehicle maintenance facility capacity provided. The Phase II BRT routes and vehicle maintenance facilities are planned for implementation in coordination with the MBTA Silver Line service and facilities that will be operational at that time. The TSM bus routes from Phase I would continue where not redundant to the BRT service. The BRT routes would operate at frequencies comparable to existing transit lines. During Phase II the environmental filings would be made to select the subsequent rail system to be added in Phase III.

Phase II would include segments of exclusive busway, Intelligent Transportation Systems features, and supporting elements to improve connections with radial transit and commuter rail lines. Some of the BRT routes in Phase II would be new, and other are modified or converted versions of the Phase I bus routes. A total of seven BRT routes are proposed in Phase II.

Supporting Elements: New or Expanded Commuter Retail Stations

Downtown Chelsea: Expand and improve existing station on Newburyport/Rockport Line.

Sullivan Square: New station stop near junction of Newburyport/Rockport and Haverhill Lines.

Gilman Square: New station stop on the Lowell Line.

Union Square: New station stop on the Fitchburg Line.

Yawkey: Expand and improve existing station on the Framingham/Worcester Line.

Ruggles: Expanded stop with platforms on both sides of Northeast Corridor.

Uphams Corner: Improved stop on the Fairmont Line.

IV. Probable Effects

The MBTA will consider probable effects and potentially significant impacts to social, economic and environmental factors associated with the Phase II alternatives under evaluation in the EIS. Potential environmental issues to be addressed will include: land use, historic and archeological resources, traffic and parking, noise and vibration, environmental justice, regulatory floodway/floodplain encroachments, coordination with transportation and economic development projects, and construction impacts. Other issues to be addressed in the EIS include: natural areas, ecosystems, rare and endangered species, water resources, air/surface water and groundwater quality, energy, potentially contaminated sites, displacements and relocations, and parklands. The potential impacts will be evaluated for both the construction period and long operations period of each alternative considered. In addition, the cumulative effects of the proposed project alternatives will be identified. Measures to avoid or mitigate adverse impacts will be developed.

V. FTA Procedures

A Draft EIS will be prepared to document the evaluation of the social, economic and environmental impacts of the alternatives. Upon completion, the Draft EIS will be available for public and agency review and comment. A public hearing on the Draft EIS will be held within the study area. On the basis of the Draft EIS and the public and agency comments received, a locally preferred alternative will be selected and described in full detail in the Final EIS.

Issued: September 13, 2001.

Richard H. Doyle,

Regional Administrator.

[FR Doc. 01–23255 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on the Santa Clara/Alum Rock Light Rail Transit Project in San Jose, CA

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Federal Transit Administration (FTA) and the Santa Clara Valley Transportation Authority (VTA) intend to prepare an

Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) and an Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA) for a proposed Light Rail Transit (LRT) line in the Santa Clara/Alum Rock corridor. The proposed line and technology were selected following completion of the Downtown East Valley Major Investment Study (MIS) in August 2000. The MIS considered alternative modes of travel, alignments, and station locations in a 30-square mile study area. The MIS process resulted in a Preferred Investment Strategy that includes LRT improvements in the Santa Clara/Alum Rock Corridor to improve direct transit service in an approximately 4.3-mile-long corridor from downtown to the East Valley area in San Jose, California. The Santa Clara/Alum Rock Project will be further evaluated during the conceptual engineering phase of the project and carried forward in the EIS/EIR. The EIS/EIR will evaluate a No-Action alternative, LRT alignment and station options, and additional alternatives that emerge from the scoping process. Scoping will be accomplished through correspondence and discussions with interested persons; organizations; federal, state and local agencies; and through a public meeting.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered in the EIS/EIR must be received no later than November 2, 2001 and must be sent to VTA at the address indicated below. *Scoping Meeting:* A public scoping meeting will be held on September 19, 2001, from 6:00 p.m. to 8:00 p.m. at Mexican Heritage Plaza, Classroom #1, 1700 Alum Rock Avenue, San Jose, CA 95116. Phone (408) 928–5550. The project purpose and alternatives will be presented at this meeting. The building used for the scoping meeting is accessible to persons with disabilities. Any individual who requires special assistance, such as a sign language interpreter, to participate in the scoping meeting should contact Jennifer Rielly, Public Communications Specialist, VTA Community Outreach, at (408) 321–7575 or TDD only at (408) 321–2330. Scoping material will be available at the meeting an may be obtained in advance of the meeting by contacting Mr. Molseed at the address or phone number given below.

ADDRESSES: Written comments should be sent to Mr. Roy Molseed, Senior Environmental Planner, VTA, 3331 North First Street, San Jose, CA 95134–1906. Phone: (408) 321–5789. Fax: (408) 321–5787. E-mail: *scoping.santaclaraalumrock@vta.org*.

FOR FURTHER INFORMATION CONTACT: Mr. Roy Molseed, Senior Environmental Planner, VTA, 3331 North First Street, San Jose, CA 95134–1906. Phone: (408) 321–5789 or Mr. Jerome Wiggins, Office of Planning and Program Development, FTA, 201 Mission Street, Room 2210, San Francisco, CA 94105. Phone: (415) 744–3115. People with special needs should contact Jennifer Rielly, Public Communications Specialist, VTA Community Outreach, at (408) 321–7575 or TDD only at (408) 321–2330.

SUPPLEMENTARY INFORMATION:

I. Scoping

The FTA and VTA invite all interested individuals and organizations, and federal, state, regional, and local agencies to provide comments on the scope of the project. A summary of the MIS, Downtown East Valley Major Investment Study—Project Summary Report (December 2000), is available for public review at the following public libraries: (1) Dr. Martin Luther King, Jr. Main Library, 180 West San Carlos Street, San Jose, CA 95113; and (2) East San Jose Carnegie Branch Library, 1102 East Santa Clara Street, San Jose, CA 95116. The MIS summary is also available by contacting Mr. Molseed at the address and phone number given above. Mr. Molseed should also be contacted to be placed on the project mailing list and to receive additional information about the project. Written comments on the alternatives and potential impacts to be considered should be sent to Mr. Molseed.

II. Project Purpose and Need

The project purpose is to improve public transit service in the downtown and East Valley areas of the City of San Jose by addressing the following specific goals established in the MIS: improve mobility; increase transit ridership; target the highest commute corridors with emphasis on work and school trips; promote livable neighborhoods and community support.

In general, the project would provide residents of downtown and east San Jose more efficient access to the light rail system and improved connections and greater mobility options throughout the Silicon Valley. For example, residents could travel to south San Jose, downtown San Jose, and to the cities of Santa Clara, Sunnyvale, and Mountain View via the Guadalupe, Tasman, and Capitol LRT lines. Linkages to the Caltrain commuter rail line, which provides service to San Francisco and to communities along the Peninsula, may also be accessed at intermodal connections throughout the system.

The project would also alleviate heavy traffic congestion on major arterials; reduce the circulation impacts of increased peak-hour traffic; improve regional air quality by reducing automobile emissions; improve mobility options to employment, education, medical, and retail centers for corridor residents, in particular low-income, youth, elderly, disabled, and ethnic minority populations; and support local economic and land development goals.

III. Alternatives

The Santa Clara/Alum Rock Light Rail Project is examining alternatives to be carried forward into the environmental analysis process. The No-Action Alternative will consist of the existing conditions, in accordance with both NEPA and CEQA requirements. The Build or LRT Alternative is the Santa Clara/Alum Rock LRT Project.

Two proposed alignment options are under consideration for the segment through downtown San Jose between the Diridon Station and 10th Street. One option is along San Fernando Street from the vicinity of the Diridon Station area, north on Almaden, and then east on Santa Clara Street. The second option is from the vicinity of the Diridon Station east along San Fernando Street, transitioning north to Santa Clara Street between 7th and 10th Streets, and then proceeding east on Santa Clara Street and Alum Rock Avenue. East of King Road, the LRT would operate in an exclusive guideway; west of King Road, the LRT would operate in a right-of-way shared with vehicular traffic. Along the alignment, thirteen conceptual station locations have been identified. More precise station locations and alignment options will be developed during preparation of the Draft EIS/EIR.

The EIS/EIR will also address any additional alternatives that are identified in the scoping process.

IV. Probable Effects

The purpose of the EIS/EIR is to fully disclose the environmental consequences of building and operating the Santa Clara/Alum Rock LRT Project in advance of any decisions to commit substantial financial or other resources towards its implementation. The EIS/EIR will explore the extent to which project alternatives and design options result in environmental impacts and will discuss actions to reduce or eliminate such impacts.

Environmental issues to be examined in the EIS/EIR include: changes in the physical environment (natural

resources, air quality, noise, water quality, geology, visual); changes in the social environment (land use, business and neighborhood disruptions); changes in traffic and pedestrian circulation; changes in transit service and patronage; associated changes in traffic congestion; and impacts on parklands and historic resources. Impacts will be identified both for the construction period and for the long-term operation of the alternatives. The proposed evaluation criteria include transportation, environmental, social, economic, and financial measures, as required by current federal (NEPA) and state (CEQA) environmental laws and current Council on Environmental Quality and FTA guidelines.

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/EIR should be directed to VTA as noted above.

V. FTA Procedures

The EIS/EIR for the Santa Clara/Alum Rock LRT Project will be prepared simultaneously with conceptual engineering for station and alignment options. The EIS/EIR/conceptual engineering process will address the potential use of federal funds for the proposed project, as well as assess the social, economic, and environmental impacts of station and alignment alternatives. Station designs and alignment alternatives will be refined to minimize and mitigate any adverse impacts identified. After publication, the Draft EIS/EIR will be available for public and agency review and comment, and a public hearing will be held. Based on the Draft EIS/EIR and comments received, VTA will select a preferred alternative, which will be described in full detail in the Final EIS/EIR.

Issued on: September 14, 2001.

F. James Kenna,

Deputy Regional Administrator.

[FR Doc. 01–23317 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on the Capitol Expressway Light Rail Transit Project in San Jose, CA

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS)

SUMMARY: The Federal Transit Administration (FTA) and the Santa Clara Valley Transportation Authority (VTA) intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) and an Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA) for a proposed Light Rail Transit (LRT) line in the Capitol Expressway corridor. The proposed line and technology were selected following completion of the Downtown East Valley Major Investment Study (MIS) in August 2000. The MIS considered alternative modes of travel, alignment, and station locations in a 30-square mile study area. The MIS process resulted in a Preferred Investment Strategy that includes LRT improvements in the Capitol Expressway Corridor to improve direct transit service in an approximately 8-mile-long corridor in southeast San Jose, California. The Capitol Expressway Project will be further evaluated during the conceptual engineering phase of the project and carried forward in the EIS/EIR. The EIS/EIR will evaluate a No-Action alternative, LRT alignment and station options, and additional alternatives that emerge from the scoping process. Scoping will be accomplished through correspondence and discussions with interested persons; organizations; federal, state and local agencies; and through a public meeting.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered in the EIS/EIR must be received no later than November 2, 2001, and must be sent to VTA at the address indicated below. *Scoping Meeting:* A public scoping meeting will be held on September 26, 2001, from 6:00 p.m. to 8:00 p.m. at St. Francis of Assisi Catholic Church, 5111 San Felipe Road, San Jose, CA 95135. Phone: (408) 223–1562. The project purpose and alternatives will be presented at this meeting. The building used for the scoping meeting is accessible to persons with disabilities. Any individual who requires special assistance, such as a sign language interpreter, to participate in the scoping meeting should contact Jennifer Rielly, Public Communications Specialist, VTA Community Outreach, at (408) 321–7575 or TDD only at (408) 321–2330. Scoping material will be available at the meeting and may be obtained in advance of the meeting by contacting Mr. Fitzwater at the address or phone number given below.

ADDRESSES: Written comments should be sent to Mr. Thomas Fitzwater, Environmental Planning Manager, VTA, 3331 North First Street, San Jose, CA 95134–1906. Phone: (408) 321–5789. Fax: (408) 321–5787. E-mail: *scoping.capitolexpressway@vta.org.*

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Fitzwater, Environmental Planning Manager, VTA, 3331 North First Street, San Jose, CA 95134–1906. Phone (408) 321–5789 or Mr. Jerome Wiggins, Office of Planning and Program Development, FTA, 201 Mission Street, Room 2210, San Francisco, CA 94105. Phone: (415) 744–3115. People with special needs should contact Jennifer Rielly, Public Communications Specialist, VTA Community Outreach, at (408) 321–7575 or TDD only at (408) 321–2330.

SUPPLEMENTARY INFORMATION:

I. Scoping

The FTA and VTA invite all interested individuals and organizations, and federal, state, regional, and local agencies to provide comments on the scope of the project. A summary of the MIS, Downtown East Valley Major Investment Study—Project Summary Report (December 2000), is available for public review at the following public libraries: (1) Dr. Martin Luther King, Jr. Main Library, 180 West San Carlos Street, San Jose, CA 95113; (2) Hillview Branch Library, 2255 Ocala Avenue, San Jose, CA 95122; (3) Evergreen Branch Library, 2635 Aborn Road, San Jose, CA 95121; and (4) Seventrees Branch Library, 3597 Cas Drive, San Jose, CA 95111. The MIS summary is also available by contacting Mr. Fitzwater at the address and phone number given above. Mr. Fitzwater should also be contacted to be placed on the project mailing list and to receive additional information about the project. Written comments on the alternatives and potential impacts to be considered should be sent to Mr. Fitzwater.

II. Project Purpose and Need

The project purpose is to improve public transit service in the downtown and East Valley areas of the City of San Jose by addressing the following specific goals established in the MIS: improve mobility; increase transit ridership; target the highest commute corridors with emphasis on work and school trips; promote livable neighborhoods and community support.

In general, the project would provide residents of southeast San Jose more efficient access to the light rail system and improved connections and greater

mobility options throughout the Silicon Valley. For example, residents could travel to south San Jose, downtown San Jose, and to the cities of Santa Clara, Sunnyvale, and Mountain View via the Guadalupe, Tasman, and Capitol LRT lines. Linkages to the Caltrain commuter rail line, which provides service to San Francisco and to communities along the Peninsula, may also be accessed at intermodal connections throughout the system.

The project would also alleviate heavy traffic congestion in the Interstate 680 and U.S. 101 corridors and on major arterials; reduce the circulation impacts of increased peak-hour traffic; improve regional air quality by reducing automobile emissions; improve mobility options to employment, education, medical, and retail centers for corridor residents, in particular low-income, youth, elderly, disabled, and ethnic minority populations; and support local economic and land development goals.

III. Alternatives

The Capitol Expressway Light Rail Project is examining alternatives to be carried forward into the environmental analysis process. The No-Action Alternative will consist of the existing conditions, in accordance with both NEPA and CEQA requirements. The Build or LRT Alternative is the Capitol Expressway LRT Project.

The proposed alignment of the LRT project begins at the end of the Capitol [Avenue] LRT line, currently under construction. Starting on Capitol Avenue, at the intersection of Capitol and Wilbur Avenues in east San Jose, the LRT would transition to operate in the median of Capitol Expressway, at grade in an exclusive right-of-way with some potential for grade separation at locations to be determined during conceptual engineering. The line would extend to the Eastridge Mall area as the terminus of the first phase. The next phase(s) would continue along Capitol Expressway to the Capitol Station on the Guadalupe LRT line. In this portion of the alignment, the roadway would need to be widened to accommodate the LRT median. Along the alignment, nine conceptual station locations have been identified. More precise station locations and alignment options will be developed during preparation of the Draft EIS/EIR.

The EIS/EIR will also address any additional alternatives identified in the scoping process.

IV. Probable Effects

The purpose of the EIS/EIR is to fully disclose the environmental consequences of building and operating the Capitol Expressway LRT Project in advance of any decisions to commit substantial financial or other resources towards its implementation. The EIS/EIR will explore the extent to which project alternatives and design options result in environmental impacts and will discuss actions to reduce or eliminate such impacts.

Environmental issues to be examined in the EIS/EIR include: changes in the physical environment (natural resources, air quality, noise, water quality, geology, visual); changes in the social environment (land use, business and neighborhood disruptions); changes in traffic and pedestrian circulation; changes in transit service and patronage; associated changes in traffic congestion; and impacts on parklands and historic resources. Impacts will be identified both for the construction period and for the long-term operation of the alternatives. The proposed evaluation criteria include transportation, environmental, social, economic, and financial measures, as required by current federal (NEPA) and state (CEQA) environmental laws and current Council on Environmental Quality and FTA guidelines.

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/EIR should be directed to VTA as noted above.

V. FTA Procedures

The EIS/EIR for the Capitol Expressway LRT Project will be prepared simultaneously with conceptual engineering for station and alignment options. The EIS/EIR/conceptual engineering process will address the potential use of federal funds for the proposed project, as well as assess the social, economic, and environmental impacts of station and alignment alternatives. Station designs and alignment alternatives will be refined to minimize and mitigate any adverse impacts identified.

