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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

[Docket No. FV01–928–1 FIR]

Papayas Grown in Hawaii; Suspension of Grade, Inspection, and Related Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, an interim final rule suspending the grade, inspection, inspection waiver procedures, and related exempt shipment reporting requirements under the marketing order regulating papayas grown in Hawaii, due to current overproduction and unprecedented low prices for fresh papayas. This rule continues in effect the suspension of those provisions. These modifications result from a unanimous recommendation of the Papaya Administrative Committee (committee or PAC) at an emergency meeting on December 28, 2000. This action is expected to permit the industry to utilize funds earmarked for inspection for enhanced marketing efforts, thus improving producer returns by increasing consumer demand.

EFFECTIVE DATE: October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 155 and Marketing Order No. 928, both as amended (7 CFR part 928), regulating the handling of papayas grown in Hawaii, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule continues in effect the suspension of three sections of the order's rules and regulations regarding minimum grade requirements (§ 928.313), maturity exemptions (§ 928.152), and inspection waiver procedures (§ 928.150). It also continues in effect the amendment of § 928.160 of the order's rules and regulations. The amendment to § 928.160 continues in effect the removal of references to mandatory regulations and relieves handlers from the requirement to add the inspection certificate number on PAC Form 1, Papaya Utilization.

This rule results from a unanimous recommendation of the committee at an emergency meeting on December 28, 2000. At that meeting, the committee recommended postponing, until July 1, 2001, the effective date of a final rule published by the Department on November 22, 2000, which reinstated grade, inspection, and related reporting requirements, effective January 2, 2001. The committee held a subsequent committee meeting on January 11, 2001, at which further public discussion was held. After considering the committee's recommendation and other relevant information, the Department is continuing in effect the suspension of the requirements that were reinstated on January 2, 2001, for an indefinite period.

Section 928.52 of the papaya marketing order authorizes the establishment of grade, size, quality, maturity, and pack and container regulations for shipments of papayas. Section 928.53 allows for the modification, suspension, or termination of such regulations when warranted. Section 928.55 provides that whenever papayas are regulated pursuant to §§ 928.52 or 928.53, such papayas must be inspected by the inspection service and certified as meeting the applicable requirements. The cost of inspection and certification is borne by handlers. Section 928.54 authorizes regulation exemptions when shipping papayas for commercial processing, relief agencies, or charitable institutions. In addition, the Secretary may relieve from any or all requirements under or established pursuant to §§ 928.41, 928.52, 928.53, and 928.55, the handling of papayas in such minimum quantities, in such types of shipments, or for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to '' 928.45) as the committee, with the approval of the

Secretary, may prescribe. Section 928.60 of the papaya marketing order authorizes handler reporting requirements.

This rule continues in effect the suspension of § 928.313 of the order's rules and regulations regarding minimum grade requirements. That section states that no handler shall ship papayas to any destination unless such papayas meet the minimum grade of Hawaii No. 1.

This rule also continues in effect the removal of the requirement that handlers obtain inspection through the Federal or Federal-State Inspection Service (inspection service) prior to shipment of fresh papayas. Suspension of the inspection waiver procedures in § 928.150 of the order's rules and regulations results in the elimination of the authority of the inspection service to grant inspection waivers. Inspection waivers allow handlers to ship papayas without inspection under certain conditions when it is not practicable for the inspection service to provide such inspection. In the absence of mandatory inspection, handlers do not need inspection waivers issued by the inspection service.

This rule also continues in effect the suspension of the maturity exemption and related reporting requirements in § 928.152 of the order's rules and regulations to remove the requirement that handlers interested in becoming handlers of immature papayas apply to the committee for approval, and report handling of immature papayas. Immature papayas are used in a popular dish called green papaya salad and as a vegetable substitute in recipes. Suspension of the maturity exemption and related reporting requirements also relieves handlers from filing PAC Forms 7 and 7(c) with the committee.

In addition, this rule continues in effect the amendment of § 928.160 to remove the references to mandatory regulations and the requirement that handlers include the number of the inspection certificate issued by the inspection service on each PAC Form 1 filed with the committee.

Grade, inspection, and reporting requirements under the order were suspended in 1994. As previously mentioned, in a final rule published on November 22, 2000, and effective January 2, 2001, the Department reinstated those requirements under §§ 928.150, 928.152, 928.313, and 928.160 of the order's rules and regulations.

The committee met on December 28, 2000, and voted unanimously to postpone the effective date until July 1, 2001. During that meeting, and a subsequent meeting on January 11, 2001, the committee noted that producer prices ranged from 6 to 12 cents per pound, compared to 25 to 45 cents per pound reported by the committee for the same period the previous year. Such prices, coupled with overproduction, have had a negative effect on the entire industry, especially for the new Rainbow variety of papayas. The Rainbow variety has been developed to tolerate the effects of the Papaya Ringspot Virus, which has decimated papaya trees in Hawaii for several years. The Rainbow variety, however, has not yet been approved for exportation to significant markets, especially Japan or Canada, and is only marketed in the United States.

Given the current marketing limitations and overproduction of papayas, the committee recommended that funds earmarked for inspection costs be redirected to marketing and promotion in an effort to increase demand and improve returns to producers. Currently, with low prices to producers, there is little money available for inspection. What funds are available, the committee believes, would best be utilized in increasing demand by enhanced marketing and promotion activities at this time. The committee proposed to review the condition of the industry in late spring or early summer to determine if overproduction eased or demand improved. Historically, the summer months result in lower production, due to the reduced availability of rainwater. This has been true for most varieties of papayas, and may also be true for the Rainbow variety. This information would place the committee in a better position to evaluate what further recommendations to make in the interests of the industry.