After publication, the Draft EIS/EIR will be available for public and agency review and comment, and a public hearing will be held. Based on the Draft EIS/EIR and comments received, VTA will select a preferred alternative, which will be described in full detail in the Final EIS/EIR.

Issued on: September 14, 2001.

F. James Kenna,

Deputy Regional Administrator.

[FR Doc. 01–23318 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Over-the-road Bus Accessibility Program Announcement of Project Selection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice.

SUMMARY: The U.S. Department of Transportation (DOT) Federal Transit Administration (FTA) announces the Fiscal Year 2001 selection of projects to be funded under the Over-the-road Bus (OTRB) Accessibility Program, authorized by Section 3038 of the Transportation Equity Act for the 21st Century (TEA–21). The OTRB Accessibility Program makes funds available to private operators of over-the-road buses to help finance the incremental capital and training costs of complying with DOT's over-the-road bus accessibility rule, published in a **Federal Register** notice on September 24, 1998.

FOR FURTHER INFORMATION CONTACT: The appropriate FTA Regional Administrator for grant-specific issues; or Sue Masselink, Office of Program Management, 202–366–2053 for general information about the OTRB Accessibility Program.

SUPPLEMENTARY INFORMATION: In fiscal year 2001, a total of $4.7 million was available for allocation: $3 million for intercity fixed-route providers and $1.7 million for all other providers, such as commuter, charter, and tour operator. A total of 84 applicants requested $15.1 million: $8.2 million was requested by intercity fixed-route providers, and $6.9 million was requested by all other providers. Project selections were made on a discretionary basis, based on each applicant's responsiveness to statutory project selection criteria, fleet size, and level of funding received in previous years. Because of the high demand for the funds available, most applicants received less funding than they requested, although with the exception of some applicants that received funding in previous years, all qualified applicants received some funding. Each of the following 61 awardees, as well as the 23 applicants who were not selected for funding, will receive a letter that explains how funding decisions were made.

Operator	Award amounts		
	Intercity fixed-route	Other	Total
Region I:			
Brunswick Transportation Co., Inc., South Portland, ME	$0	$44,800	$44,800
Wilson Bus Lines, Inc., Cambridge, MA	24,107	0	24,107
VIP Charter and Tour, Portland, ME	0	18,156	18,156
Concord Coach Lines, Inc., Concord, NH	61,242	0	61,242
DATTCO, Inc., New Britain, CT	91,292	35,800	127,092
Ritchie Bus Lines, Inc., Northboro, MA	0	19,700	19,700
Peter Pan Bus Lines, Inc., Springfield, MA	216,257	0	216,257
Pawtuxet Valley Bus, Inc., West Warwick, RI	0	57,600	57,600
The Arrow Line, Inc. (Coach USA), East Hartford, CT	0	11,400	11,400
Coach USA/Mini Coach of Boston, Chelsea, MA	0	39,600	39,600
Conway's Bus Service, Inc. (Gray Line), Cumberland, RI	0	41,800	41,800
Bonanza Bus Lines, Providence, RI	84,044	0	84,044
Region II:			
Swarthout Coaches, Inc., Ithaca, NY	0	24,100	24,100
Academy Express, LLC, Hoboken, NJ	358,203	38,000	396,203
Adirondack Transit Lines, Inc., Kingston, NY	135,000	0	135,000
Brown Coach, Inc., Fonda, NY	0	36,300	36,300
Hampton Jitney, Inc., Southampton, NY	0	34,400	34,400
Hudson Transit Lines, Inc. (Shortline), Mahwa, NJ	0	189,000	189,000
Region III:			
Spirit Tours, LLC, Glen Allen, VA	0	27,000	27,000
James River Bus Lines, Richmond, VA	0	30,240	30,240
Sheraton Bus Services, Inc., Wyalusing, PA	0	30,975	30,975
Travel Mates of Virginia, Inc., Harrisonburg, VA	0	24,300	24,300
Capitol Trailways (Capitol Bus Company), Harrisburg, PA	0	34,500	34,500
Susquehanna Transit Company, Avis, PA	0	25,200	25,200
Eyre Bus Services, Inc., Glenelg, MD	0	33,100	33,100
Dillon's Bus Service, Inc., Millersville, MD	0	92,700	92,700
Rill's Bus Service, Inc., Westminster, MD	0	29,700	29,700
Anderson Coach & Tour, Greenville, PA	0	67,100	67,100
Lenzer Tour and Travel, Sewickley, PA	0	42,700	42,700
Fullington Auto Bus Company, Clearfield, PA	109,523	0	109,523
Butler Motor Transit, Inc., Butler, PA	0	6,300	6,300
Fantasy Land Cruises, Inc., Duncansville, PA	0	30,600	30,600
Lodestar Bus Lines, Inc., Johnstown, PA	0	28,000	28,000
Region IV:			
Spirit Coach, LLCC, Huntsville, AL	0	27,000	27,000
GDA Motor Coach, Inc., Conyers, GA	0	25,200	25,200
Americoach Tours, Inc. (Gray Lines), Memphis TN	0	52,100	52,100
Colonial Trailways, Mobile, AL	4,500	0	4,500
Good Time Tours, Pensacola, FL	0	1,800	1,800
Region V:			
Peoria Charter Coach Company, Peoria, IL	53,684	0	53,684
Turner Coaches, Inc., Terre Haute, IN	0	24,300	24,300
Wisconsin Coach Lines, Inc., Waukesha, WI	33,750	2,200	35,950
Colonial Coach Lines, Inc., Des Plaines, IL	0	41,800	41,800
Pioneer Coach Lines, Inc., Chicago, IL	0	40,700	40,700
Lakefront Lines, Inc., Cleveland, OH	58,124	0	58,124
Van Galder, Janesville, WI	38,000	0	38,000
Region VI:			
Greyhound Lines, Inc., Dallas, TX	1,269,000	0	1,269,000
Fun Time Tours, Inc., Corpus Christi, TX	0	36,600	36,600
Gulf Coast Transportation, Inc. (GCTI), Houston, TX	0	94,400	94,400
Vaught Charters/Coach USA, Grand Prairie, TX	0	30,600	30,600
Kerrville Bus Company/Coach USA, San Antonio, TX	114,120	78,100	192,220
El Expreso Bus Company, Houston, TX	45,000	0	45,000
Red Carpet Charters, Oklahoma City, OK	0	45,800	45,800
Region VII:			
Burlington Trailways, West Burlington, IA	0	27,600	27,600
Arrow Stage Coach Lines, Omaha, NE	0	92,800	92,800
Region VIII:			
Ramblin Express Inc., Colorado Springs, CO	0	24,100	24,100
Salt Lake Coaches, Inc., Salt Lake City, UT	0	35,500	35,500
Region IX:			
VIA Adventures, Inc., Merced, CA	17,977	0	17,977
KT Contract Services, North Las Vegas, NV	21,000	42,000	63,000
Golden State Coaches, Carson City, NV	22,500	0	22,500
Grosvenor Bus Lines, San Francisco, CA	0	37,500	37,500
B & G Promotions, Inc., Pismo Beach, CA	30,362	0	30,362
AmericanStar Tours, Pismo Beach, CA	22,608	0	22,608

Operator	Award amounts		
	Intercity fixed-route	Other	Total
Roberts Tours & Transportation, Inc., Honolulu, HI	0	50,400	50,400
Region X:			
None Selected	0	0	0
Total	2,999,242	[1] 1,719,040	4,718,282

[1] $19,250 was carried over from withdrawn FY 2000 projects.

Eligible project costs may be incurred by awardees prior to final grant approval. The incremental capital cost for adding wheelchair lift equipment to any new vehicles delivered on or after June 9, 1998, the effective date of TEA–21, is eligible for funding under the OTRB Accessibility Program.

Applicants selected for funding may be contacted by FTA regional offices if any additional information is needed before grants are made. The grant applications will be sent to the U.S. Department of Labor (DOL) for certification under the labor protection requirements pursuant to 49 U.S.C. 5333(b). After referring applications to affected employees represented by a labor organization, DOL will issue a certification to FTA. The terms and conditions of the certification will be incorporated in the FTA grant agreement under the new guidelines replacing those in 29 CFR part 215. Please see Amendment to Section 5333(b), Guidelines to Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century (TEA–21); Final Rule (64 FR 40990, July 28, 1999).

Issued on September 13, 2001.

Jennifer L. Dorn,

Administrator.

[FR Doc. 01–23258 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10630]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel THREE D.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before October 18, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10630. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR Part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) Name of vessel and owner for which waiver is requested.

Name of vessel: THREE D. *Owner:* Michael and Chanda Wall.

(2) Size, capacity and tonnage of vessel. *According to the applicant:* ''28 ft 6 in, 11,000 lbs.''

(3) Intended use for vessel, including geographic region of intended operation and trade. *According to the applicant:* ''* * * charter fishing boat, with a six pack captain's license, home port of St. Petersburg, Florida with an operating range from Pensacola, Florida to Key West, Florida within 100 miles of shore.''

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction:* 1972. *Place of construction:* unknown build site.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. *According to the applicant:* ''I don't feel this vessel will have a significant impact on other vessels due to the high quantity of tourists in the area. The other charters we know of in the area have to turn away customers.''

(6) A statement on the impact this waiver will have on U.S. shipyards. *According to the applicant:* ''We do not feel this boat will have any impact on U.S. shipyards due to the age of the boat.''

Dated: September 13, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–23230 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34086]

The Columbia and Cowlitz Railway Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant temporary overhead trackage rights to The Columbia and Cowlitz Railway Company (CLC) over BNSF's line between Rocky Point, WA (BNSF milepost 95.8), and Longview, WA (BNSF milepost 101.1), a distance of 5.3 miles.

The parties reported that they intended to consummate the transaction on August 31, 2001. The earliest the transaction could have been consummated was September 3, 2001, the effective date of the exemption (7 days after the notice of exemption was filed).[1] The temporary trackage rights are to allow CLC to bridge its train service while CLC's main line is out of service due to structural maintenance and are scheduled to expire on March 1, 2002, pursuant to contractual terms.[2]

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34086 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Stephen L. Day, Esq., Betts Patterson Mines, P.S., One Convention Place, 701 Pike Street, Suite 1400, Seattle, WA 98101.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: September 10, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23241 Filed 9–17–01; 8:45 am]

BILLING CODE 4915–00–P

[1] Counsel for CLC was contacted by telephone and acknowledged that the transaction could not be consummated until September 3, 2001.

[2] Counsel for CLC has indicated that a petition for exemption under 49 U.S.C. 10502 requesting that the Board permit the proposed temporary overhead trackage rights arrangement described in the present proceeding to expire on March 1, 2002, will be filed in the very near future.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34088]

The Columbia and Cowlitz Railway Company—Trackage Rights Exemption—The Longview Switching Company

The Longview Switching Company (LSC), has agreed to grant temporary overhead trackage rights to The Columbia and Cowlitz Railway Company (CLC) over LSC's line between Columbia Junction and Longview Junction, WA.

The parties reported that they intended to consummate the transaction on August 31, 2001. The earliest the transaction could have been consummated was September 3, 2001, the effective date of the exemption (7 days after the notice of exemption was filed).[1] The temporary trackage rights are to allow CLC to bridge its train service while CLC's main line is out of service due to structural maintenance and are scheduled to expire on March 1, 2002, pursuant to contractual terms.[2]

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34088 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Stephen L. Day, Esq., Betts Patterson Mines, P.S., One Convention Place, 701 Pike Street, Suite 1400, Seattle, WA 98101.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: September 10, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23240 Filed 9–17–01; 8:45 am]

BILLING CODE 4915–00–P

[1] Counsel for CLC was contacted by telephone and has acknowledged that the transaction could not be consummated until September 3, 2001.

[2] Counsel for CLC has indicated that a petition for exemption under 49 U.S.C. 10502 requesting that the Board permit the proposed temporary overhead trackage rights arrangement described in the present proceeding to expire on March 1, 2002, will be filed in the very near future.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (collectively, the ''agencies''), may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), propose to extend, without revision, a currently approved information collection, the Report on

Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks (FFIEC 004). At the end of the comment period, the comments and recommendations received will be analyzed to determine whether the FFIEC and the agencies can and should modify the report. The agencies will then submit the report to OMB for review and approval.

DATES: Comments must be submitted on or before November 19, 2001.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments should refer to the OMB control number(s) and will be shared among the agencies.

OCC: Written comments should be submitted to the Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW, Public Information Room, Mailstop 1–5, Attention: 1557–0070, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov*. Comments will be available for inspection and photocopying at the OCC's Public Information Room, 250 E Street, SW, Washington, DC 20219. Appointments for inspection of comments may be made by calling (202) 874–5043.

Board: Written comments should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551, submitted by electronic mail to *regs.comments@federalreserve.gov,* or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room M-P–500 between 9 a.m. and 5 p.m., except as provided in section 261.12 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12(a).

FDIC: Written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898–3838; Internet address: *comments@fdic.gov*].

Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, DC, between 9 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Additional information or a copy of the collection may be requested from:

OCC: Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Board: Mary M. West, Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Capria Mitchell (202) 872–4984, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal To Extend for Three Years Without Revision the Following Currently Approved Collection of Information

Report Title: Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks.

Form Number: FFIEC 004.

Frequency of Response: Annually (for executive officers and principal shareholders), and on occasion (for national, state member and insured state nonmember banks).

Affected Public: Individuals or households, Businesses or other for-profit.

For OCC

OMB Number: 1557–0070.

Number of Respondents: 27,500 (25,000 executive officers and principal shareholders fulfilling recordkeeping burden, 3,050 national banks fulfilling recordkeeping and disclosure burden).

Estimated Average Hours per Response: 2.95 hours.

Estimated Total Annual Burden: 81,250.

For Board

OMB Number: 7100–0034.

Number of Respondents: 4,955 (3,964 executive officers and principal shareholders fulfilling recordkeeping burden, 991 state member banks fulfilling recordkeeping and disclosure burden).

Estimated Average Hours per Response: 1.12 hours.

Estimated Total Annual Burden: 5,551.

For FDIC

OMB Number: 3064–0023.

Estimated Number of Respondents: 29,925 (23,940 executive officers and principal shareholders fulfilling recordkeeping burden, 5,985 insured state nonmember banks fulfilling recordkeeping and disclosure burden).

Estimated Average Hours per Response: 1.8 hours.

Estimated Total Annual Burden: 53,865.

General Description of Report: This information collection is mandatory: 12 U.S.C. 1972(2)(G) (all); 12 U.S.C. 375(a)(6) and (10), and 375(b)(10) (Board); 12 U.S.C. 1817(k) and 12 U.S.C. 93a (OCC); 12 CFR 349.3, 12 CFR 349.4, and 12 CFR 304.5(e) (FDIC).

Abstract: Executive officers and principal shareholders of insured banks must file with the bank the information contained in the FFIEC 004 report on their indebtedness and that of their related interests to correspondent banks. The information contained in the FFIEC 004 report is prescribed by statute and regulation, as cited above. Banks must retain these reports or reports containing similar information and fulfill other recordkeeping requirements, such as furnishing annually a list of their correspondent banks to their executive officers and principal shareholders. Banks also have certain disclosure requirements for this information collection.

Current Actions: The agencies propose to extend, without revision, the FFIEC 004 report. The agencies are currently evaluating the recordkeeping requirements contained in their regulations that relate to the FFIEC 004 report. Should the agencies decide to revise these regulations, a separate **Federal Register** notice will be published inviting comment from the public on the proposed revisions. Any revisions that may be made to the agencies' regulations would be subsequently incorporated into this information collection (FFIEC 004).

Request for Comment

Comments are invited on:

a. Whether the information collections are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this notice will be shared among the agencies and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Dated: September 7, 2001.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, August 30, 2001.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 30th day of August, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–23186 Filed 9–17–01; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Agency Information Collection Activities; Proposed Revision of Information Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Joint notice and request for comment.

SUMMARY: The OCC, FDIC, and OTS (collectively the Agencies), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Agencies are soliciting comment on proposed revisions to the charter application of the OCC and OTS and to the FDIC's deposit insurance application. The proposed form will make the application forms uniform among the Agencies and is titled, ''Interagency Charter and Federal Deposit Insurance Application.'' In the case of the OCC, this collection is a part of the Comptroller's Corporate Manual. Additionally, the OCC is making other clarifying changes to the Comptroller's Corporate Manual.

DATES: You should submit comments by November 19, 2001.

ADDRESSES: Interested parties are invited to submit comments to any or all of the Agencies. All comments, which should refer to the OMB control number, will be shared among the Agencies.

OCC: Office of the Comptroller of the Currency, Public Information Room, 250 E Street, SW, Mail Stop 1–5, Attention: 1557–0014, Washington, DC 20219. You may make an appointment to inspect and photocopy comments at the same location by calling (202) 874–5043. In addition, you may fax your comments to (202) 874–4448 or e-mail them to regs.comments@occ.treas.gov.

FDIC: Tamara R. Manly, Management Analyst (Regulatory Analysis), Office of Executive Secretary, Room F–4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. All comments should refer to ''Interagency Charter and Federal Deposit Insurance Application.'' Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC between 9 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

OTS: Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention: 1550–0005, FAX Number (202) 906–6518, or e-mail to infocollection.comments@ots.treas.gov.

Public Inspection: Comments and the related index will be posted on the OTS Internet Site at www.ots.treas.gov. In addition, interested persons may inspect comments at the Public Reference Room, 1700 G Street, NW, by appointment. To make an appointment, call (202) 906–5922, send an e-mail to publicinfo@ots.treas.gov, or send a facsimile transmission to (202) 906–7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) Appointments will be scheduled on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive your request.

FOR FURTHER INFORMATION CONTACT: You can request additional information from:

OCC: Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. For subject matter information, you may contact Cheryl Martin at (202) 874–4614, Licensing, Policy, and Systems, Licensing Department, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

FDIC: Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

OTS: Sally W. Watts, OTS Clearance Officer, (202) 906–7380; Frances C. Augello, Senior Counsel, Business Transactions Division, (202) 906–6151; Patricia D. Goings, Financial Analyst, Examination Policy, (202) 906–5668; or Damon C. Zaylor, Financial Analyst, Examination Policy, (202) 906–6787, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Title: Interagency Charter and Federal Deposit Insurance Application.

OCC's Title: Comptroller's Corporate Manual. The specific portions of the Comptroller's Corporate Manual (Manual) covered by this notice are those that pertain to the Charter Application located in the Charters booklet of the Manual, which will become an interagency form.

OMB Number:

OCC: 1557–0014.
FDIC: 3064–0001.
OTS: 1550–0005.

Form Number:

OCC: None.
FDIC: 6200/05.
OTS: 138.

Description: This submission replaces the following forms—

OCC: None.
FDIC: ''Application for Federal Deposit Insurance.''
OTS: ''Application for Permission to Organize.''

Abstract: This submission covers a revision to the charter applications of the OCC and OTS and the deposit insurance application of the FDIC. The proposed form will make the application form uniform among the Agencies and is titled ''Interagency Charter and Federal Deposit Insurance Application.'' The Agencies need the information to ensure that the covered proposed activities are permissible under law and regulation and are consistent with safe and sound banking practices. For example, the Agencies are required to consider financial and managerial resources, future earnings prospects, and community reinvestment. Further, the Agencies use the information to evaluate specific individuals' qualifications. Both financial institutions and individuals organizing a financial institution must provide this information.

Further, the OCC is making a change to its Charters booklet of the Manual, adding the interagency application form and providing updated information about filing for a national bank charter. The OCC is also making technical and clarifying changes to various Manual booklets. For example, the OCC is making changes to its Branches and Relocations booklet, clarifying the information needed to establish a limited branch office. These changes are not material and are technical in nature. These changes are an administrative adjustment, and do not change, in any way, the requirements on national banks.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; Businesses or other for-profit.

Estimated Number of Respondents:

OCC: 50.
FDIC: 200.
OTS: 20.

Estimated Frequency of Response: One time.

Estimated Burden Hours per Response:

OCC: 125.
FDIC: 125.
OTS: 125.

Estimated Total Burden:

OCC: 6,250.
FDIC: 25,000.
OTS: 2,700.

Comments: Comments submitted in response to this notice will be summarized in each Agency's request for OMB approval, and analyzed to determine the extent to which the collection should be modified. All comments will become a matter of public record.

Written comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 7, 2001.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Dated at Washington, DC, this 7th day of September, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,
Executive Secretary.

Dated: September 7, 2001.

Deborah Dakin,
Deputy Chief Counsel, Regulations & Legislation Division, Office of Thrift Supervision.

[FR Doc. 01–23191 Filed 9–17–01; 8:45 am]

BILLING CODE 4810–33, 6720–01, 6714–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, ''Assessments—12 CFR part 8.'' The OCC also gives notice that it has sent the information collection to OMB for review and approval.

DATES: You should submit your comments to the OCC and the OMB Desk Officer by October 18, 2001.

ADDRESSES: You should direct your comments to:

Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0223, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic mail to regs.comments@occ.treas.gov. You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make

an appointment to inspect the comments by calling (202) 874–5043.

Alexander T. Hunt, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is requesting extension of OMB approval, with revision, of the following information collection:

Title: Assessments—12 CFR part 8.

OMB Number: 1557–0223.

Description: The National Bank Act authorizes the OCC to collect assessments, fees, and other charges as necessary or appropriate to carry out the responsibilities of the OCC. The OCC will require national banks to provide the OCC with receivables attributable data from independent credit card banks, that is, national banks that primarily engage in credit card operations and are not affiliated with a full service national bank. Receivables attributable are the total amount of outstanding balances due on credit card accounts owned by an independent credit card bank (the receivables attributable to those accounts) on the last day of an assessment period, minus receivables retained on the bank's balance sheet as of that day. The OCC will use the information to verify the accuracy of each bank's assessment computation and to adjust the assessment rate for independent credit card banks over time.

Type of Review: Revision of a currently approved information collection.

Affected Public: Businesses or other for-profit (national banks).

Estimated Number of Respondents: 35.

Estimated Total Annual Responses: 70.

Frequency of Response: Semiannually.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden: 70 hours.

Dated: September 12, 2001.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 01–23231 Filed 9–17–01; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–66]

Cancellation of Customs Broker License

AGENCY: Customs Service, Department of the Treasury.

ACTION: Customs broker license cancellation.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker license is canceled without prejudice.

Name: Eagle USA Import Brokers, Inc.
License #: 16774.
Port Name: Dallas/Ft. Worth, TX.

Dated: September 6, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–23197 Filed 9–17–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–65]

Delegation of Authority To Acknowledge Waivers of the Statute of Limitations

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces that, effective January 1, 2001, Customs Headquarters has delegated to Fines, Penalties and Forfeitures (''FP&F'') Officers in the servicing Customs ports the authority, with a noted exception, to acknowledge waivers of the statute of limitations from parties who might otherwise be entitled to assert the statute of limitations as a defense against civil suit. The delegated authority does not extend to situations where the FP&F Officer has already referred to Customs Headquarters a pending petition, supplemental petition, offer, or other matter relating to an existing penalty or forfeiture case.

DATES: The delegation of authority to acknowledge waivers of the statute of limitations went into effect January 1, 2001.

ADDRESSES: Corporations and individuals submitting statute of limitations waivers should address the waivers to the Fines, Penalties and Forfeitures Officer of the servicing Customs port.

FOR FURTHER INFORMATION CONTACT: Alan Cohen, Penalties Branch, Office of Regulations and Rulings, U.S. Customs Service, (202) 927–1503.

SUPPLEMENTARY INFORMATION:

Background

Section 621 of the Tariff Act of 1930, as amended (19 U.S.C. 1621), is the statute of limitations for the Government to initiate judicial proceedings to enforce the collection of a monetary penalty or forfeiture of property accruing under the customs laws. Pursuant to 19 U.S.C. 1621, the Government, as a general rule, must initiate such judicial proceedings within 5 years from the time that an alleged offense is discovered, or in the case of forfeiture, within 2 years after the time when the involvement of the property in the event was discovered, whichever is later. For non-fraudulent violations of 19 U.S.C. 1592 or 1593a, however, the Government must initiate judicial proceedings within 5 years from the date of the alleged violation. For violations of 19 U.S.C. 1592 or 1593a arising out of fraud, the Government must commence suit within 5 years from the date of discovery of fraud.

The administrative procedures established by 19 U.S.C. 1592(b) and 1618, and implemented by parts 162 and 171 of the Customs Regulations (19 CFR parts 162 and 171), set forth the manner by which certain penalty and forfeiture actions are processed. In certain circumstances, Customs will shorten the time in which a party has to provide information to Customs or petition for relief in order to ensure that Customs can administratively pursue the penalty or forfeiture action before the statute of limitations expires. For example, §§ 162.78(a) and 171.2(e) of the Customs Regulations (19 CFR 162.78(a) and 171.2(e)) provide a Fines, Penalties & Forfeitures (''FP&F'') Officer with authority to shorten the time a party has to respond to pre-penalty and penalty notices if there is a short period of time remaining before the statute of limitations expires.

A party may wish to waive the statute of limitations for a period of time so that the administrative process may continue in an orderly fashion. A waiver of the statute of limitations may provide a party with additional time to respond to a pre-penalty, penalty or seizure notice, and promote final disposition of the matter by administrative means without resorting to judicial action.

In T.D. 69–126, dated May 20,1969, at paragraphs (1)(A)(b)(2) and (3), the

Director, Division of Entry Procedures and Penalties, Office of Regulations and Rulings, U.S. Customs Service, was delegated the authority to make decisions with regard to certain penalty claims. Inherent in this delegation is the authority to acknowledge a waiver of the statute of limitations.

The functions of the Director, Division of Entry Procedures and Penalties, regarding penalty and forfeiture matters now reside with the Director, International Trade Compliance Division, pursuant to the reorganization of the Office of Regulations and Rulings which was effective December 30, 1990.

In a Customs memorandum referenced 635783 ACC, dated December 22, 2000, the Director, International Trade Compliance Division, notified all FP&F Officers that, effective January 1, 2001, they are delegated the authority to provide acknowledgement of legally sufficient waivers, except where the FP&F Officer has referred to Customs Headquarters a pending petition, supplemental petition, offer, or other matter relating to an existing penalty or forfeiture case. In this situation, the FP&F Officer will continue to forward waivers to Customs Headquarters for consideration.

Corporations and individuals submitting statute of limitations waivers to Customs should address their submissions to the FP&F Officer of the servicing Customs port, and should no longer submit waivers to Customs Headquarters.

Dated: September 12, 2001.

Sandra L. Bell,

Director, International Trade Compliance Division, Office of Regulations and Rulings.

[FR Doc. 01–23196 Filed 9–17–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Information Reporting Program Advisory Committee; Nomination

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Request for nominations.

SUMMARY: The Internal Revenue Service (IRS) requests nominations of individuals for consideration as Information Reporting Program Advisory Committee (IRPAC) members. The external advisory group to the Information Reporting Program. Interested parties may nominate themselves and/or at least one other qualified person for membership. Nominations will be accepted for current vacancies and vacancies that will or may occur during the next twelve (12) months, and should describe and document the applicant's qualifications for membership. Comprised of not more than twenty-five (25) members, approximately one half of these IRPAC appointments will expire in 2001. To accomplish its objective of close alignment with the needs and strategic goals of the IRS while remaining a strong external feedback mechanism, it is essential that the IRPAC comprise a diverse group of dedicated and talented professionals. Toward this end, the selection process focuses on a balanced forum and represents the IRS' commitment to developing a diverse committee based on several factors including: (i) Geographical location; (ii) stakeholder representation; and (iii) taxpayer segments, i.e., small and large business, preparers, academics, state and local governments. Accordingly, to maintain membership diversity, selection is based on the segment or group an applicant represents as well as his or her qualifications. In keeping therewith, for purposes of diversity, given the composition of the returning IRPAC membership, the IRS is seeking nominations of individuals who represent disparate geographical locations, taxpayer segments, and stakeholder groups, particularly applicants who represent the small business/self-employed taxpayer segment.

DATES: Written nominations must be received on or before October 5, 2001.

ADDRESSES: Nominations should be sent to Ms. Romona Johnson, Office of National Public Liaison, CL:NPL:PAC, Room 7567, 1111 Constitution Avenue, NW., Washington, DC 20224 Attn. IRPAC Nominations; e-mail: **public_liaison@irs.gov.* Applications may be submitted by mail to the address above or faxed to 202–927–5253. However, if submitted vis-a-vis facsimile, Office of National Public Liaison subsequently must receive the original application as an applicant cannot be considered nor can his or her application be processed absent an original signature. Application packages may be requested by telephone from the Office of National Public Liaison, 202–622–6440, and are available on the Tax Professional's Corner and Small Business Corner which are located on the IRS' Web site at: *http://www.irs.gov/prod/bus_info/tax—pro/index.html* and *http://www.irs.gov/prod/bus_info/sm_bus/index.html*, respectively.

FOR FURTHER INFORMATION CONTACT: Ms. Lorenza Wilds, 202–622–6440 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The final Conference Report of the 1989 Omnibus Budget Reconciliation Act contained an administrative recommendation that a federal advisory committee be created to advise the IRS on information reporting issues. As a result, the IRPAC was established in 1991, authorized under the Federal Advisory Committee Act, Public Law No. 92–463. The primary purpose of the IRPAC is to provide an organized forum for IRS officials and public representatives to consider relevant information reporting issues. As such, the IRPAC: (i) Conveys the public's perceptions of IRS activities; (ii) advises with respect to specific information reporting administration issues (iii) provides constructive observations regarding current or proposed IRS policies, programs, and procedures; and (iv) proposes significant improvements in information reporting operations. Accordingly, the IRPAC operates to reduce taxpayer burden and improve the overall administration of information reporting. For example, the IRPAC suggestion that the IRS permit the electronic provision of payee statements gave rise to the draft regulatory change, published in 2001, providing to this effect, and it is contemplated that similar significance will attached to the Committee's advice when addressing new challenges in a rapidly changing business environment as the restructured IRS moves forward. Because each Operating Division relies on the Information Reporting Program, the IRS must ensure application of a coordinated approach when addressing Information Reporting Program issues. Therefore, acknowledging the critical role of information reporting, emphasizing its commitment to the Information Reporting Program, and as a measure of the IRPAC's importance, a centralized coordinating mechanism, the Information Reporting Program Policy Council (IRP Policy Council) was established to formulate and coordinate strategic and crosscutting information reporting issues. A counterpart to the IRPAC consisting of IRS executives from each Operating Division, the IRP Policy Council facilitates cross-divisional consistency in information reporting and provides strategic leadership for the Service-wide direction of the Information Reporting Program. In addition, the IRP Policy Council considers and prioritizes the recommendations of the IRPAC as part of the strategic planning process, and meets regularly with Committee

members to identify and recommend strategic issues for consideration.

The Commissioner determines the size and composition of the IRPAC. Typically, members serve a term of two years, with the possibility of a one-year renewal, subject to the Commissioner's approval. The IRPAC is further segmented into sub-groups that mirror the new IRS structure. Working groups address the policies, administration and operational issues specific to the Operating Divisions.

Members must attend all public meetings and official working sessions and are encouraged to provide feedback to the Advisory Committee Chairpersons, fellow Advisory Committee members, and appropriate IRS personnel, on Advisory Committee related issues, based on personal experience and pertinent information obtained from other individuals and members of their constituencies. While Committee members are not paid for their time and services, members residing outside of the Washington DC metropolitan area will be reimbursed for travel-related expenses incurred to attend an average of two public meetings and one orientation session per year; in accordance with 5 U.S.C. 5703. IRPAC members, their employers or sponsoring associations/organizations are responsible for travel-related expenses to all scheduled working sessions or other meetings.

Receipt of nominations will be acknowledged, nominated individuals contacted, and immediately thereafter, biographical information must be completed and returned to Ms. Romona Johnson, Office of National Public Liaison, within fifteen(15) days of receipt. In accordance with Department of Treasury Directive 21–03, a clearance process including, *inter alia*, pre-appointment of annual tax checks, a Federal Bureau of Investigation criminal and subversive name check, and a security clearance check will be conducted.

Equal opportunity practices will be followed for all appointments to the IRPAC accordance with the Department of Treasury and IRS policies. To ensure that the recommendations of the IRPAC have taken into account the needs of the diverse groups served by the IRS, membership shall include, to the extent practicable, individuals with demonstrable ability to represent minorities, women and persons with disabilities.

Dated: September 10, 2001.

Cathy Vanhorn,

Designated Federal Official, Acting Director, National Public Liaison.

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Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Hydrocholoric Acid Production; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7057–1]

RIN 2060–AH75

National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for hydrochloric acid (HCl) production facilities, including HCl production at fume silica facilities. The EPA has identified these facilities as major sources of hazardous air pollutants (HAP) emissions, primarily HCl. Hydrochloric acid is associated with a variety of adverse health effects. These adverse health effects include chronic health disorders (for example, effects on the central nervous system, blood, and heart) and acute health disorders (for example, irritation of eyes, throat, and mucous membranes and damage to the liver and kidneys).

These proposed NESHAP would implement section 112(d) of the Clean Air Act (CAA) by requiring all HCl production facilities that are major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). The EPA estimates that these proposed NESHAP would reduce nationwide emissions of HAP from HCl production by approximately 1,620 Megagrams per year (Mg/yr) (1,790 tons per year (tpy)). The emissions reductions achieved by these proposed NESHAP, when combined with the emissions reductions achieved by other similar standards, would provide protection to the public and achieve a primary goal of the CAA.

DATES: *Comments.* Submit comments on or before November 19, 2001.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by October 9, 2001, a public hearing will be held on October 18, 2001.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–99–41, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–99–41, U.S. EPA, 401 M Street, SW., Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Public Hearing. If a public hearing is held, it will be held at 10:00 a.m. in EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

Docket. Docket No. A–99–41 contains supporting information used in developing the standards. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Maxwell, Combustion Group, Emission Standards Division, (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5430; facsimile number (919) 541–5450; electronic mail address maxwell.bill@epa.gov.