While the committee recommended a postponement of the effective date for implementing mandatory grade, inspection, and related reporting requirements until July 1, 2001, the Department believes that a suspension of the requirements is preferable. First, the emergency recommendation was made five days prior to the effective date of the regulations, January 2, 2001. Since that time inspections of papayas have not occurred. Second, the committee does not yet have a timetable for entry of the new Rainbow variety of papayas into the export markets to which the traditional variety, Kapoho, currently has entry. The committee believes increased demand would help absorb the current overproduction of the prolific Rainbow variety, and have a positive affect on producer returns. Third, the committee also believes that enhanced marketing and promotion may also improve demand for all fresh papayas. The committee believes that funds earmarked for inspection costs would be better utilized on promotional efforts. Thus, there would be no funds available later in the fiscal year for implementing mandatory inspection. There is no evidence that the conditions that currently exist in the industry would be greatly improved in the next several months.

For these reasons, the suspension of mandatory grade, inspection, and reporting requirements effective January 2, 2001, are continued in effect until such time as the conditions in the industry improve and the committee can demonstrate a long-term commitment to a quality control program.

Final Regulatory Flexibility Analysis

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

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

There are approximately 60 handlers of papayas in the production area and approximately 400 producers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on a reported current average f.o.b. price of $.65 per pound of papayas, a handler would have to ship in excess of 7.69 million pounds of papayas to have annual receipts of $5,000,000. Last year, only one handler shipped more than 7.69 million pounds of papayas, and, therefore, could be considered a large business. The remaining handlers could be considered small businesses, excluding receipts from other sources.

Based on a reported current average grower price of $0.09 per pound and annual industry shipments of 40 million pounds, total grower revenues would be $3.6 million. Average annual grower

revenue would, thus, be $9,000. Based on the foregoing, the majority of handlers and producers of papayas may be classified as small entities, excluding receipts from other sources.

This rule continues in effect the suspension of the grade, inspection, and related reporting requirements under the order's rules and regulations. As a result, the suspension of §§ 928.150, 928.152, and 928.313 in their entirety is continued, and the amendment of § 928.160 is continued to remove the reference to mandatory regulations and the requirement that the inspection certificate number be added to the utilization reports filed by handlers.

At the meeting, the committee discussed the impact of these changes on handlers and producers in terms of cost. Since mandatory inspection and certification costs are borne by handlers, the cost savings to each handler are estimated to be a total $24.24 per hour for on-site inspections. In addition, the inspection service charges mileage costs of $.37 per mile round trip from the inspection service office to the handler's premises or processing plant. According to the inspection service, for a trip taking 10 or more minutes, or covering 7 or more miles, the travel time cost is based on the $24.24 hourly rate. Some handlers could pass the inspection costs onto producers, thus, further decreasing overall producer returns. These costs do not apply in the absence of minimum quality requirements and associated mandatory inspection.

During its deliberations, the committee discussed possible alternatives to this action. They deliberated the impacts of the final rule taking effect on January 2, 2001. However, because economic conditions in the papaya industry are currently at a historically low level, the committee rejected that alternative.

The committee also debated the value of suspending, rather than postponing, the regulations in their entirety. That alternative, however, was also rejected, as the committee felt suspension of the regulations was too drastic an action to take at the time. Instead, the committee proposed postponing the effective date of the requirements until July 1, 2001, and further reviewing the conditions within the industry at that time. The requirements were originally suspended beginning on July 1, 1994.

However, as noted earlier, the Department has determined that the suspension of the requirements is preferable and continues in effect, given the current industry conditions and likelihood that there will be no substantial improvement in the next several months. If industry conditions improve, implementation of the quality control program could again be recommended by the committee. Accordingly, this action will have a favorable effect on both large and small entities.

This rule continues in effect the relaxation of reporting requirements under the order, since PAC Form 1 will no longer require the addition of the inspection certificate number on it. In addition, PAC Forms 7 and 7(c) will not be required from handlers wishing to be approved handlers of immature papayas. In the absence of mandatory inspection, no handlers will be required to apply for approval to handle immature papayas using PAC Form 7 nor report shipments of immature papayas to the committee using PAC Form 7(c). This rule will decrease the burden by 9.25 hours.

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

In addition, the committee's meetings were widely publicized throughout the papaya industry and all interested persons were encouraged to attend the meetings and participate in committee deliberations on all issues. Like all committee meetings, the December 28, 2000, and the subsequent January 11, 2001, meetings were public meetings and all entities, both large and small, were encouraged to express views on this issue. The committee itself is comprised of 13 members, consisting of nine producer members and three handlers members. The committee also includes a public member who does not represent an agricultural interest nor have a financial interest in papayas.

An interim final rule concerning this action was published in the **Federal Register** on May 30, 2001. Copies of the rule were mailed by the committee's staff to all committee members and papaya handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period which ended July 30, 2001. No comments were received.