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by electronic mail (e-mail) to: a-and-r-docket@epa.gov. Comments submitted by e-mail must be submitted as an ASCII file to avoid the use of special characters and encryption problems. Comments will also be accepted on disks in WordPerfect® version 5.1, 6.1, or 8 file format. All comments and data submitted in electronic form must note the docket number: A–99–41. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Bill Maxwell, c/o OAQPS Document Control Officer (Room 740B), U.S. Environmental Protection Agency, 411 West Chapel Hill Street, Durham, NC 27701. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing. A request for a public hearing must be made by the date specified under the DATES section. People interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact: Ms. Kelly Hayes, Combustion Group, Emission Standards Division, (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5578 at least 2 days in advance of the public hearing. People interested in attending the public hearing must also call Ms. Hayes to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

Docket. The docket is an organized and complete file of all the information considered in the development of this proposed rule. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this proposed rule are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposed rule will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the proposed rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules http://www.epa.gov/ttn/oarpg. Additional related information may also be found on the Air Toxics Website at http://www.epa.gov/ttn/atw/. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated entities. Categories and entities potentially affected by this action include:

Category	SIC [a]	NAICS [b]	Regulated entities
Industry	2819 2821 2869	325188 325211 325199	Hydrochloric Acid Production.

[a] Standard Industrial Classification.
[b] North American Information Classification System.

This table is not intended to be exhaustive, but rather a guide regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in section § 63.8985 of the proposed NESHAP. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Outline. The information presented in this preamble is organized as follows:

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. Hydrochloric acid production and fume silica production were listed as source categories under the production of inorganic chemicals group on EPA's initial list of major source categories published in the **Federal Register** on July 16, 1992 (57 FR 31576).[1] Today, we are combining these two source categories for regulatory purposes under the production of inorganic chemicals group and renaming the source category as HCl production. The next revision to the source category list will reflect this change. Major sources of HAP are those that have the potential to emit greater than 9 Mg/yr (10 tpy) of any one HAP or 23 Mg/yr (25 tpy) of any combination of HAP.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

[1] Later listing notices (e.g., 66 FR 8220) refer to the source category as ''fumed'' silica.

The MACT floor is the minimum level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (for which we have emissions information) in the category or subcategory or by the best-performing 5 sources (for which we have or could reasonably obtain emissions information) for categories or subcategories with fewer than 30 sources.

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, non-air quality health and environmental impacts, and energy impacts.

C. What Are the Health Effects Associated with HCl Emissions?

The primary HAP emitted from HCl production is HCl. Chlorine gas is also emitted. We do not have the type of current detailed data on each of the facilities covered by the emissions standards for this source category, nor for the people living around the facilities, that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and potential for resultant health effects. Therefore, we do not know the extent to which the adverse health effects described below occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, the proposed rule will

reduce emissions and subsequent exposures.

A discussion of the HAP-specific health effects is discussed below.

1. Hydrochloric Acid

Hydrochloric acid is corrosive to the eyes, skin, and mucous membranes. Acute (short-term) inhalation exposure may cause eye, nose, and respiratory tract irritation and inflammation and pulmonary edema in humans. Chronic (long-term) occupational exposure to HCl has been reported to cause gastritis, bronchitis, and dermatitis in workers. Prolonged exposure to low concentrations may also cause dental discoloration and erosion. No information is available on the reproductive or developmental effects of HCl in humans. In rats exposed to HCl by inhalation, altered estrus cycles have been reported in females and increased fetal mortality and decreased fetal weight have been reported in offspring. We have not classified HCl for carcinogenicity.

2. Chlorine

Acute exposure to high levels of chlorine in humans can result in chest pain, vomiting, toxic pneumonitis, and pulmonary edema. At lower levels, chlorine is a potent irritant to the eyes, the upper respiratory tract, and lungs. Chronic exposure to chlorine gas in workers has resulted in respiratory effects including eye and throat irritation and airflow obstruction. Animal studies have reported decreased body weight gain, eye and nose irritation, nonneoplastic nasal lesions, and respiratory epithelial hyperplasia from chronic inhalation exposure to chlorine. No information is available on the carcinogenic effects of chlorine in humans from inhalation exposure. We have not classified chlorine for potential carcinogenicity.

II. Summary of the Proposed Standards

A. What Is the Source Category?

The HCl production source category and the fume silica source category include HCl production facilities that are, or are part of, a major source of HAP emissions. The proposed rule defines an HCl production facility as the collection of equipment used to produce, store, and transfer for shipping HCl at a concentration of 10 percent by weight or greater. In other words, an HCl production facility is any process that routes a gaseous stream that contains HCl to an absorber, thereby creating a liquid HCl product. As noted above, to be covered by the proposed rule, the concentration of HCl in the liquid aqueous product must be 10 percent or greater, by weight.

There are numerous types of processes that produce the HCl-containing stream that is the starting point for an HCl facility. These include organic and inorganic chemical manufacturing processes that produce HCl as a by-product; the reaction of salts and sulfuric acid (Mannheim process); the reaction of a salt, sulfur dioxide, oxygen, and water (Hargreaves process); the combustion of chlorinated organic compounds; the direct synthesis of HCl via the burning of chlorine in the presence of hydrogen; and fume silica production, including the combustion of silicon tetrachloride in hydrogen-oxygen furnaces. The proposed rule is ''blind'' to the type of process that generates the HCl, as an HCl production facility begins at the point where the HCl-containing stream enters the absorber. For this reason, we decided to combine fume silica HCl production with other HCl production facilities and regulate both under this NESHAP.

The proposed rule excludes HCl production facilities under certain circumstances. First, even if 10-percent HCl (or greater) is produced, an HCl production facility is not subject to the proposed rule if all of the HCl and chlorine vent streams from the equipment (including absorbers, storage tanks and transfer operations) at the HCl production facility are recycled or routed to another process prior to being discharged to the atmosphere.

In addition, the proposed rule excludes certain HCl production facilities that are part of other source categories. Only around 5 percent of HCl is produced via a process where HCl is the primary intended product. Most HCl is produced as a by-product of other processes. Some of these processes are, or will be, subject to other Federal air pollution standards. For example, some operations produce liquid HCl following the incineration of chlorinated waste gas streams. If these operations are subject to the Hazardous Organic NESHAP (HON) requirements for HCl control after an incinerator that is used as a control device for halogenated group 1 process vents, that source is exempt from the proposed HCl NESHAP. The proposed NESHAP also excludes HCl production facilities when the operations that produce HCl are part of an affected source of another part 63 standard (e.g., the Steel Pickling NESHAP). For a more detailed discussion of these exclusions and how the proposed source category was selected, see section III.A of this preamble.

B. What Are the Primary Sources of Emissions and What Are the Emissions?

The primary HAP known to be released from HCl production is HCl. Chlorine may also be emitted from HCl production. While HCl is produced through many different types of processes (discussed above), potential HCl and chlorine emission sources are essentially the same for all processes. These potential emission sources include process vents, storage tanks, transfer operations, equipment leaks, and wastewater.

1. Types of Emission Sources

Most HCl production processes begin with a gaseous stream containing HCl. The stream can be a by-product stream from another process, an outlet stream from a combustion device that is treating chlorinated organic compounds, or a stream from a direct synthesis reaction furnace where hydrogen and chlorine are burned. No matter the origin of the HCl-containing stream, the process from that point forward is basically the same. The gaseous HCl-containing stream is routed to an HCl recovery absorption column, where the HCl is absorbed into either water or dilute HCl. The liquid leaving this column contains concentrated HCl.

The gaseous stream leaving the absorption column contains HCl that was not absorbed into the liquid in the tower and any chlorine present in the inlet stream. This outlet stream may be routed (or recycled) to another process, in which case it is no longer part of the HCl production affected source. However, if the outlet stream is directly discharged to the atmosphere or it is routed through other recovery/control devices before being discharged to the atmosphere, it is considered a process vent from an HCl production process.

If the liquid HCl leaving the absorption tower is routed to a storage tank, there is the potential for HCl emissions from the tank. The storage tanks are typically atmospheric storage tanks, and working loss emissions will occur as the tank is filled and emptied. While less significant, there are also breathing losses from atmospheric temperature and pressure changes. There is also the potential for emissions when HCl is loaded from a storage tank to a tank truck or rail car. Plants often reduce HCl emissions from storage tanks and transfer operations by using a scrubber.

Another potential source of HCl emissions is fugitive losses from equipment leaks. However, owners and operators of HCl production processes presumably have an incentive to

identify and repair equipment leaks of HCl and chlorine because of their highly corrosive nature. The leaks can be easily identified, as the presence of ambient moisture (humidity) results in rapid corrosion on or around leaking equipment components.

The bottoms from scrubbers used to reduce HCl and chlorine emissions from process vents, storage vessels, and transfer operations are typically routed to wastewater treatment systems. In most cases, the HCl or chlorine has been chemically converted in the scrubber to sodium hypochlorite (bleach). Any residual chlorine or HCl would be quite small. We estimate that wastewater emissions represent less than 1 percent of total emissions from the source category. Therefore, we believe that wastewater streams do not represent a significant potential source of emissions.

2. Estimated Emissions

We have calculated the nationwide baseline emissions for each of the HCl production facility emission sources. Process vents emit a total of 2,810 Mg/yr (3,100 tpy) of combined HCl and chlorine emissions. Storage tanks emit 54 Mg/yr (59 tpy) of HCl, transfer operations emit 16 Mg/yr (17 tpy) of HCl, leaking equipment emits 240 Mg/yr (270 tpy) of HCl, and wastewater emits 11 Mg/yr (13 tpy) HCl. Total baseline emissions from the industry are 3,130 Mg/yr (3,450 tpy).

C. What Is the Affected Source?

The proposed rule defines the HCl production facility as the affected source. The affected source contains the five emission points described in the previous section: process vents, storage tanks, transfer operations, leaking equipment, and wastewater treatment operations. However, as described in section III.D of this preamble, there are no emission limitations or other requirements for wastewater treatment operations in the proposed rule.

D. What Are the Emission Limitations and Work Practice Standards?

We are proposing that new and existing affected sources maintain an outlet concentration of less than or equal to 12 parts per million by volume (ppmv) HCl and 20 ppmv chlorine from each process vent, determined using EPA Test Method 26A of 40 CFR part 60, appendix A. The proposed rule also would require that owners or operators establish site-specific operating limits for the final control device, based on monitored parameters and levels established during the performance test. For example, if you use a caustic scrubber to meet the emission limits, you must maintain the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test. You also must maintain the daily average scrubber effluent pH within the operating range value established during the performance test.

For each storage tank and transfer operation at a new or existing affected source, the HCl emission limit (an outlet concentration of 12 ppmv or less) and operating limits are the same as for process vents. There are no chlorine emissions from these sources.

For leaking equipment, we are proposing a work practice standard. We would require you to prepare, and at all times operate according to, an equipment leak detection and repair (LDAR) plan that describes in detail the measures that will be put in place to control leaking equipment emissions at the facility. You would be required to submit the plan to the designated permitting authority on or before the compliance date.

We are not proposing any emission limitations or work practice standards for wastewater treatment, for the reasons discussed in section III(D)(5) of this preamble.

E. What Are the Performance Testing, Initial Compliance, and Continuous Compliance Requirements?

For process vents at new and existing affected sources, we are proposing to require that you demonstrate initial compliance by conducting a performance test that demonstrates that emissions are at an outlet concentration of less than or equal to 12 ppmv HCl and 20 ppmv chlorine. You must also establish site-specific operating limits based on control device parameters. These operating limits would be established for each parameter based on monitoring conducted during the initial performance test when the outlet concentration of both pollutants is less than or equal to the required emission limits (as reported in the facility's Notification of Compliance Status report).

Specifically for water or caustic scrubbers, which we believe will be the control device of choice in most situations, the proposed rule would require that you establish operating limits for pH of the scrubber effluent and the scrubber liquid inlet flow rate. For any other type of control device, you would be required to establish the operating limits based on an approved monitoring plan that identifies appropriate parameters. Continuous compliance would be demonstrated by these monitored parameters staying within the operating limits.

The HCl emission limit and associated operating limits for new and existing storage tanks and transfer operations are the same as those for process vents.

F. What Are the Notification, Recordkeeping, and Reporting Requirements?

We are proposing to require owners or operators of affected sources to submit the following notification and reports:

- Initial Notification.
- Notification of Intent to Conduct a Performance Test.
- Notification of Compliance Status (NOCS).
- Compliance Reports.
- Startup, Shutdown, and Malfunction Reports.

We would require that each owner or operator maintain records of reported information and other information necessary to document compliance (for example, records related to malfunctions, records that show continuous compliance with emission limits) for 5 years.

For the Initial Notification, we are proposing that each owner or operator notify us that his or her facility is subject to the HCl production NESHAP and that he or she provide specified basic information about their facility. This notification would be required to be submitted no later than 120 calendar days after the facility becomes subject to this subpart. For existing sources that are operating at this time, the Initial Notification would be due [120 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

For the Notification of Intent report, we are proposing that each owner or operator notify us in writing of the intent to conduct a performance test at least 60 days before the performance test is scheduled to begin.

For each new or existing process vent, storage tank, and transfer operation at an affected source, we are proposing to require a performance test to demonstrate compliance with proposed HCl concentration limit. This test would be conducted by the compliance date for existing sources and within 180 days of the compliance date for new or reconstructed sources. We are proposing that the NOCS report be submitted within 60 days of completion of the performance test. A certified notification of compliance that states the compliance status of the facility, along with supporting information (e.g., performance test methods and results, description of air pollution control equipment, and operating parameter

values and ranges), would be submitted as part of the NOCS.

For the Compliance Report, we are proposing that facilities subject to control requirements under the proposed rule report on continued compliance with the emission limits and operating limits semi-annually. Specifically, the compliance report must contain the following information:

- Company name and address.
- Statement certifying the truth, accuracy, and completeness of the content of the report.
- Date of report and beginning and ending dates of the reporting period.
- Information on actions taken for any startups, shutdowns, or malfunctions that were consistent with your startup, shutdown, and malfunction plan.
- If there are no deviations from any emission limitations that apply to you, a statement that there were no deviations from the emission limitations during the reporting period.
- If there were no periods during which the continuous parameter monitoring system (CPMS) was out-of-control, as specified in the monitoring plan, a statement that there were no periods during which the continuous monitoring system (CMS) was out-of-control during the reporting period.

You will demonstrate initial compliance with the work practice standards for leaking equipment by demonstrating that you have a LDAR plan. Your semiannual compliance report will verify your continued use of the plan and contain information on instances where you deviated from the plan and the corrective actions taken.

Finally, you must submit an immediate startup, shutdown, and malfunction report if you have taken an action that is not consistent with the facility's startup, shutdown, and malfunction plan. This report must describe actions taken for the event and contain the information in § 63.10(d)(5)(ii).

III. Rationale for Selecting the Proposed Standards

A. How Did We Select the Source Category?

The HCl production source category and the fume silica source category were both on our initial list of major source categories published in the **Federal Register** on July 16, 1992 (57 FR 31576). The HCl production source category description in the initial listing included any facility engaged in the production of HCl. The listing document further stated that ''the category includes, but is not limited to, production of HCl via any of the following methods: production of HCl as a by-product in the manufacture of organic chemicals, direct reaction of salts and sulfuric acid (Mannheim process), reaction of a salt, sulfur dioxide, oxygen, and water (Hargreaves process), and burning chlorine in the presence of hydrogen gas.''

The fume silica production source category included any facility engaged in the production of fume silica. Fume silica is a fine white powder used as a thickener, thixotropic, or reinforcing agent in inks, resins, rubber, paints, and cosmetics. The initial fume silica source category included the production of fume silica by the combustion of silicon tetrachloride in hydrogen-oxygen furnaces. Hydrochloric acid and chlorine emissions are the primary HAP released from fume silica production facilities and result from the HCl recovery/production system. Because the largest HAP emission source at fume silica facilities is related to the HCl recovery/production system, we decided to combine fume silica sources and HCl production sources for regulation under the proposed NESHAP.

We considered whether the source category should be limited to the production of a liquid HCl product, or if the source category should also include gaseous HCl streams. The majority of HCl is produced as a gaseous by-product, rather than being directly synthesized. Some owners and operators choose to route the HCl-containing stream to an absorber to make a liquid product, and some do not. Those that do not make a liquid product may use the gaseous HCl stream by routing it to another process or by recycling it. They may also route the stream through a control device and discharge it to the atmosphere. Since, in most cases, this HCl is not intentionally being produced, and since these plants are not performing additional steps to process this HCl, we concluded that these situations do not constitute ''production'' and should not be included in the source category. Therefore, we limited the source category to those processes producing a liquid HCl product.

Consequently, the starting point for an HCl production facility is the HCl-containing gaseous stream from one of the types of processes listed above. We considered defining the source category in terms of the processes used to create the gaseous HCl stream. However, the production of the liquid HCl product in the absorption tower is relatively consistent for all HCl production, with no regard for the type of process generating the HCl gaseous stream. We concluded that the source category did not need to address the process that is the source of the HCl gaseous stream, only the unit operations that generate the liquid HCl product from that gaseous stream. In other words, we considered that the gaseous HCl stream was the feedstock to the HCl production process and not part of the process. Therefore, the proposed rule does not consider the type of process that creates the HCl gaseous stream in defining an HCl production facility.

We also wanted the proposed rule to focus on producers of ''commercial'' HCl and not on incidental producers. We considered accomplishing this by limiting the scope of the proposed rule to facilities that offer the liquid HCl product for sale. However, we rejected this approach because we recognize that this would artificially separate similar processes based on whether the product is used on-site (and, thus, not ''sold''), or is offered for sale on the commercial market. We also considered limiting the source category based on how the liquid HCl product is used. For instance, we could have defined an HCl production facility as one that produces HCl used as a feedstock for another process. However, we determined that it was not feasible to separate incidental and non-incidental uses in a non-arbitrary manner.

We then tried to identify a minimum grade (or concentration) of HCl, above which all the commercial production of HCl would fall. The most common way to define the grade of HCl appears to be percent HCl by weight. Common shipping concentrations range from 31.45 to 37 percent by weight, which we believe also probably represents common manufacturing concentrations of HCl sold in commerce. The available literature indicates that the vast majority of HCl is produced at or above the azeotropic concentration of 20 percent by weight, but any concentration of HCl can be produced depending on how the absorber is operated. The lowest documented concentration is 10 percent by weight, which is that typically produced by the Hargreaves process. However, our information in this area is limited, and there may be a market for a lower concentration product. For example, oil field service companies use HCl concentrations of 5–27 percent, and literature searches have revealed material safety data sheets for concentrations as low as 0.7 percent. There was no indication in the literature whether these lower concentrations were produced directly or by diluting higher concentration products after manufacture.

Based on the available information, we are proposing that the HCl production source category include equipment at facilities used to produce, store, and transfer for shipping liquid HCl product at a concentration of 10 percent by weight or greater. We believe that the definition would include all of the HCl producers in the U.S. and exclude incidental production of HCl. We are requesting comment on whether concentration by weight is the most appropriate method for defining the grade of HCl. We are also requesting comment on whether a concentration of 10 percent by weight or greater is an appropriate cutoff to include commercial HCl production in the U.S. and exclude incidental production.

We also considered whether some HCl production facilities that meet the definition should be excluded from the HCl production source category. First, we are aware that a facility could produce a liquid HCl product, but not have any emission points that discharge to the atmosphere. An example would be a process that recycles the vent from the absorber and that routes the liquid directly to another process. We believe that such processes should not be subject to the rule, so the proposed rule excludes them from the source category.

It is possible that the process from which the gaseous HCl stream originates will be subject to another MACT standard, and that the HCl and other HAP emissions from that stream would be subject to control requirements under that standard. We want to avoid overlapping requirements where possible, and have specifically excluded from the HCl production source category those operations that produce HCl that are also part of an affected source under one of the following subparts:

- 40 CFR part 63, subpart S, National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
- 40 CFR part 63, subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
- 40 CFR part 63, subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
- 40 CFR part 63, subpart EEE, National Emission Standards for Hazardous Air Pollutants for Hazardous Waste Combustors.

The Pharmaceuticals Production MACT (40 CFR 63, subpart GGG) is another source category where potential overlap could occur since chlorinated compounds are used, and the rule covers all HAP emissions, including HCl and chlorine. However, we are not aware of processes at a pharmaceutical production facility that produce a liquid HCl product of concentrations of 10 percent or greater. Therefore, the proposed rule does not exempt sources subject to subpart GGG. We would be interested in comments on any actual situations where overlap between the pharmaceutical rule and the proposed HCl rule occur.

There is also the potential for regulatory overlap when the operations that produce liquid HCl occur following the incineration of chlorinated waste gas streams, and the operations are subject to one of the following requirements:

- 40 CFR part 63.113(c), subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
- 40 CFR part 264.343(b), Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, subpart O, Incinerators.
- 40 CFR Part 266.107, subpart H, Burning of Hazardous Waste in Boilers and Industrial Furnaces.

For example, producers of synthetic organic chemicals are subject to the Hazardous Organic NESHAP, or HON. At a HON facility, HCl is created when chlorinated organic compounds from a HON process unit are combusted in an incinerator. The HON requires that the HCl emissions from the incinerator be reduced by 99 percent. If an owner or operator routes the incinerator outlet stream to an absorber and produces a liquid HCl product, it would be considered part of the system that achieves the required 99-percent reduction. Since the HCl production process and the HCl emissions would be covered by the HON, we would want to exclude such a process from the HCl production source category. Therefore, the proposed rule specifically excludes processes subject to § 63.113(c) of subpart G of 40 CFR part 63.

Some HON units produce HCl as a by-product (not as a result of the combustion of chlorinated organic compounds). While the HCl production process would be part of the HON affected source, the HCl emissions from these operations are not covered by the HON. Therefore, a process that produces a liquid HCl product (in concentrations equal to or greater than 10 percent by weight) in this situation would be included in the proposed HCl source category definition.

We know of three other situations that could result in regulatory overlap: MACT standards for chlorine production, primary magnesium refining, and the Miscellaneous Organic Chemical Production and Processes MACT, or the MON. However, these rules are still in the developmental stages, and we cannot determine whether there is actually an overlap. Depending on the outcome of the chlorine production, primary magnesium refining, and MON rulemaking efforts, we would consider exempting overlapping affected sources when we finalize the HCl production rule, if the other rules are also promulgated by then. Alternatively, we would consider revising the final HCl production rule after the other rules are promulgated if we determine there is a need to exempt the resulting overlapping affected sources.

B. How Did We Select the Affected Source?

For the purposes of implementing a NESHAP, an affected source is defined to mean the stationary source, or portion of a stationary source, that is regulated by a relevant standard or other requirement established under section 112 of the CAA. In other words, the affected source specifies the group of unit operations, equipment, and emission points that are subject to the proposed rule. Under each relevant standard, we must designate the ''affected source'' for the purpose of implementing that standard. We do this for each source category (or subcategory) by deciding which HAP emission sources (i.e., emission points or groupings of emission points) are most appropriate for establishing separate emission standards or work practices in the context of the CAA statutory requirements and the industry operating practices for the particular source category.

We can define the affected source as narrowly as a single item of equipment or as broadly as all equipment at the plant site that is used to produce the product that defines the source category. The affected source also defines the collection of equipment that would be evaluated to determine whether replacement of components at an existing affected source would qualify as reconstruction. If we define the affected source narrowly, it could affect whether some parts of a process unit would be subject to new source requirements and others subject to existing source requirements.

We decided to treat each collection of all connected equipment that is used to produce, store, and transfer HCl (in concentrations equal to or greater than 10 percent by weight) at a plant site as

a single affected source. While we could have created separate affected sources for the equipment associated with each type of emission source (that is process vents, storage tanks, transfer operations, etc.), we believe that the operations are inter-related to the extent that any such separation would be problematic for owners and operators and for regulators. We believe a broad affected source is more feasible because all of the emission sources for which we are proposing emission limits (process vents, storage tanks, and transfer operations) can be controlled with a single control device.

As discussed in section III.d of this preamble, we are not proposing emission limits or work practice standards for wastewater streams. However, we decided to include wastewater streams in the affected source to eliminate the confusion of how these emission streams should be considered under future site-specific MACT determinations or other rulemakings. For instance, including all of the HCl production facility emission streams in the affected source will ensure that they will be considered together under future site-specific MACT determinations.

C. How Did We Select the Form of the Standards?

Section 112(d) of the CAA requires that standards be specified as a numerical emission standard, whenever possible. However, if it is determined that ''it is not feasible to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants,'' section 112(h) indicates that a design, equipment, work practice, or operational standard may be specified. As with any standard, the MACT floor may be expressed several different ways. If an emission limit is not possible, the decision as to which format to use depends on availability of data, burden imposed on industry and regulatory agencies, and whether the format is verifiable and replicable.

An emission limit format is feasible for process vents, transfer operations, and storage tanks and could take the form of mass of pollutant emitted per some other normalizing factor, such as time or a measure of production. Time is almost never used because it does not take into account different production processes and production rates from one source to another. Similarly, normalizing on a measure of production does not take into account different production processes that emit pollutants at different rates.

It is also unclear what basis was used for reporting the amount of HCl produced in the available data, which is presently based on State permit applications. A common practice in this industry (although not followed by all facilities) is to report production and shipping quantities on the basis of 100 percent HCl; however, there was no indication in the permit application data whether the reported amount produced was the actual quantity or whether it was normalized to a 100-percent basis. Since this would have a profound effect on the emission factors, it was not possible to develop a normalized emission limit for using the available data.

We also considered a percent reduction format. However, this format would make it difficult to determine the reduction from a control device versus a process. For example, it might be unfair to require a single reduction level from the last control device before the emission stream is emitted to the atmosphere, depending on the way the absorption column is designed.

Based on these considerations, we selected a concentration limit format for process vents, transfer operations, and storage tanks. This format is both verifiable and repeatable. Current test methods can measure outlet concentration directly, and parameter monitoring is an acceptable means of ensuring continued proper operation and maintenance of the control device. We believe this format will minimize the burden on industry and regulatory agencies with minimal risk of allowing excess emissions.

We expect that all emission streams from HCl production processes will contain HCl, and process vents may also contain chlorine. Therefore, we selected an outlet concentration (ppmv) for both pollutants.

The format for the equipment leak standards are work practices. We selected this format because it is not feasible to prescribe or enforce emission standards. Equipment leak emissions cannot be emitted through a conveyance device, and the application of a measurement technology is not practicable due to technological or economic limitations.

D. How Did We Determine the Basis and Level of the Proposed Standards for Existing and New Sources?

As discussed in section I.B of this preamble, for source categories/subcategories with greater than 30 sources, MACT for existing sources cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (for which we have emissions information). Further, MACT for source categories/subcategories with fewer than 30 sources cannot be less stringent than the average emission limitation achieved by the best-performing 5 sources (for which we have or could reasonably obtain emissions information). We have determined that ''average'' means any measure of central tendency, whether it be the arithmetic mean, median, or mode, or some other measure based on the best measure decided on for determining the central tendency of a data set (59 FR 29196).

The MACT floor determination was made based on State permit data for 26 HCl production facilities for 20 plant sites: Louisiana (18 facilities), West Virginia (3 facilities), Kentucky (1 facility), New York (1 facility), Ohio (1 facility), and Texas (2 facilities). We also considered data from 5 other HCl production facilities, which were obtained from trip reports (i.e., documentation of visits to plants sites.) We used this information to develop the MACT floor analysis, presented in the following sections.

The HCl production affected source MACT floor determinations are based on the performance of add-on control devices or work practice standards. We could not consider process changes to reduce emissions, such as using different raw materials, at the floor or beyond-the-floor because our definition of the HCl production source category is limited to those processes producing a liquid HCl product (see section III.A of this preamble for more discussion). Process changes that would minimize HCl emissions after liquid product production are outside of the source category to be addressed by the proposed rule. Because fuels used in HCl production processes do not contribute to the HAP emissions from this source category, we did not consider fuel switching as an emission reduction option in the floor determination or in beyond-the-floor analyses.

1. Process Vents MACT

We have process vent control information for 25 units. Units equipped with scrubbers have the 5 highest reported control efficiencies for HCl emissions: 99.4 percent (2), >99 percent (2), and 99 percent. We selected 99.4 percent control efficiency as the median of the 3 units where actual efficiencies were reported. The scrubbers with the 5 highest control efficiencies for chlorine emissions are 99.8 percent (2), 99.4 percent, and >99 (2) percent. We selected 99.8 percent as the median of the 3 units where actual control efficiencies were reported. These

efficiencies represent the MACT floor for both new and existing sources.

We have not identified a beyond-the-floor control option for process vents, because we have insufficient information to determine whether all types of sources can employ a scrubber and operate it in such a manner as to achieve >99.4 percent control for HCl (>99.8 percent control for chlorine) on a consistent basis. Therefore, we are proposing that the MACT floor be used to establish MACT for new and existing sources.

As described in the format of the standard selection, we believe an outlet concentration format is needed for the proposed rule. Therefore, we have selected HCl and chlorine emission limits that correlate with the MACT level of control. We determined this value based on performance test data for eight emission points for HCl and three emission points for chlorine. We obtained or calculated an uncontrolled outlet emission stream concentration for each of these emission points. Then we applied the MACT floor percent reduction to all of the uncontrolled concentrations.

The concentrations associated with the 99.4 percent control HCl MACT for process vents ranged from 0.03 ppmv to 12.3 ppmv. We selected the highest value in this range, 12 ppmv, as representing the concentration that every facility with a control device capable of meeting the MACT floor percent reduction could meet. Similarly, the concentrations associated with the 99.8 percent chlorine MACT ranged from 1.5 ppmv to 19.3 ppmv. We selected 20 ppmv as the concentration that every facility with a control device capable of meeting the MACT floor percent reduction could meet.

2. Storage Tanks MACT

We have information on control efficiencies for 18 HCl storage tank scrubbers. Of these, the 5 highest control efficiencies are 99.9 percent, 99.85 percent, >99 percent, 99 percent, and 98 percent. We selected 99.4 percent as the median of the 4 units where actual efficiencies were reported.

Requiring a 99.9 percent control efficiency as a beyond-the-floor option is theoretically possible, based on the data described above. However, such a requirement could result in the need for a dedicated control device for storage tank emissions, in the event the process vent scrubber could not be modified to achieve the higher control efficiency. This change would achieve only a minor incremental emission reduction (less than one ton per year, industry wide) for existing sources and would result in an incremental cost of approximately $156,000 per ton of pollutant reduced. Therefore, we do not believe this is a reasonable beyond-the-floor alternative.

We believe the MACT floor for existing sources is representative of new sources, because we have insufficient information to determine whether all types of sources can employ a scrubber and operate it in such a manner as to achieve a 99.9 percent or greater control on a consistent basis. Therefore, we are proposing a MACT level of control that is the same for new and existing sources, based on the MACT floor analysis. This would allow storage tanks to be vented to the same scrubbers or other controls used for process vents, thus, conserving energy and reducing the amount of wastewater generated. In addition, monitoring, recordkeeping, and reporting burdens would be minimized. These sources would be required to meet the 12 ppmv concentration limit for HCl.

3. Transfer Operation MACT

We only have information on transfer operation controls from four units. Of these, 2 report >99 percent control, 1 reports controls but no associated efficiency, and 1 unit is uncontrolled. We selected >99 percent as the floor value. We have not identified a beyond-the-floor control option for transfer operations, because we have insufficient information to determine whether all types of sources can employ a scrubber and operate it in such a manner as to achieve a higher level of control on a consistent basis. Therefore, we are proposing that the MACT floor be used to establish MACT for new and existing sources. We propose that these sources meet the 12 ppmv concentration limit as well. This would allow transfer operations to be vented to the same scrubbers or other controls used for process vents and/or storage tanks, conserving energy and reducing the amount of wastewater generated. In addition, monitoring, recordkeeping, and reporting burdens would be minimized.

4. Leaking Equipment MACT

Because of the corrosive nature of HCl, equipment leaks are readily apparent, and such leaks have a severe, detrimental effect on equipment, piping, and structural components of the facility. Hydrochloric acid production facilities, therefore, have an incentive to identify and quickly repair equipment leaks because of these effects. Identification of equipment leaks is typically done simply by visual observation, as the corrosive nature of HCl make such leaks readily apparent.

Details that are typically included in EPA equipment leak regulations (i.e., frequency of inspections, time interval between when a leak is detected and when the equipment must be repaired, etc.) were not available for the programs at HCl production facilities. Therefore, we generally determined that the MACT floor for leaking equipment emissions is a plan to detect and repair leaking equipment. We considered a formal LDAR program, such as the HON provisions (40 CFR part 63, subpart H), as a beyond-the-floor option. However, the HON equipment program, and all similar programs (such as 40 CFR part 60, subpart VV) are limited to control of organic HAP or volatile organic compound emissions. The EPA Method 21 of 40 CFR part 60, appendix A, is specified as the method to detect the leaks in those rules. Method 21 is specific to organic pollutants. There is no comparable EPA reference method to detect HCl or chlorine emissions from leaking equipment. Therefore, we concluded that a formal LDAR program based on the measurement of HCl or chlorine leaks is not a viable regulatory alternative. Therefore, we selected the MACT floor level for the proposed rule. As noted above, we did not have sufficient information to draft specific LDAR procedures. Therefore, the proposed rule contains the requirement that each HCl production facility establish a site-specific program to identify and repair equipment leaks.