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

After consideration of all relevant matters presented, including the information and recommendation submitted by the committee and other available information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (66 FR 29216, May 30, 2001) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

PART 928—PAPAYAS GROWN IN HAWAII

Accordingly, the interim final rule amending 7 CFR part 928, which was published at 66 FR 29216 on May 30, 2001, is adopted as a final rule without change.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23652 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Docket No. FV01–966–1 FR]

Tomatoes Grown in Florida; Changes to the Handling Regulation for Producer Field-Packed Tomatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the requirements currently prescribed for producer field-packed tomatoes under the Florida tomato marketing order (order). The order regulates the handling of tomatoes grown in Florida, and is administered locally by the Florida Tomato Committee (Committee). This rule removes the net weight and weight labeling exemptions for producer field-packed tomatoes. Producer field-packed tomatoes compete directly with packinghouse tomatoes that must meet the net weight requirement. This change requires all tomatoes, regardless of where they are packed, to meet the same net weight requirements so that these requirements are the same for producer field-packed tomatoes and packinghouse tomatoes.

EFFECTIVE DATE: This final rule becomes effective September 24, 2001.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and

Vegetable Programs, AMS, USDA, PO Box 2276, Winter Haven, Florida 33883; telephone: (863) 299–4770, Fax: (863) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

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

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This final rule removes the net weight exemption currently prescribed for producer field-packed tomatoes under the Florida tomato marketing order. The Committee recommended this change at its meeting on February 27, 2001, with a vote of eight in favor and two opposed.

Under the order, tomatoes produced in the production area and shipped to fresh market channels outside the regulated area are required to meet grade, size, inspection, and container requirements. These requirements apply during the period October 10 through June 15 each year. Current requirements include a minimum grade of U.S. No. 2 and a minimum size of 2 9/32 inches in diameter. Current pack and container requirements outline the types of information that need to appear on a container, weight restrictions, and where the containers must be packed.

Section 966.52 of the Florida tomato marketing order provides authority for the issuance of regulations. This includes authority to establish and modify pack and container requirements for tomatoes grown in the defined production area and handled under the order.

Section 966.323 contains the handling regulations issued under the order. Section 966.323(a)(3)(i) requires that tomatoes packed by registered handlers be packed in containers of 10, 20, and 25 pounds designated net weights. The net weight of a container's contents cannot be less than the designated net weight or exceed the designated net weight by more than two pounds. Section 966.323(a)(3)(ii) requires that tomatoes be packed by registered handlers in containers that are marked with the designated net weight and with the name and address of the registered handler, and that such containers must be packed at the registered handler's facilities.

Section 966.323(d)(1) contains exemptions to the regulations. The section currently exempts producer field-packed tomatoes from the container net weight requirements and the requirement that each container or lid be marked to indicate the designated net weight. It also exempts producer field-packed tomatoes from the requirement that all containers must be packed at a registered handler's facilities. However, field-packed tomatoes still must meet the other requirements of the marketing order, including established grade, size, container, pack, and inspection requirements.

This rule removes the net weight and weight labeling exemptions for producer field-packed tomatoes. This change requires all tomatoes, unless specifically granted an exemption, to meet the same net weight requirements regardless of where they are packed.

Producer field-packed tomatoes are tomatoes which at the time of inspection are No. 3 color or higher (according to color classification requirements in the U.S. tomato standards), that are picked and place packed in new containers in the field by a producer as defined in § 966.150 of the rules and regulations. The tomatoes are then transported to a registered handler's facilities for final preparation for market and for inspection.

Producer field-packed tomatoes are picked by hand and place packed in containers in layers. When place packing a container of tomatoes, the fill is determined by the size of the tomato, dimensions of the container, and the way the tomatoes are positioned in the box. Each layer is tightly packed by rotating the tomatoes and by the size selection of the tomatoes. Each 25-pound container usually has three to four layers of tomatoes.

Most tomatoes from Florida are packed and shipped at the mature green stage. Shipments of mature green tomatoes represented approximately 83.7 percent of total fresh shipments during the 1999–2000 season. Tomatoes are picked and packed at the mature green stage to facilitate handling. The vast majority of mature green tomatoes are packed using a mechanized process. The tomatoes are brought to the packinghouse where they are run across sizing equipment, and then are packed in volume fill containers by size and weight. At the mature green stage, the tomatoes are firm and are able to withstand the packing process. This is an efficient process that facilitates packing in volume.

However, when packing a producer field-packed tomato that is more ripe and mature, the process used to pack mature greens is not as effective. This is because as the tomato begins to ripen it begins to soften. Tomatoes of No. 3 color and above cannot tolerate the rigors of the mechanized handling process. This packing process bruises and damages more mature tomatoes, increasing the volume of culls and tomatoes that fail inspection.

When the net weight exemption for producer field-packed tomatoes was established October 10, 1998 (63 FR 54556), the Committee thought that meeting the net weight requirement would be difficult without the precision of the mechanical process available at the packinghouse. Therefore, the Committee recommended establishing the net weight exemption to facilitate

the packing of field-packed tomatoes. However, after several years of experience, those packing producer field-packed tomatoes have enhanced their skill for packing tomatoes in the field. Many now pack to meet the net weight requirement even though the exemption is available.

Field-packed tomatoes are sized as either 5X6 or 6X6 and larger with no upper limit on either size. This differs from the size requirements for tomatoes packed at a packinghouse. Packinghouse tomatoes must meet a minimum and a maximum size requirement on tomatoes designated at 6X6. Because there is no upper limit on either the 5X6 or 6X6 sized field-packed tomatoes, handlers have more flexibility to add and remove tomatoes of different sizes in order to meet a specified weight requirement without compromising their ability to meet the size requirement. Handlers can replace larger tomatoes with smaller ones and vice versa in order to adjust box weight to meet the net weight requirements. In its discussion, the Committee stated that most handlers of producer field-packed tomatoes are voluntarily meeting the 25-pound net weight requirements.

It also found that some handlers have started using the net weight exemption as a marketing tool. The Committee stated that producer field-packed tomatoes packed in containers designed to hold a 25-pound designated net weight were being presented for sale with weights of 28 to 32 pounds. The net weight requirement only allows packinghouses to put between 25 and 27 pounds of tomatoes to a box. Some handlers of producer field-packed tomatoes are adding additional tomatoes to the containers to create a marketing advantage over those handlers required to meet the net weight requirements. Buyers prefer the additional weight in containers of field-packed tomatoes to packinghouse tomatoes because they are getting more tomatoes for their money.

In its discussions, Committee members stated that over packing containers is a poor marketing practice. Selling a container of tomatoes that weighs more than 25 pounds at the price for a 25-pound container has a price depressing effect on the market, and reduces returns to growers. It was also noted that the marketing order was put in place to create an orderly market for all tomatoes grown in Florida because the market at that time was in such disarray. The net weight was established to provide an industry standard and give buyers and sellers a uniform point of comparison. With the volume of producer field-packed tomatoes increasing, several Committee members stated that continuing with the net weight exemption for field-packed tomatoes was taking a step backwards in terms of orderly marketing.

In addition, there was also concern regarding the possibility that damaged tomatoes could reach the market. Committee members stated that when a 25-pound box of tomatoes is filled to exceed a 27-pound net weight, there is an increased chance that tomatoes will be crushed when placing the lid on the container. Overfilling could also result in fruit being damaged during shipment.

The market for red, vine-ripe tomatoes has grown over the past few years. The Committee now estimates that between five and fifteen percent of the total daily fresh tomato shipments from Florida are producer field-packed tomatoes. This is a one to two percent increase from last season. Retailers consider the fast growing market for red, vine-ripe tomatoes to be the way of the future and the Committee estimates that the volume of producer field-packed tomatoes will continue to grow in order to supply this market. Therefore, the Committee wants to continue to develop this market by providing a uniform, quality product.

To accomplish these goals, this rule removes the exemption from the net weight requirement for producer field-packed tomatoes, and requires producer field-packed tomatoes to meet the same net weight and weight labeling requirements as those packed in a packinghouse.

The two Committee members who opposed the recommendation agreed that a problem exists with the net weight exemption for producer field-packed tomatoes. However, they were not sure that the action recommended was the best solution to the problem and wanted more time to consider the issue. Therefore, they voted against the proposal.

Section 8e of the Act requires that whenever grade, size, quality, or maturity requirements are in effect for certain commodities under a domestic marketing order, including tomatoes, imports of that commodity must meet the same or comparable requirements. However, the Act does not authorize the imposition of pack and container requirements on imports, when such requirements are in effect under a domestic marketing order. Therefore, no change is necessary in the tomato import regulation as a result of this action.

This change will not affect the exemption for single layer and two-layer place packed tomatoes. They will continue to be exempt from the net weight requirements under the order. Therefore, producer field-packed tomatoes place packed in single or two layer packs will continue to be exempt from the net weight requirements.

Final Regulatory Flexibility Analysis

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

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

There are approximately 82 handlers of Florida tomatoes who are subject to regulation under the marketing order and approximately 100 tomato producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. Since the proposed rule was published, the benchmark for small producers was increased from $500,000.

Based on the industry and Committee data, the average annual price for fresh Florida tomatoes during the 2000–01 season was $9.16 per 25-pound carton or equivalent, and total fresh shipments for the 2000–01 season were 53,649,508 25-pound equivalent cartons of tomatoes. Based on this information, the majority of handlers would be classified as small entities as defined by the SBA. The majority of producers of Florida tomatoes may also be classified as small entities.

This final rule revises the handling requirements currently prescribed for producer field-packed tomatoes under § 966.323 of the order. Currently, producer field-packed tomatoes are exempt from the net weight requirements under the order. The net weight requirement only allows packinghouses to put between 25 and 27 pounds of tomatoes into a box designed to hold 25 pounds. Some handlers of producer field-packed tomatoes are adding additional tomatoes to their containers to the detriment of handlers required to meet the net weight requirements. This rule removes the exemption from the net weight

requirement for producer field-packed tomatoes and requires all tomatoes, regardless of where they are packed, to meet the same net weight requirements. Authority for this action is provided in § 966.52 of the order.

There could be some additional costs associated with this rule. Removing the net weight exemption will require those packing producer field-packed tomatoes to take the steps necessary to ensure that the tomatoes meet the net weight requirement. This could result in additional costs from the purchase of equipment to weigh the boxes and additional labor needed. However, many of those packing producer field-packed tomatoes have already incurred these costs and are meeting the net weight requirements voluntarily.

Currently, boxes containing between 28 and 32 pounds of field-packed tomatoes may be sold for the same price as a box containing 25 to 27 pounds of tomatoes. This reduces total pack out, depresses price, and reduces returns to the grower. In addition, these tomatoes are being sold into what retailers consider to be the fastest growing segment of the tomato market. Over packing boxes increases the probability that some tomatoes will be damaged. Shipping damaged tomatoes could have a negative impact on the market and the ability of Florida tomato handlers in meeting that market's needs. This rule will help counter that possibility.

This rule was recommended to benefit the Florida tomato industry. The costs or benefits of this rule will not be disproportionately greater or less for small handlers or producers than for larger entities.