5. Wastewater Treatment Operations MACT

No add-on controls to reduce HCl emissions from wastewater were reported in the available data. In addition, no process modifications or other pollution prevention type measures that reduce HCl emissions from wastewater were identified. Therefore, we determined that the new and existing source MACT floors for wastewater were no emission reduction. Since no add-on controls were reported to be in use at existing HCl production facilities, we determined that requiring add-on control was not a viable option more stringent than the floor. We also concluded that a beyond-the-floor option based on process modifications was not feasible, based on the following reasons. First, there are numerous types of processes that produce an HCl by-product, which results in a variety of wastewater scenarios. Therefore, we do not believe that any process or raw material change could be expected to be universally applied to wastewater streams at all types of HCl production

facilities. Further, wastewater treatment is highly sensitive to pH, and HCl has a significant impact on pH. For example, an activated sludge treatment system normally consists of an equalization basin, a settling tank (primary clarifier), aeration basin, a secondary clarifier, and a sludge recycle line. Equalization of pH and other parameters such as flow, temperature, and pollutant loads is necessary to perform consistent, adequate treatment. We believe that the potential negative impacts of upsetting existing wastewater systems is not worthwhile, especially given the very small level of HCl emissions from wastewater (less than 1 percent of total HCl emissions are from wastewater operations). Therefore, the proposed rule does not contain any requirements for wastewater.

E. How Did We Select the Testing, and Initial and Continuous Compliance Requirements?

We selected the proposed testing and initial and continuous compliance requirements based on requirements specified in the NESHAP General Provisions (40 CFR part 63, subpart A). These requirements were adopted for HCl production facilities to be consistent with other part 63 NESHAP. These requirements would ensure that we obtain or have access to information sufficient to determine whether an affected source is complying with the standards specified in the proposed rule.

The proposed NESHAP would require a compliance test to determine initial compliance with the outlet concentration limit proposed for process vents, storage tanks, and transfer operations by using Method 26A of 40 CFR part 60, appendix A. The General Provisions (at § 63.7(e)(3)) specify that each test consist of at least three separate test runs. The proposed rule adopts this requirement. Further, the proposed rule requires that each test run be at least 1 hour long.

In order to assure continuous compliance with the emissions limit for process vents, storage tanks, and transfer operations, we are proposing to require the use of CPMS to monitor operating parameters (e.g., pH of the scrubber liquid) to ensure proper operation of the control device. You would demonstrate continuous compliance by maintaining the monitored parameters within the operating limits which would be established using data collected during the initial performance test. We chose the parameters to be measured to demonstrate continuous compliance because they are the best indicators of continued performance of proper control device operation.

We considered requiring the use of continuous HCl and chlorine emission monitoring systems, but rejected the option. While there are readily available HCl and chlorine continuous emissions monitoring systems, the cost of these compared to the cost of the monitoring control device parameters is unreasonable. The annualized cost to install and operate a Fourier Transform Infrared Spectroscopy system to monitor both HCl and chlorine is approximately $206,000, with approximately $77,000 in annualized costs. In contrast, the capital costs for parametric monitoring devices and a data recording device would be less than $5,000 per control device with an annualized cost of less than $900.

F. How Did We Select the Notification, Recordkeeping, and Reporting Requirements?

We selected the proposed notification, recordkeeping, and reporting requirements based on requirements specified in the NESHAP General Provisions (40 CFR part 63, subpart A). As with the proposed initial and continuous compliance requirements, these requirements were adapted for HCl production facilities to be consistent with other part 63 national emission standards.

IV. Summary of Environmental, Energy, Cost, and Economic Impacts

A. What Are the Air Quality Impacts?

Nationwide baseline emissions are approximately 2,260 Mg/yr (2,490 tpy) of HCl and 880 Mg/yr (970 tpy) of chlorine. The total annual emissions reductions resulting from the proposed rule is 1,090 Mg/yr (1,200 tpy) of HCl and 540 Mg/yr (590 tpy) of chlorine.

B. What Are the Non-Air Health, Environmental, and Energy Impacts?

We do not expect that there will be any significant adverse non-air health, environmental or energy impacts associated with the proposed standards for HCl production plants. The proposed rule will result in the generation of additional wastewater from scrubbers. We have calculated this amount to be approximately 103,000 gallons per process vent scrubber, resulting in an estimated treatment cost of $390 per scrubber, or $25,000 for the 64 existing facilities.

C. What Are the Cost and Economic Impacts?

The total estimated capital cost of the proposed rule for HCl production is $9,981.000. The total estimated annual cost of the proposed rule is $5,975,000, which includes the annualized costs of control and monitoring equipment, other operation and maintenance, and the annual labor to comply with the reporting and recordkeeping requirements of the proposed rule once the sources are in compliance.

The economic impact analysis, which is a comparison of compliance costs for the affected parent firms with their revenues, shows that the estimated costs associated with the MACT floor option are no more than 1.0 percent of the revenues for any of the 32 affected firms. It is likely that the expected reduction in affected HCl output is no more than 0.01 percent or less from that industry. It should be noted that these results are based on the application of costs from a subset of the affected facilities to the remaining facilities. This is necessary due to incomplete facility-level cost data. Therefore, it is likely that there is no adverse impact expected to HCl producers as a result of implementation of the proposed rule.

V. Solicitation of Comments and Public Participation

We seek full public participation in arriving at final decisions and encourage comments on all aspects of this proposed rule from all interested parties. You will need to submit full supporting data and detailed analysis with your comments to allow us to make the best use of them.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is ''significant'' and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the

President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this proposed rule is not a ''significant regulatory action'' because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule applies to affected sources in the HCl production industry, not to States or local governments. State law will not be preempted, nor any mandates be imposed on States or local governments. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, the EPA specifically solicits comment on this proposed rule from State and local officials.

C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it is based solely on technology performance and not on health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Additionally, this proposed rule is not ''economically significant'' as defined under Executive Order 12866.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, we must generally prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The total annual cost of this proposed rule for any 1 year has been estimated at $6 million per year. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, we have determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's proposed rule is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as a small business according to Small Business Administration (SBA) size standards by the North American Industry Classification System (NAICS) category of the owning parent entity. The small business size standard for the affected industries (NAICS 325181, Alkalies and Chlorine Manufacturing, and NAICS 325188, All Other Basic Inorganic Chemical Manufacturing) is a maximum of 1,000 employees for an entity.

After considering the economic impact of today's proposed rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. In accordance with the RFA, as amended by the SBREFA, 5 U.S.C. 601, *et seq.*, we conducted an assessment of the proposed rule on small businesses within the industries affected by the proposed rule. Based on SBA size definitions for the affected industries and reported sales and employment data, we identified 4 affected small businesses out of 32 affected parent businesses (or 13 percent of the total number). In order to estimate impacts to affected small businesses, we conducted a screening analysis that consists of estimates of the annual compliance costs these businesses are expected to occur as compared to their revenues. Since the data are such that costs can only be estimated for a subset of the affected facilities, the available data were used to determine the costs to the facilities outside of this subset. The results of this screening analysis show that all but one of the small businesses are expected to have annual compliance costs of 1 percent or less. Therefore, this analysis allows us to certify that there will not be a significant impact on a substantial number of small entities from the implementation of this proposed rule. For more information, consult the docket for this project.

G. Paperwork Reduction Act

The information collection requirements in this proposed rule will be submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The EPA has prepared an Information Collection Request (ICR) document (ICR Number 2032.01), and you may obtain a copy from Sandy Farmer by mail at the U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue NW, Washington, DC 20460, by email at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

According to the ICR, the total 3-year monitoring, reporting, and recordkeeping burden for this collection is 148,032 labor hours, and the annual average burden is 49,675 labor hours. The labor cost over the 3-year period is $6,331,734, or $2,110,578 per year. The annualized capital cost for monitoring equipment is $25,632. Annual operation and maintenance costs are $1,256,063 over 3 years, averaging $418,688 per year. This estimate includes a one-time plan for demonstrating compliance, annual compliance certificate reports, notifications, and recordkeeping.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after September 18, 2001, a comment to OMB is best assured of having its full effect if OMB receives it by October 18, 2001. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This proposed rule involves technical standards. The EPA proposes in this rule to use EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 4, and 26A of 40 CFR part 60, appendix A. Consistent with the NTTAA, the EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods. No

applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, and 2G. The search and review results have been documented and are placed in the docket (A–99–41) for this proposed rule.

This search for emission measurement procedures identified eight voluntary consensus standards potentially applicable to this proposed rule. The EPA determined that six of these eight standards were impractical alternatives to EPA test methods for the purposes of this proposed rule. Therefore, the EPA does not propose to adopt these standards today. The reasons for this determination for the six methods are discussed below.

The standard ISO 10780:1994, ''Stationary Source Emissions—Measurement of Velocity and Volume Flowrate of Gas Streams in Ducts,'' is impractical as an alternative to EPA Method 2 in this proposed rule. This standard, ISO 10780:1994, recommends the use of L-shaped pitots, which historically have not been recommended by EPA because the S-type design has large openings which are less likely to plug up with dust.

The standard ASTM D3464–96, ''Standard Test Method Average Velocity in a Duct Using a Thermal Anemometer,'' is impractical as an alternative to EPA Method 2 for the purposes of this proposed rule primarily because applicability specifications are not clearly defined, e.g., range of gas composition, temperature limits. Also, the lack of supporting quality assurance data for the calibration procedures and specifications, and certain variability issues that are not adequately addressed by the standard limit EPA's ability to make a definitive comparison of the method in these areas.

The European standard EN 1911–1,2,3 (1998), ''Stationary Source Emissions—Manual Method of Determination of HCl—Part 1: Sampling of Gases Ratified European Text—Part 2: Gaseous Compounds Absorption Ratified European Text—Part 3: Adsorption Solutions Analysis and Calculation Ratified European Text,'' is impractical as an alternative to EPA Method 26A. Part 3 of this standard cannot be considered equivalent to EPA Method 26 or 26A because the sample absorbing solution (water) would be expected to capture both HCl and chlorine gas, if present, without the ability to distinguish between the two. The EPA Methods 26 and 26A use an acidified absorbing solution to first separate HCl and chlorine gas so that they can be selectively absorbed, analyzed, and reported separately. In addition, in EN 1911 the absorption efficiency for chlorine gas would be expected to vary as the pH of the water changed during sampling.

Three of the six voluntary consensus standards are impractical alternatives to EPA test methods for the purposes of this proposed rule because they are too general, too broad, or not sufficiently detailed to assure compliance with EPA regulatory requirements: ASTM D3154–91, ''Standard Method for Average Velocity in a Duct (Pitot Tube Method),'' for EPA Methods 1, 2, 2C, and 4; ASTM 3796–90 (Reapproved 1996), ''Standard Practice for Calibration of Type S Pitot Tubes,'' for EPA Method 2; and ASTM E337–84 (Reapproved 1996), ''Standard Test Method for Measuring Humidity with a Psychrometer (the Measurement of Wet- and Dry-Bulb Temperatures),'' for EPA Method 4.

The following two of the eight voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of this proposed rule because they are under development by a voluntary consensus body: ASME/BSR MFC 12M, ''Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters,'' for EPA Method 2; and ASME/BSR MFC 13M, ''Flow Measurement by Velocity Traverse,'' for EPA Method 1 (and possibly 2). While we are not proposing to include these two voluntary consensus standards in today's proposal, the EPA will consider the standards when final.

The EPA takes comment on the compliance demonstration requirements proposed in this proposed rule and specifically invites the public to identify potentially-applicable voluntary consensus standards. Commenters should also explain why this proposed rule should adopt these voluntary consensus standards in lieu of or in addition to EPA's test methods. Emission test methods and performance specifications submitted for evaluation should be accompanied with a basis for the recommendation, including method validation data and the procedure used to validate the candidate method (if a method other than Method 301, 40 CFR part 63, appendix A, was used).

Section 63.9020 to subpart NNNNN lists the EPA testing methods included in the proposed rule. Under § 63.8 of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative monitoring in place of any of the EPA testing methods.

I. Executive Order 13211, Energy Effects

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

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Recordkeeping and reporting requirements.

Dated: September 7, 2001.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63, of the Code of the Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

2. Part 63 is amended by adding subpart NNNNN to read as follows:

Subpart NNNNN—National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production

What This Subpart Covers

Emission Limitations and Work Practice Standards

General Compliance Requirements

Testing and Initial Compliance Requirements

Continuous Compliance Requirements

What This Subpart Covers

§ 63.8980 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) and work practice standards for HAP emitted from hydrochloric acid (HCl) production. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations and work practice standards.

§ 63.8985 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate an HCl production facility that is located at or is part of a major source of HAP.

(1) An HCl production facility is the collection of equipment used to produce, store, and transfer for shipping liquid HCl product at a concentration of 10 percent by weight or greater.

(2) A major source of HAP emissions is any stationary source or group of stationary sources within a contiguous area under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

(b) You are not subject to this subpart if the operations that produce liquid HCl are also subject to NESHAP under one of the subparts listed in paragraphs (b)(1) through (4) of this section.

(1) 40 CFR part 63, subpart S, National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.

(2) 40 CFR part 63, subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants.

(3) 40 CFR part 63, subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.

(4) 40 CFR part 63, subpart EEE, National Emission Standards for Hazardous Air Pollutants for Hazardous Waste Combustors.

(c) You are not subject to this subpart if the operations that produce liquid HCl occur following the incineration of chlorinated waste gas streams and the operations are subject to the one of the requirements listed in paragraphs (c)(1) through (3) of this section.

(1) 40 CFR part 63.113(c), subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

(2) 40 CFR part 264.343(b), Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (subpart O, Incinerators).

(3) 40 CFR Part 266.107, subpart H, Burning of Hazardous Waste in Boilers and Industrial Furnaces.

(d) You are not subject to this subpart if all of the HCl and chlorine (Cl_2) vent streams from the equipment (including absorbers, storage tanks and transfer operations) at the HCl production facility are recycled or routed to another process prior to being discharged to the atmosphere.

§ 63.8990 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing affected source at an HCl production facility.

(b) The affected source is the HCl production facility, which contains the collection of emission streams listed in paragraphs (b)(1) through (5) of this section.

(1) Each emission stream from an HCl process vent.

(2) Each emission stream from an HCl storage tank.

(3) Each emission stream from an HCl transfer operation.

(4) Leaks from equipment in HCl/Cl_2 service.

(5) Each emission stream from HCl wastewater treatment operations. There are no emission limitations or other requirements in this subpart that apply to this equipment.

(c) An affected source is a new affected source if you commenced construction of the affected source after September 18, 2001 and you met the applicability criteria of § 63.8985 at the time you commenced construction.

(d) An affected source is reconstructed if you meet the criteria as defined in § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

§ 63.8995 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (a)(1) or (2) of this section.

(1) If you start up your affected source before [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must comply with the emission limitations and work practice standards in this subpart no later than [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**].

(2) If you start up your affected source after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must comply with the emission limitations and work practice standards in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must comply with the emission limitations and work practice standards no later than 3 years after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**].

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP, the provisions in paragraphs (c)(1) and (2) of this section apply.

(1) Any portion of the existing facility that is a new affected source or a new reconstructed source must be in compliance with this subpart upon startup.

(2) All other parts of the source must be in compliance with this subpart no later than the date 3 years after the area source becomes a major source.

(d) You must meet the notification requirements in § 63.9045 according to the schedule in § 63.9045 and in subpart A of this part. Some of the notifications must be submitted before you are required to comply with the emission limitations in this subpart.

Emission Limitations and Work Practice Standards

§ 63.9000 What emission limitations and work practice standards must I meet?

(a) You must meet each emission limit and work practice standard in Table 1 to this subpart that applies to you.

(b) You must meet each operating limit in Table 2 to this subpart that applies to you.

General Compliance Requirements

§ 63.9005 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations and work practice standards in this subpart at all times, except during periods of startup, shutdown, and malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) During the period between the compliance date specified for your affected source in § 63.8995 and the date upon which continuous compliance monitoring systems have been installed and validated and any applicable operating limits have been set, you must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

(d) You must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

(e) For each monitoring system required in this section, you must develop and submit for approval a site-specific monitoring plan that addresses the requirements in paragraphs (f)(1) through (3) of this section.

(1) Installation of the continuous monitoring system (CMS) sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (e.g., on or downstream of the last control device).

(2) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system.

(3) Performance evaluation procedures and acceptance criteria (e.g., calibrations).

(f) In your site-specific monitoring plan, you must also address the ongoing procedures specified in paragraphs (g)(1) through (3) of this section.

(1) Ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(1), (3), (4)(ii), (7), and (8), and 63.9030.

(2) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d).

(3) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c) and (e)(1) and (2)(i).

Testing and Initial Compliance Requirements

§ 63.9010 By what date must I conduct performance tests?

(a) If you have a new or reconstructed affected source, you must conduct performance tests within 180 calendar days after the compliance date that is specified for your source in § 63.8995(a) and according to the provisions in § 63.7(a)(2).

(b) If you have an existing affected source, you must conduct performance tests no later than the compliance date that is specified for your existing affected source in § 63.8995(b) and according to the provisions in § 63.7(a)(2).