The Committee discussed alternatives to this change, including making no change to the regulation. However, Committee members agreed that action needed to be taken, so this alternative was rejected. Another alternative considered was to change the size of the box for field-packed tomatoes. Some members of the Committee stated that this would not solve the problem, only add another box size, noting that handlers are already selling a 25-pound container of producer field-packed tomatoes that weighs more than 25 pounds. Changing only the size of the container would not prevent handlers from continuing to overfill the cartons. Therefore, this alternative was also rejected.

This final rule removes the exemption from the net weight requirement for producer field-packed tomatoes under the Florida tomato marketing order.

This final rule will not impose any additional reporting or recordkeeping requirements on either small or large tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this final rule.

Further, the Committee's meeting was widely publicized throughout the tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the February 27, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on August 2, 2001 (66 FR 40158). Copies of the rule were mailed or sent via facsimile to all Committee members and tomato handlers. Finally, the rule was made available through the Internet by the Office of the Federal Register and the Department. A 20-day comment period ending August 22, 2001, was provided to allow interested persons to respond to the proposal.

Two comments were received during the comment period in response to the proposal. The comments were from two industry groups in support of the proposed action. The points made in the comments reflected information included in the proposed rule and were thoroughly discussed prior to the Committee vote.

Accordingly, no changes will be made to the rule as proposed, based on the comments received.

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

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

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the final rule needs to be effective by the start of the 2001–02 season, which begins October 10, 2001. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 20-day comment period was provided for in the proposed rule, and two comments supporting the action were received.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 966.323 is amended by revising the last sentence of paragraph (d)(1) to read as follows:

§ 966.323 Handling regulation.

* * * * *

(d) *Exemption.* (1) * * * Producer field-packed tomatoes must meet all of the requirements of this section except for the requirement that all containers must be packed at registered handler facilities as specified in paragraph (a)(3)(ii) of this section, and the requirement that such tomatoes designated as size 6 × 6 must meet the maximum diameter requirement specified in paragraph (a)(2)(i) of this section: *Provided,* That 6 × 6 and larger is used to indicate the listed size designation on containers.

* * * * *

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23648 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 225

Bank Holding Companies and Change in Bank Control (Regulation Y)

CFR Correction

In Title 12 of the Code of Federal Regulations, parts 220 to 299, revised as of January 1, 2001, in part 225, appendix E is corrected to read as follows:

Appendix E to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Market Risk Measure

Section 1. Purpose, Applicability, Scope, and Effective Date

(a) *Purpose.* The purpose of this appendix is to ensure that bank holding companies (organizations) with significant exposure to market risk maintain adequate capital to support that exposure.[1] This appendix supplements and adjusts the risk-based capital ratio calculations under appendix A of this part with respect to those organizations.

(b) *Applicability.* (1) This appendix applies to any bank holding company whose trading activity[2] (on a worldwide consolidated basis) equals:

(i) 10 percent or more of total assets;[3] or

(ii) $1 billion or more.

(2) The Federal Reserve may additionally apply this appendix to any bank holding company if the Federal Reserve deems it necessary or appropriate for safe and sound banking practices.

(3) The Federal Reserve may exclude a bank holding company otherwise meeting the criteria of paragraph (b)(1) of this section from coverage under this appendix if it determines the organization meets such criteria as a consequence of accounting, operational, or similar considerations, and the Federal Reserve deems it consistent with safe and sound banking practices.

(c) *Scope.* The capital requirements of this appendix support market risk associated with an organization's covered positions.

(d) *Effective date.* This appendix is effective as of January 1, 1997. Compliance is not mandatory until January 1, 1998. Subject to supervisory approval, a bank holding company may opt to comply with this appendix as early as January 1, 1997.[4]

Section 2. Definitions

For purposes of this appendix, the following definitions apply:

(a) *Covered positions* means all positions in an organization's trading account, and all foreign exchange[5] and commodity positions, whether or not in the trading account.[6] Positions include on-balance-sheet assets and liabilities and off-balance-sheet items. Securities subject to repurchase and lending agreements are included as if still owned by the lender.

(b) *Market risk* means the risk of loss resulting from movements in market prices. Market risk consists of general market risk and specific risk components.

(1) *General market risk* means changes in the market value of covered positions resulting from broad market movements, such as changes in the general level of interest rates, equity prices, foreign exchange rates, or commodity prices.

(2) *Specific risk* means changes in the market value of specific positions due to factors other than broad market movements and includes event and default risk as well as idiosyncratic variations.

(c) *Tier 1* and *Tier 2 capital* are defined in appendix A of this part.

(d) *Tier 3 capital* is subordinated debt that is unsecured; is fully paid up; has an original maturity of at least two years; is not redeemable before maturity without prior approval by the Federal Reserve; includes a lock-in clause precluding payment of either interest or principal (even at maturity) if the payment would cause the issuing organization's risk-based capital ratio to fall or remain below the minimum required under appendix A of this part; and does not contain and is not covered by any covenants, terms, or restrictions that are inconsistent with safe and sound banking practices.

(e) *Value-at-risk (VAR)* means the estimate of the maximum amount that the value of covered positions could decline due to market price or rate movements during a fixed holding period within a stated confidence level, measured in accordance with section 4 of this appendix.

Section 3. Adjustments to the Risk-Based Capital Ratio Calculations

(a) *Risk-based capital ratio denominator.* An organization subject to this appendix shall calculate its risk-based capital ratio denominator as follows:

(1) *Adjusted risk-weighted assets.* Calculate adjusted risk-weighted assets, which equals risk-weighted assets (as determined in accordance with appendix A of this part), excluding the risk-weighted amounts of all covered positions (except foreign exchange positions outside the trading account and over-the-counter derivative positions)[7] and receivables arising from the posting of cash collateral that is associated with securities borrowing transactions to the extent the receivables are collateralized by the market value of the borrowed securities, provided that the following conditions are met:

(i) The transaction is based on securities includable in the trading book that are liquid and readily marketable,

(ii) The transaction is marked to market daily,

(iii) The transaction is subject to daily margin maintenance requirements,

(iv) The transaction is a securities contract for the purposes of section 555 of the Bankruptcy Code (11 U.S.C. 555), a qualified financial contract for the purposes of section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)), or a netting contract between or among financial institutions for the purposes of sections 401–407 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401–4407), or the Board's Regulation EE (12 CFR Part 231).

(2) *Measure for market risk.* Calculate the measure for market risk, which equals the sum of the VAR-based capital charge, the specific risk add-on (if any), and the capital charge for de minimis exposures (if any).

(i) *VAR-based capital charge.* The VAR-based capital charge equals the higher of:

(A) The previous day's VAR measure; or

(B) The average of the daily VAR measures for each of the preceding 60 business days multiplied by three, except as provided in section 4(e) of this appendix;

(ii) *Specific risk add-on.* The specific risk add-on is calculated in accordance with section 5 of this appendix; and

(iii) *Capital charge for de minimis exposure.* The capital charge for de minimis exposure is calculated in accordance with section 4(a) of this appendix.

(3) *Market risk equivalent assets.* Calculate market risk equivalent assets by multiplying the measure for market risk (as calculated in paragraph (a)(2) of this section) by 12.5.

(4) *Denominator calculation.* Add market risk equivalent assets (as calculated in paragraph (a)(3) of this section) to adjusted risk-weighted assets (as calculated in paragraph (a)(1) of this section). The resulting sum is the organization's risk-based capital ratio denominator.

(b) *Risk-based capital ratio numerator.* An organization subject to this appendix shall calculate its risk-based capital ratio numerator by allocating capital as follows:

(1) *Credit risk allocation.* Allocate Tier 1 and Tier 2 capital equal to 8.0 percent of adjusted risk-weighted assets (as calculated in paragraph (a)(1) of this section).[8]

(2) *Market risk allocation.* Allocate Tier 1, Tier 2, and Tier 3 capital equal to the measure for market risk as calculated in paragraph (a)(2) of this section. The sum of Tier 2 and Tier 3 capital allocated for market risk must not exceed 250 percent of Tier 1 capital allocated for market risk. (This requirement means that Tier 1 capital allocated in this paragraph (b)(2) must equal at least 28.6 percent of the measure for market risk.)

(3) *Restrictions.* (i) The sum of Tier 2 capital (both allocated and excess) and Tier 3 capital (allocated in paragraph (b)(2) of this section) may not exceed 100 percent of Tier 1 capital (both allocated and excess).[9]

(ii) Term subordinated debt (and intermediate-term preferred stock and related surplus) included in Tier 2 capital (both

[1] This appendix is based on a framework developed jointly by supervisory authorities from the countries represented on the Basle Committee on Banking Supervision and endorsed by the Group of Ten Central Bank Governors. The framework is described in a Basle Committee paper entitled ''Amendment to the Capital Accord to Incorporate Market Risks,'' January 1996. Also see modifications issued in September 1997.

[2] Trading activity means the gross sum of trading assets and liabilities as reported in the bank holding company's most recent quarterly Y–9C Report.

[3] Total assets means quarter-end total assets as reported in the bank holding company's most recent Y–9C Report.

[4] A bank holding company that voluntarily complies with the final rule prior to January 1, 1998, must comply with all of its provisions.

[5] Subject to supervisory review, a bank may exclude structural positions in foreign currencies from its covered positions.

[6] The term trading account is defined in the instructions to the Call Report.

[7] Foreign exchange positions outside the trading account and all over-the-counter derivative positions, whether or not in the trading account, must be included in the adjusted risk weighted assets as determined in appendix A of this part.

[8] An institution may not allocate Tier 3 capital to support credit risk (as calculated under appendix A of this part).

[9] Excess Tier 1 capital means Tier 1 capital that has not been allocated in paragraphs (b)(1) and (b)(2) of this section. Excess Tier 2 capital means Tier 2 capital that has not been allocated in paragraph (b)(1) and (b)(2) of this section, subject to the restrictions in paragraph (b)(3) of this section.

allocated and excess) may not exceed 50 percent of Tier 1 capital (both allocated and excess).

(4) *Numerator calculation.* Add Tier 1 capital (both allocated and excess), Tier 2 capital (both allocated and excess), and Tier 3 capital (allocated under paragraph (b)(2) of this section). The resulting sum is the organization's risk-based capital ratio numerator.

Section 4. Internal Models

(a) *General.* For risk-based capital purposes, a bank holding company subject to this appendix must use its internal model to measure its daily VAR, in accordance with the requirements of this section.[10] The Federal Reserve may permit an organization to use alternative techniques to measure the market risk of de minimis exposures so long as the techniques adequately measure associated market risk.

(b) *Qualitative requirements.* A bank holding company subject to this appendix must have a risk management system that meets the following minimum qualitative requirements:

(1) The organization must have a risk control unit that reports directly to senior management and is independent from business trading units.

(2) The organization's internal risk measurement model must be integrated into the daily management process.

(3) The organization's policies and procedures must identify, and the organization must conduct, appropriate stress tests and backtests.[11] The organization's policies and procedures must identify the procedures to follow in response to the results of such tests.

(4) The organization must conduct independent reviews of its risk measurement and risk management systems at least annually.