(c) If you commenced construction or reconstruction between September 18, 2001 and [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must demonstrate initial compliance with either the proposed emission limitation or the promulgated emission limitation no later than 180 calendar days after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**] or within 180 calendar days after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

§ 63.9015 When must I conduct subsequent performance tests?

(a) You must conduct all applicable performance tests according to the procedures in § 63.9020 on an annual basis. The first subsequent performance tests must be completed within 12 months of the initial performance test, but no earlier than 10 months after the initial performance test and every 12 months, thereafter.

(b) You must report the results of annual performance tests within 60 days after the completion of the test. This report should also verify that the operating limits for your affected source have not changed or provide documentation of revised operating parameters established as specified in Table 2 to this subpart. The reports for all subsequent performance tests should include all applicable information required in § 63.9050.

§ 63.9020 What performance tests and other procedures must I use?

(a) You must conduct each performance test in Table 3 to this subpart that applies to you.

(b) You must conduct each performance test according the site-specific test plan required by § 63.7(c)(2).

(c) You must conduct each performance test under representative conditions according to the requirements in § 63.7(e)(1) and under the specific conditions that this subpart specifies in Table 3.

(d) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(e) You must conduct at least three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(f) You must establish all applicable operating permit ranges that correspond to compliance with the emission limit as described in Table 3 to this subpart.

§ 63.9025 What are my monitoring installation, operation, and maintenance requirements?

(a) For each operating parameter that you are required by § 63.9020(f) to monitor, you must install, operate, and maintain each continuous parameter monitoring system (CPMS) according to the requirements in § 63.9005(e) and (f) and paragraphs (a)(1) through (6) of this section.

(1) You must operate your CPMS at all times the process is operating.

(2) You must collect data from at least four equally spaced periods each hour.

(3) For at least 75 percent of the hours in a 24-hour period, you must have valid data (as defined in your site-specific monitoring plan) for at least 4 equally spaced periods each hour.

(4) For each hour that you have valid data from at least four equally spaced periods, you must calculate the hourly average value using all valid data.

(5) You must calculate the daily average using all of the hourly averages calculated according to paragraph (a)(3) of this section for the 24-hour period.

(6) You must record the results for each inspection, calibration, and validation check as specified in your site-specific monitoring plan.

(b) For liquid flow monitoring devices such as various types of flow meters, including magnetic, mass, thermal, fluidic oscillating, vortex formation, turbine, and positive displacement, you must meet the requirements in paragraphs (a) and (b)(1) through (5) of this section.

(1) You must locate the flow sensor and other necessary equipment in or as close to a position that provides a representative flow.

(2) You must use a flow sensor with a minimum measurement uncertainty of two percent of the flow rate.

(3) You must conduct at least semi-annually a flow sensor calibration check.

(4) You must perform at least monthly inspections of all components for integrity, of all electrical connections for continuity, and of all mechanical connections for leakage.

(5) You must record the results of the inspection and flow sensor calibration in a log.

(c) For pH monitoring devices, you must meet the requirements in paragraphs (a) and (c)(1) through (5) of this section.

(1) You must locate the pH sensor so that a representative pH is provided.

(2) You must ensure the sample is properly mixed and representative of the fluid to be measured.

(3) You must check the pH meter's calibration on at least two points every 8 hours of process operation.

(4) You must perform at least monthly inspections of all components for integrity and of all electrical connections for continuity.

(5) You must record the results of the calibration and inspection in a log.

(d) For any other control device, ensure that the CPMS is operated according to a monitoring plan submitted to the Administrator as required by § 63.8(f). The monitoring plan must meet the requirements in paragraphs (a) and (d)(1) through (3) of this section. Conduct monitoring in accordance with the plan submitted to the Administrator unless comments received from the Administrator require an alternate monitoring scheme.

(1) Identify the operating parameter to be monitored to ensure that the control or capture efficiency measured during the initial compliance test is maintained.

(2) Discuss why this parameter is appropriate for demonstrating ongoing compliance.

(3) Identify the specific monitoring procedures.

§ 63.9030 How do I demonstrate initial compliance with the emission limitations and work practice standards?

(a) You must demonstrate initial compliance with each emission limit and work practice standard that applies to you according to Table 4 to this subpart.

(b) You must establish each site-specific operating limit in Table 2 to this subpart that applies to you according to the requirements in § 63.9020 and Table 3 to this subpart.

(c) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.9045(e).

Continuous Compliance Requirements

§ 63.9035 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) If you use a caustic scrubber or a water scrubber/absorber to meet the emission limits in Table 1 to this subpart, you must keep the records specified in paragraphs (b)(1) and (2) of this section to support your compliance demonstration.

(1) Records of daily average scrubber inlet liquid flow rate.

(2) Records of the daily average scrubber effluent pH.

(c) If you use any other control device to meet the emission limits in Table 1 to this subpart, you must keep records of the operating parameter values identified in your monitoring plan in § 63.9025(e) to support your compliance demonstration.

(d) Except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating. This includes periods of startup, shutdown, or malfunction when the affected source is operating. A monitoring malfunction includes, but is not limited to, any sudden, infrequent, not reasonable failure of the monitoring equipment to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(e) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities in data averages and calculations used to report emission or operating levels, nor may such data be used in fulfilling a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

§ 63.9040 How do I demonstrate continuous compliance with the emission limitations and work practice standards?

(a) You must demonstrate continuous compliance with each emission limit and work practice standard in Table 1 to this subpart that applies to you according to Table 4 to this subpart.

(b) You must demonstrate continuous compliance with each operating limit in Table 2 of this subpart that applies to you according to Tables 4 and 5 to this subpart.

(c) You must report each instance in which you did not meet an emission limit, work practice standard or operating limit in Table 1 or 2, respectively, to this subpart that applies to you. This includes periods of startup, shutdown, and malfunction. These instances are deviations from the emission limitations in this subpart. These deviations must be reported according to the requirements in § 63.9050.

(d) During periods of startup, shutdown, or malfunction, you must operate in accordance with the startup, shutdown, and malfunction plan.

(e) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.9045 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(f)(4) and (6), and 63.9(b) through (h) that apply to you by the dates specified.

(b) As specified in § 63.9(b)(2), if you startup your affected source before [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must submit an Initial Notification not later than 120 calendar days after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**].

(c) As specified in § 63.9(b)(3), if you startup your new or reconstructed affected source on or after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must submit the application for construction or reconstruction required by § 63.9(b)(1)(iii) in lieu of the initial notification.

(d) You must submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin, as required in § 63.7(b)(1).

(e) When you conduct a performance test as specified in Table 3 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii).

(f) You must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

(g) The Notification of Compliance Status must also include the information in paragraphs (g)(1) through (3) of this section that applies to you.

(1) Each operating parameter value averaged over the full period of the performance test (for example, average pH).

(2) Each operating parameter range within which HAP emissions are reduced to the level corresponding to meeting the applicable emission limits in Table 1 to this subpart.

(3) A copy of the equipment leak detection and repair (LDAR) plan (unless it has already been submitted).

§ 63.9050 What reports must I submit and when?

(a) You must submit each report in Table 6 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report according to paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.8995 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.8995.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.8995.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4).

(c) The compliance report must contain the following information in paragraphs (c)(1) through (7) of this section.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there are no deviations from any emission limitations that apply to you, a statement that there were no deviations from the emission limitations during the reporting period.

(6) If there were no periods during which the CPMS was out-of-control in accordance with the monitoring plan, a statement that there were no periods during which the CPMS was out-of-control during the reporting period.

(7) Verification that you continue to use the equipment LDAR plan and information that explains any periods when the procedures in the plan were not followed and the corrective actions taken.

(d) For each deviation from an emission limitation occurring at an affected source where you are using a CPMS to comply with the emission limitation in this subpart, you must include the information in paragraphs (c)(1) through (6) of this section and the following information in paragraphs (d)(1) through (9) of this section. This includes periods of startup, shutdown, and malfunction.

(1) The date and time that each malfunction started and stopped.

(2) The date and time that each CPMS was inoperative, except for zero (low-level) and high-level checks.

(3) The date, time, and duration that each CPMS was out-of-control, including the information in § 63.8(c)(8).

(4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(5) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(6) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration of CPMS downtime during the reporting period, and the total duration of CPMS downtime as a percent of the total source operating time during that reporting period.

(8) A brief description of the process units.

(9) A description of any changes in CPMS, processes, or controls since the last reporting period.

(e) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A). If an affected source submits a compliance report pursuant to Table 6 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation in this subpart, submission of the compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

(f) For each startup, shutdown, or malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunction plan you must submit an immediate startup, shutdown and malfunction report. Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report according to paragraphs (f)(1) and (2) of this section.

(1) An initial report containing a description of the actions taken for the

event must be submitted by fax or telephone within 2 working days after starting actions inconsistent with the plan.

(2) A follow-up report containing the information listed in § 63.10(d)(5)(ii) must be submitted within 7 working days after the end of the event unless you have made alternative reporting arrangements with the permitting authority.

§ 63.9055 What records must I keep?

(a) You must keep a copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, as required in § 63.10(b)(2)(xiv).

(b) You must also keep the following records specified in paragraphs (b)(1) through (5) of this section.

(1) The records in § 63.6(e)(3)(iii)–(v) related to startup, shutdown, and malfunction.

(2) Records of performance tests as required in § 63.10(b)(2)(viii).

(3) Records of operating parameter values that are consistent with your monitoring plan.

(4) Records of the date and time that each deviation started and stopped and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(5) Copy of the equipment LDAR plan.

§ 63.9060 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious inspection and review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records off site for the remaining 3 years.

Other Requirements and Information

§ 63.9065 What parts of the General Provisions apply to me?

(a) Table 7 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

(b) [Reserved]

§ 63.9070 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, as well as U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities in paragraphs (c)(1) through (4) that cannot be delegated to State, local, or tribal agencies are as follows.

(1) Approval of alternatives to requirements in §§ 63.8980, 63.8985, 63.8990, 63.8995, and 63.9000.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.9075 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in 40 CFR 63.2, the General Provisions of this part, and in this section as follows:

Caustic scrubber means any add-on device that mixes an aqueous stream or slurry containing caustic solution (e.g., lime, limestone) with the exhaust gases from an affected HCl production facility to control emissions of and/or to absorb and neutralize HCl.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation;

(2) fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) fails to meet any emission limitation in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Emission limitation means any emission limit or operating limit.

In HCl/Cl_2 service means a piece of equipment (pump, compressor, valve, connector, etc.) at an HCl production facility that contains HCl and/or chlorine.

Hydrochloric acid process vent means a process vent through which an emission stream containing HCl is vented to the atmosphere. The emission stream may or may not be treated by an HCl absorption column, chlorinated hydrocarbon stripping column, or HCl desorption column before venting to the atmosphere.

Responsible official means responsible official as defined in 40 CFR 70.2 of this chapter.

Transfer operation means the loading, into a tank truck or railcar, of liquid HCl from a transfer (or loading) rack (as defined in this section).

Transfer (or loading) rack means the collection of loading arms and loading hoses, at a single loading rack, that are used to fill tank trucks and/or railcars with liquid HCl. Transfer rack includes the associated pumps, meters, shutoff valves, relief valves, and other piping and valves.

Vent means to discharge emissions to the atmosphere from either an HCl process vent, storage tank, or transfer operation.

Water scrubber/absorber means any add-on device that mixes an aqueous stream (not containing caustic solution) with the exhaust gases from an affected HCl production facility to control emissions of and/or to absorb and neutralize HCl.

Tables

TABLE 1 TO SUBPART NNNNN.—EMISSION LIMITS AND WORK PRACTICE STANDARDS

[As stated in § 63.9000(a), you must comply with the following emission limits and work practice standards]

For each * * *	You must meet the following emission limit and work practice standard
1. Emission stream from an HCl process vent	outlet concentration shall not exceed 12 ppm by volume of HCl or 20 ppm by volume of Cl_2.
2. Emission stream from an HCl storage tank	outlet concentration shall not exceed 12 ppm by volume of HCl.
3. Emission stream from an HCl transfer operation	outlet concentration shall not exceed 12 ppm by volume of HCl.
4. Emission stream from leaking equipment in HCl/Cl_2 service	a. prepare and operate at all times according to an equipment LDAR plan that describes in detail the measures that will be put in place to detect leaks and repair them in a timely fashion, and b. you may use existing manuals that describe the measures in place to control leaking equipment emissions required as part of other federally enforceable requirements.

TABLE 2 TO SUBPART NNNNN.—OPERATING LIMITS

[As stated in § 63.9000(b), you must comply with the following operating limits for each affected source vented to a control device]

For each * * *	You must * * *
1. Caustic scrubber or water scrubber/absorber	a. maintain the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test, and b. maintain the daily average scrubber effluent pH within the operating range value established during the performance test.
2. Other type of control device to which HCl emissions are ducted	maintain your operating parameter(s) within the ranges established during the performance test and according to your monitoring plan.

TABLE 3 TO SUBPART NNNNN.—PERFORMANCE TEST REQUIREMENTS FOR HCL PRODUCTION AFFECTED SOURCES

[As stated in § 63.9020, you must comply with the following requirements for performance tests for HCl production for each affected source]

For each affected source, you must * * *	Using * * *	According to the following requirements * * *
1. Select sampling port location(s) and the number of traverse points.	Method 1 or 1A in appendix A to 40 CFR part 60 of this chapter.	sampling sites must be located at the outlet of the scrubber and prior to any releases to the atmosphere.
2. Determine velocity and volumetric flow rate	Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A to 40 CFR part 60 of this chapter.	
3. Determine gas molecular weight	not applicable	assume a molecular weight of 29 (after moisture correction) for calculation purposes.
4. Measure moisture content of the stack gas	Method 4 in appendix A to 40 CFR part 60 of this chapter.	
5. Measure HCl concentration from each affected source and Cl_2 concentration from process vent affected sources.	Method 26A in Appendix A to 40 CFR part 60 of this chapter.	a. measure total emissions using Method 26A, and. b. collect scrubber liquid flow rate and scrubber effluent pH every 15 minutes during the entire duration of each 1-hour test run, and determine the average scrubber liquid flow rate and scrubber effluent pH over the period of the performance test by computing the average of all of the 15-minute readings.
6. Establish operating parameter limits with which you will demonstrate continuous compliance with the emission limit in Table 1 to this subpart, if you use any other control device than a caustic scrubber or a water scrubber/absorber.	EPA-approved methods and data from the continuous parameter monitoring system.	conduct the performance tests and establish operating parameter limits according to site-specific test plan submitted according to § 63.7(c)(2)(i).

TABLE 4 TO SUBPART NNNNN.—INITIAL COMPLIANCE WITH EMISSION LIMITS AND WORK PRACTICE STANDARDS

[As stated in § 63.9030, you must comply with the following requirements to demonstrate initial compliance with the applicable emission limits for each affected source vented to a control device and each work practice standard]

For each * * *	For the following emission limit or work practice standard * * *	You have demonstrated initial following compliance if * * *
1. Affected source using a austic scrubber or water scrubber/absorber.	in Table 1 to this subpart	the average HCl and Cl_2 (if applicable) concentration, measured over the period of the performance test conducted according to Table 3 of this subpart, is less than the concentration limit specified in Table 1 to this subpart.
2. Affected source using any other type of control device.	in Table 1 to this subpart	the average HCl and Cl_2 (if applicable) concentration, measured over the period of the performance test conducted according to Table 3 of this subpart, is less than the concentration limit specified in Table 1 to this subpart.
3. Leaking equipment affected source	in Table 1 to this subpart	submit a copy of the equipment LDAR plan to the designated permitting authority on or before the applicable compliance date specified in § 63.8995.

TABLE 5 TO SUBPART NNNNN.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS AND WORK PRACTICE STANDARDS

[As stated in § 63.9040, you must comply with the following requirements to demonstrate continuous compliance with the applicable emission limitations for each affected source vented to a control device and each work practice standard]

For each...	For the following emission limitation and work practice standard...	You must demonstrate continuous compliance by...
1. Affected source using a caustic scrubber or water scrubber/absorber.	in Tables 1 and 2 to this subpart	a. demonstrating with the annual performance test that the average HCl and Cl_2 (if applicable) concentration, measured over the period of the performance test conducted according to Table 3 of this subpart, is less than the concentration limit specified in Table 1 to this subpart, and b. collecting the scrubber inlet liquid flow rate and effluent pH monitoring data according to § 63.9025, consistent with your monitoring plan, and c. reducing the data to 1-hour and daily block averages according to the requirements in § 63.9025, and d. maintaining the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test, and e. maintaining the daily average scrubber effluent pH within the operating range established during the performance test.
2. Affected source using any other control device.	in Tables 1 and 2 to this supbart	a. demonstrating with the annual performance test that the average HCl and Cl_2 concentration (if applicable), measured over the period of the performance test conducted according to Table 3 of this subpart, is less than the concentration limit specified in Table 1 to this subpart, and b. collecting the scrubber inlet liquid flow rate and effluent pH monitoring data according to § 63.9025, consistent with your monitoring plan, and c. reducing the data to 1-hour and daily block averages according to the requirements in § 63.9025, and d. maintaining the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test, and e. maintaining the daily average scrubber effluent pH within the operating range established during the performance test.

TABLE 5 TO SUBPART NNNNN.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS AND WORK PRACTICE STANDARDS—Continued

[As stated in § 63.9040, you must comply with the following requirements to demonstrate continuous compliance with the applicable emission limitations for each affected source vented to a control device and each work practice standard]

For each...	For the following emission limitation and work practice standard...	You must demonstrate continuous compliance by...
3. Leaking equipment affected source	in Table 1 to this subpart	a. verifying that you continue to use a LDAR plan, and b. reporting any instances where you deviated from the plan and the corrective actions taken.

TABLE 6 TO SUBPART NNNNN.—REQUIREMENTS FOR REPORTS

[As stated in § 63.9050(a), you must submit a compliance report that includes the information in § 63.9050(c) through (e) as well as the information in the following table. You must also submit startup, shutdown, and malfunction (SSM) reports according to the requirements in § 63.9050(f) and the following]

If * * *	Then you must submit a report or statement that:
1. There are no deviations from any emission limitations that apply to you.	there were no deviations from the emission limitations during the reporting period.
2. There were no periods during which the operating parameter monitoring systems were out-of-control in accordance with the monitoring plan.	there were no periods during which the CPMS were out-of-control during the reporting period.
3. There was a deviation from any emission limitation during the reporting period.	contains the information in § 63.9050(d).
4. There were periods during which the operating parameter monitoring systems were out-of-control in accordance with the monitoring plan.	contains the information in § 63.9050(d).
5. There was a startup, shutdown, or malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunctions plan.	contains the information in § 63.9050(f).
6. There were periods when the procedures in the LDAR the plan were not followed.	contains the information in § 63.9050(c)(7).

TABLE 7 TO SUBPART NNNNN.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNN

[As stated in § 63.9065, you must comply with the applicable General Provisions requirements according to the following]

Citation	Requirement	Applies to Subpart NNNNN	Explanation
§ 63.1	Initial applicability determination; applicability after standard established; permit requirements; extensions; notifications.	Yes.	
§ 63.2	Definitions	Yes	additional definitions are found in § 63.9075.
§ 63.3	Units and abbreviations	Yes.	
§ 63.4	Prohibited activities; compliance date; circumvention, severability.	Yes.	
§ 63.5	Construction/reconstruction applicability; applications; approvals.	Yes.	
§ 63.6(a)	Compliance with standards and maintenance requirements—applicability.	Yes.	
§ 63.6(b)(1)–(4)	Compliance dates for new or reconstructed sources.	Yes	§ 63.8995 specifies compliance dates.
§ 63.6(b)(5)	Notification if commenced construction or reconstruction after proposal.	Yes.	
§ 63.6(b)(6)	[Reserved]	Yes.	
§ 63.6(b)(7)	Compliance dates for new or reconstructed area sources that become major.	Yes	§ 63.8995 specifies compliance dates.
§ 63.6(c)(1)–(2)	Compliance dates for existing sources ...	Yes	§ 63.8995 specifies compliance dates.
§ 63.6(c)(3)–(4)	[Reserved]	Yes.	
§ 63.6(c)(5)	Compliance dates for existing area sources that become major.	Yes	§ 63.8995 specifies compliance dates.
§ 63.6(d)	[Reserved]	Yes.	
§ 63.6(e)(1)–(2)	Operation and maintenance requirements.	Yes.	
§ 63.6(e)(3)	Startup, shutdown, and malfunction plans.	Yes.	
§ 63.6(f)(1)	Compliance except during SSM	Yes.	
§ 63.6(f)(2)–(3)	Methods for determining compliance	Yes.	

TABLE 7 TO SUBPART NNNNN.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNN—Continued

[As stated in § 63.9065, you must comply with the applicable General Provisions requirements according to the following]

Citation	Requirement	Applies to Subpart NNNNN	Explanation
§ 63.6(g)	Use of an alternative nonopacity emission standard.	Yes.	
§ 63.6(h)	Compliance with opacity/visible emission standards.	No	subpart NNNNN does not specify opacity or visible emission standards.
§ 63.6(i)	Extension of compliance with emission standards.	Yes.	
§ 63.6(j)	Presidential compliance exemption	Yes.	
§ 63.7(a)(1)–(2)	Performance test dates	Yes	except for existing affected sources as specified in § 63.9010(b).
§ 63.7(a)(3)	Administrator's CAA section 114 authority to require a performance test.	Yes.	
§ 63.7(b)	Notification of performance test and rescheduling.	Yes.	
§ 63.7(c)	Quality assurance program and site-specific test plans.	Yes.	
§ 63.7(d)	Performance testing facilities	Yes.	
§ 63.7(e)(1)	Conditions for conducting performance tests.	Yes.	
§ 63.7(f)	Use of an alternative test method	Yes.	
§ 63.7(g)	Performance test data analysis, recordkeeping, and reporting.	Yes.	
§ 63.7(h)	Waiver of performance tests	Yes.	
§ 63.8(a)(1)–(3)	Applicability of monitoring requirements	Yes	additional monitoring requirements are found in § 63.9005(e) and (f) and 63.9035.
§ 63.8(a)(4)	Monitoring with flares	No	subpart NNNNN does not refer directly or indirectly to § 63.11.
§ 63.8(b)	Conduct of monitoring and procedures when there are multiple effluents and multiple monitoring systems.	Yes.	
§ 63.8(c)(1)–(3)	Continuous monitoring system (CPMS) operation and maintenance.	Yes	applies as modified by § 63.9005(e) and (f).
§ 63.8(c)(4)	Continuous monitoring system requirements during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts.	Yes	applies as modified by § 63.9005(f).
§ 63.8(c)(5)	Continuous opacity monitoring system (COMS) minimum procedures.	No	subpart NNNNN does not have opacity or visible emission standards.
§ 63.8(c)(6)	Zero and high level calibration checks	Yes	applies as modified by § 63.9005(e).
§ 63.8(c)(7)–(8)	Out-of-control periods, including reporting.	Yes.	
§ 63.8(d)–(e)	Quality control program and CPMS performance evaluation.	No	applies as modified by § 63.9005(e) and (f).
§ 63.8(f)(1)–(5)	Use of an alternative monitoring method	Yes.	
§ 63.8(f)(6)	Alternative to relative accuracy test	No	only applies to sources that use continuous emissions monitoring systems (CEMS).
§ 63.8(g)	Data reduction	Yes	applies as modified by § 63.9005(f).
§ 63.9(a)	Notification requirements—applicability	Yes.	
§ 63.9(b)	Initial notifications	Yes	except § 63.9045(c) requires new or reconstructed affected sources to submit the application for construction or reconstruction required by § 63.9(b)(1)(iii) in lieu of the initial notification.
§ 63.9(c)	Request for compliance extension	Yes.	
§ 63.9(d)	Notification that a new source is subject to special compliance requirements.	Yes.	
§ 63.9(e)	Notification of performance test	Yes.	
§ 63.9(f)	Notification of visible emissions/opacity test.	No	subpart NNNNN does not have opacity or visible emission standards.
§ 63.9(g)(1)	Additional CPMS notifications—date of CPMS performance evaluation.	Yes.	
§ 63.9(g)(2)	Use of COMS data	No	subpart NNNNN does not require the use of COMS.
§ 63.9(g)(3)	Alternative to relative accuracy testing	No	applies only to sources with CEMS.
§ 63.9(h)	Notification of compliance status	Yes.	
§ 63.9(i)	Adjustment of submittal deadlines	Yes.	
§ 63.9(j)	Change in previous information	Yes.	
§ 63.10(a)	Recordkeeping/reporting applicability	Yes.	

TABLE 7 TO SUBPART NNNNN.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNN—Continued

[As stated in § 63.9065, you must comply with the applicable General Provisions requirements according to the following]

Citation	Requirement	Applies to Subpart NNNNN	Explanation
§ 63.10(b)(1)	General recordkeeping requirements	Yes	§§ 63.9055 and 63.9060 specify additional recordkeeping requirements.
§ 63.10(b)(2) (i)–(xi)	Records related to startup, shutdown, and malfunction periods and CPMS.	Yes.	
§ 63.10(b)(2)(xii)	Records when under waiver	Yes.	
§ 63.10(b)(2)(xiii)	Records when using alternative to relative accuracy test.	No	applies only to sources with CEMS.
§ 63.10(b)(2)(xiv)	All documentation supporting initial notification and notification of compliance status.	Yes.	
§ 63.10(b)(3)	Recordkeeping requirements for applicability determinations.	Yes.	
§ 63.10(c)	Additional recordkeeping requirements for sources with CPMS.	Yes	applies as modified by § 63.9005(f).
§ 63.10(d)(1)	General reporting requirements	Yes	§ 63.9050 specifies additional reporting requirements.
§ 63.10(d)(2)	Performance test results	Yes.	
§ 63.10(d)(3)	Opacity or visible emissions observations.	No	subpart NNNNN does not specify opacity or visible emission standards.
§ 63.10(d)(4)	Progress reports for sources with compliance extensions.	Yes.	
§ 63.10(d)(5)	Startup, shutdown, and malfunction reports.	Yes.	
§ 63.10(e)(1)	Additional CPMS reports—general	Yes	applies as modified by § 63.9005(f).
§ 63.10(e)(2)(i)	Results of CPMS performance evaluations.	Yes	applies as modified by § 63.9005(f).
§ 63.10(e)(2)(ii)	Results of COMS performance evaluations.	No	subpart NNNNN does not require the use of COMS.
§ 63.10(e)(3)	Excess emissions/CPMS performance reports.	Yes.	
§ 63.10(e)(4)	Continuous opacity monitoring system data reports.	No	subpart NNNNN does not require the use of COMS.
§ 63.10(f)	Recordkeeping/reporting waiver	Yes.	
§ 63.11	Control device requirements—applicability.	No	facilities subject to subpart NNNNN do not use flares as control devices.
§ 63.12	State authority and delegations	Yes	§ 63.9070 lists those sections of subparts NNNNN and A that are not delegated.
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by reference	Yes	subpart NNNNN does not incorporate any material by reference.
§ 63.15	Availability of information/ confidentiality	Yes.	

[FR Doc. 01–23083 Filed 9–17–01; 8:45 am]

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Federal Register

Tuesday,
September 18, 2001

Part III

The President

Proclamation 7463—Declaration of National Emergency by Reason of Certain Terrorist Attacks

Executive Order 13223—Ordering the Ready Reserve of the Armed Forces To Active Duty and Delegating Certain Authorities to the Secretary of Defense and the Secretary of Transportation

Federal Register
Vol. 66, No. 181
Tuesday, September 18, 2001

Presidential Documents

Title 3—

The President

Proclamation 7463 of September 14, 2001

Declaration of National Emergency by Reason of Certain Terrorist Attacks

By the President of the United States of America

A Proclamation

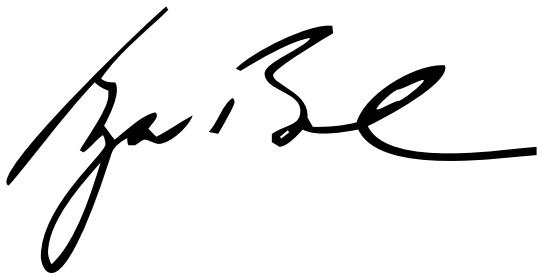
A national emergency exists by reason of the terrorist attacks at the World Trade Center, New York, New York, and the Pentagon, and the continuing and immediate threat of further attacks on the United States.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me as President by the Constitution and the laws of the United States, I hereby declare that the national emergency has existed since September 11, 2001, and, pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*), I intend to utilize the following statutes: sections 123, 123a, 527, 2201(c), 12006, and 12302 of title 10, United States Code, and sections 331, 359, and 367 of title 14, United States Code.

This proclamation immediately shall be published in the **Federal Register** or disseminated through the Emergency **Federal Register**, and transmitted to the Congress.

This proclamation is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 01–23358
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Presidential Documents

Executive Order 13223 of September 14, 2001

Ordering the Ready Reserve of the Armed Forces To Active Duty and Delegating Certain Authorities to the Secretary of Defense and the Secretary of Transportation

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and section 301 of title 3, United States Code, and in furtherance of the proclamation of September 14, 2001, Declaration of National Emergency by Reason of Certain Terrorist Attacks, which declared a national emergency by reason of the terrorist attacks on the World Trade Center, New York, New York, and the Pentagon, and the continuing and immediate threat of further attacks on the United States, I hereby order as follows:

Section 1. To provide additional authority to the Department of Defense and the Department of Transportation to respond to the continuing and immediate threat of further attacks on the United States, the authority under title 10, United States Code, to order any unit, and any member of the Ready Reserve not assigned to a unit organized to serve as a unit, in the Ready Reserve to active duty for not more than 24 consecutive months, is invoked and made available, according to its terms, to the Secretary concerned, subject in the case of the Secretaries of the Army, Navy, and Air Force, to the direction of the Secretary of Defense. The term ''Secretary concerned'' is defined in section 101(a)(9) of title 10, United States Code, to mean the Secretary of the Army with respect to the Army; the Secretary of the Navy with respect to the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy; the Secretary of the Air Force with respect to the Air Force; and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

Sec. 2. To allow for the orderly administration of personnel within the armed forces, the following authorities vested in the President are hereby invoked to the full extent provided by the terms thereof: section 527 of title 10, United States Code, to suspend the operation of sections 523, 525, and 526 of that title, regarding officer and warrant officer strength and distribution; and sections 123, 123a, and 12006 of title 10, United States Code, to suspend certain laws relating to promotion, involuntary retirement, and separation of commissioned officers; end strength limitations; and Reserve component officer strength limitations.

Sec. 3. To allow for the orderly administration of personnel within the armed forces, the authorities vested in the President by sections 331, 359, and 367 of title 14, United States Code, relating to the authority to order to active duty certain officers and enlisted members of the Coast Guard and to detain enlisted members, are invoked to the full extent provided by the terms thereof.

Sec. 4. The Secretary of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by sections 123, 123a, 527, and 12006 of title 10, United States Code, as invoked by sections 2 and 3 of this order.

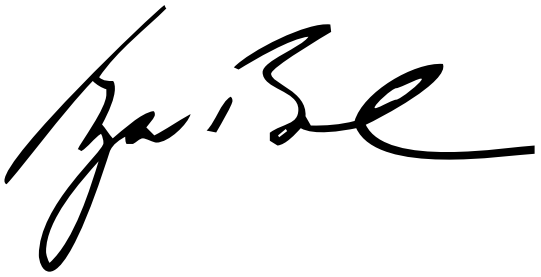
Sec. 5. The Secretary of Transportation is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in sections 331, 359, and 367 of title 14, United States Code, when the Coast Guard is not serving as part of the Navy, as invoked by section 2 of this order, to recall any regular officer or enlisted member on the retired list to active duty and to detain any enlisted member beyond the term of his or her enlistment.

Sec. 6. The authority delegated by this order to the Secretary of Defense and the Secretary of Transportation may be redelegated and further subdelegated to civilian subordinates who are appointed to their offices by the President, by and with the advice and consent of the Senate.

Sec. 7. Based upon my determination under 10 U.S.C. 2201(c) that it is necessary to increase (subject to limits imposed by law) the number of members of the armed forces on active duty beyond the number for which funds are provided in appropriation Acts for the Department of Defense, the Secretary of Defense may provide for the cost of such additional members as an excepted expense under section 11(a) of title 41, United States Code.

Sec. 8. This order is intended only to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

Sec. 9. This order is effective immediately and shall be promptly transmitted to the Congress and published in the **Federal Register**.



THE WHITE HOUSE,
September 14, 2001.

[FR Doc. 01–23359
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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Air quality implementation plans; approval and promulgation; various States:

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Missouri; published 7-20-01

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Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

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Shoshone Indian Tribe of the Fallon Reservation and Colony, NV; published 9-18-01

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg.*

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/index.html*. Some laws may not yet be available.

H.R. 93/P.L. 107–27

Federal Firefighters Retirement Age Fairness Act (Aug. 20, 2001; 115 Stat. 207)

H.R. 271/P.L. 107–28

To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29

To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the ''Marjory Williams Scrivens Post Office''. (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30

To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31

To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the ''Edward N. Cahn Federal Building and United States Courthouse''. (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32

To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the ''W. Joe Trogdon Post Office Building''. (Aug. 20, 2001; 115 Stat. 214)

H.R. 988/P.L. 107–33

To designate the United States courthouse located at 40 Centre Street in New York, New York, as the ''Thurgood Marshall United States Courthouse''. (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34

To designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the ''G. Elliot Hagan Post Office Building''. (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35

To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the ''M. Caldwell Butler Post Office Building''. (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36

To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the ''Elwood Haynes 'Bud' Hillis Post Office Building''. (Aug. 20, 2001; 115 Stat. 218)

Last List August 21, 2001

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