(c) *Market risk factors.* The organization's internal model must use risk factors sufficient to measure the market risk inherent in all covered positions. The risk factors must address interest rate risk,[12] equity price risk, foreign exchange rate risk, and commodity price risk.

(d) *Quantitative requirements.* For regulatory capital purposes, VAR measures must meet the following quantitative requirements:

(1) The VAR measures must be calculated on a daily basis using a 99 percent, one-tailed confidence level with a price shock equivalent to a ten-business day movement in rates and prices. In order to calculate VAR measures based on a ten-day price shock, the organization may either calculate ten-day figures directly or convert VAR figures based on holding periods other than ten days to the equivalent of a ten-day holding period (for instance, by multiplying a one-day VAR measure by the square root of ten).

(2) The VAR measures must be based on an historical observation period (or effective observation period for an organization using a weighting scheme or other similar method) of at least one year. The organization must update data sets at least once every three months or more frequently as market conditions warrant.

(3) The VAR measures must include the risks arising from the non-linear price characteristics of options positions and the sensitivity of the market value of the positions to changes in the volatility of the underlying rates or prices. An organization with a large or complex options portfolio must measure the volatility of options positions by different maturities.

(4) The VAR measures may incorporate empirical correlations within and across risk categories, provided that the organization's process for measuring correlations is sound. In the event that the VAR measures do not incorporate empirical correlations across risk categories, then the organization must add the separate VAR measures for the four major risk categories to determine its aggregate VAR measure.

(e) *Backtesting.* (1) Beginning one year after a bank holding company starts to comply with this appendix, it must conduct backtesting by comparing each of its most recent 250 business days' actual net trading profit or loss[13] with the corresponding daily VAR measures generated for internal risk measurement purposes and calibrated to a one-day holding period and a 99th percentile, one-tailed confidence level.

(2) Once each quarter, the organization must identify the number of exceptions, that is, the number of business days for which the magnitude of the actual daily net trading loss, if any, exceeds the corresponding daily VAR measure.

(3) A bank holding company must use the multiplication factor indicated in Table 1 of this appendix in determining its capital charge for market risk under section 3(a)(2)(i)(B) of this appendix until it obtains the next quarter's backtesting results, unless the Federal Reserve determines that a different adjustment or other action is appropriate.

TABLE 1.—MULTIPLICATION FACTOR BASED ON RESULTS OF BACKTESTING

Number of exceptions	Multiplication factor
4 or fewer	3.00
5	3.40
6	3.50
7	3.65
8	3.75
9.	
10 or more	4.00

Section 5. Specific Risk

(a) *Modeled specific risk.* A bank holding company may use its internal model to measure specific risk. If the organization has demonstrated to the Federal Reserve that its internal model measures the specific risk, including event and default risk as well as idiosyncratic variation, of covered debt and equity positions and includes the specific risk measures in the VAR-based capital charge in section 3(a)(2)(i) of this appendix, then the organization has no specific risk add-on for purposes of section 3(a)(2)(ii) of this appendix. The model should explain the historical price variation in the trading portfolio and capture concentration, both magnitude and changes in composition. The model should also be robust to an adverse environment and have been validated through backtesting which assesses whether specific risk is being accurately captured.

(b) *Partially modeled specific risk.* (1) A bank holding company that incorporates specific risk in its internal model but fails to demonstrate to the Federal Reserve that its internal model adequately measures all aspects of specific risk for covered debt and equity positions, including event and default risk, as provided by section 5(a) of this appendix, must calculate its specific risk add-on in accordance with one of the following methods:

(i) If the model is susceptible to valid separation of the VAR measure into a specific risk portion and a general market risk portion, then the specific risk add-on is equal to the previous day's specific risk portion.

(ii) If the model does not separate the VAR measure into a specific risk portion and a general market risk portion, then the specific risk add-on is the sum of the previous day's VAR measures for subportfolios of covered debt and equity positions that contain specific risk.

(2) If a bank holding company models the specific risk of covered debt positions but not covered equity positions (or vice versa), then the bank holding company may determine its specific risk charge for the included positions under section 5(a) or 5(b)(1) of this appendix, as appropriate. The specific risk charge for the positions not included equals the standard specific risk capital charge under paragraph (c) of this section.

(c) *Specific risk not modeled.* If a bank holding company does not model specific risk in accordance with section 5(a) or 5(b) of this appendix, then the organization's specific risk capital charge shall equal the standard specific risk capital charge, calculated as follows:

[10] An organization's internal model may use any generally accepted measurement techniques, such as variance-covariance models, historical simulations, or Monte Carlo simulations. However, the level of sophistication and accuracy of an organization's internal model must be commensurate with the nature and size of its covered positions. An organization that modifies its existing modeling procedures to comply with the requirements of this appendix for risk-based capital purposes should, nonetheless, continue to use the internal model it considers most appropriate in evaluating risks for other purposes.

[11] Stress tests provide information about the impact of adverse market events on a bank's covered positions. Backtests provide information about the accuracy of an internal model by comparing an organization's daily VAR measures to its corresponding daily trading profits and losses.

[12] For material exposures in the major currencies and markets, modeling techniques must capture spread risk and must incorporate enough segments of the yield curve—at least six—to capture differences in volatility and less than perfect correlation of rates along the yield curve.

[13] Actual net trading profits and losses typically include such things as realized and unrealized gains and losses on portfolio positions as well as fee income and commissions associated with trading activities.

(1) *Covered debt positions.* (i) For purposes of this section 5, covered debt positions means fixed-rate or floating-rate debt instruments located in the trading account or instruments located in the trading account with values that react primarily to changes in interest rates, including certain non-convertible preferred stock, convertible bonds, and instruments subject to repurchase and lending agreements. Also included are derivatives (including written and purchased options) for which the underlying instrument is a covered debt instrument that is subject to a non-zero specific risk capital charge.

(A) For covered debt positions that are derivatives, an organization must risk-weight (as described in paragraph (c)(1)(iii) of this section) the market value of the effective notional amount of the underlying debt instrument or index portfolio. Swaps must be included as the notional position in the underlying debt instrument or index portfolio, with a receiving side treated as a long position and a paying side treated as a short position; and

(B) For covered debt positions that are options, whether long or short, an organization must risk-weight (as described in paragraph (c)(1)(iii) of this section) the market value of the effective notional amount of the underlying debt instrument or index multiplied by the option's delta.

(ii) An organization may net long and short covered debt positions (including derivatives) in identical debt issues or indices.

(iii) An organization must multiply the absolute value of the current market value of each net long or short covered debt position by the appropriate specific risk weighting factor indicated in Table 2 of this appendix. The specific risk capital charge component for covered debt positions is the sum of the weighted values.

TABLE 2.—SPECIFIC RISK WEIGHTING FACTORS FOR COVERED DEBT POSITIONS

Category	Remaining maturity (contractual)	Weighting factor (in percent)
Government	N/A	0.00
Qualifying	6 months or less.	0.25
	Over 6 months to 24 months.	1.00
	Over 24 months	1.60
Other	N/A	8.00

(A) The *government* category includes all debt instruments of central governments of OECD-based countries [14] including bonds, Treasury bills, and other short-term instruments, as well as local currency instruments of non-OECD central governments to the extent the organization has liabilities booked in that currency.

(B) The *qualifying* category includes debt instruments of U.S. government-sponsored agencies, general obligation debt instruments issued by states and other political subdivisions of OECD-based countries, multilateral development banks, and debt instruments issued by U.S. depository institutions or OECD banks that do not qualify as capital of the issuing institution.[15] This category also includes other debt instruments, including corporate debt and revenue instruments issued by states and other political subdivisions of OECD countries, that are:

(*1*) Rated investment-grade by at least two nationally recognized credit rating services;

(*2*) Rated investment grade by one nationally recognized credit rating agency and not rated less than investment grade by any other credit rating agency; or

(*3*) Unrated, but deemed to be of comparable investment quality by the reporting organization and the issuer has instruments listed on a recognized stock exchange, subject to review by the Federal Reserve.

(C) The *other* category includes debt instruments that are not included in the government or qualifying categories.

(2) *Covered equity positions.* (i) For purposes of this section 5, covered equity positions means equity instruments located in the trading account and instruments located in the trading account with values that react primarily to changes in equity prices, including voting or non-voting common stock, certain convertible bonds, and commitments to buy or sell equity instruments. Also included are derivatives (including written or purchased options) for which the underlying is a covered equity position.

(A) For covered equity positions that are derivatives, an organization must risk weight (as described in paragraph (c)(2)(iii) of this section) the market value of the effective notional amount of the underlying equity instrument or equity portfolio. Swaps must be included as the notional position in the underlying equity instrument or index portfolio, with a receiving side treated as a long position and a paying side treated as a short position; and

(B) For covered equity positions that are options, whether long or short, an organization must risk weight (as described in paragraph (c)(2)(iii) of this section) the market value of the effective notional amount of the underlying equity instrument or index multiplied by the option's delta.

(ii) An organization may net long and short covered equity positions (including derivatives) in identical equity issues or equity indices in the same market.[16]

(iii)(A) An organization must multiply the absolute value of the current market value of each net long or short covered equity position by a risk weighting factor of 8.0 percent, or by 4.0 percent if the equity is held in a portfolio that is both liquid and well-diversified.[17] For covered equity positions that are index contracts comprising a well-diversified portfolio of equity instruments, the net long or short position is to be multiplied by a risk weighting factor of 2.0 percent.

(B) For covered equity positions from the following futures-related arbitrage strategies, an organization may apply a 2.0 percent risk weighting factor to one side (long or short) of each equity position with the opposite side exempt from charge, subject to review by the Federal Reserve:

(*1*) Long and short positions in exactly the same index at different dates or in different market centers; or

(*2*) Long and short positions in index contracts at the same date in different but similar indices.

(C) For futures contracts on broadly-based indices that are matched by offsetting positions in a basket of stocks comprising the index, an organization may apply a 2.0 percent risk weighting factor to the futures and stock basket positions (long and short), provided that such trades are deliberately entered into and separately controlled, and that the basket of stocks comprises at least 90 percent of the capitalization of the index.

(iv) The specific risk capital charge component for covered equity positions is the sum of the weighted values.

[61 FR 47373, Sept. 6, 1996, as amended at 62 FR 68068, Dec. 30, 1997; 64 FR 19038, Apr. 19, 1999; 65 FR 75859, Dec. 5, 2000]

[FR Doc. 01–55528 Filed 9–20–01; 8:45 am]

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[14] Organization for Economic Cooperation and Development (OECD)–based countries is defined in appendix A of this part.

[15] U.S. government-sponsored agencies, multilateral development banks, and OECD banks are defined in appendix A of this part.

[16] An organization may also net positions in depository receipts against an opposite position in the underlying equity or identical equity in different markets, provided that the organization includes the costs of conversion.

[17] A portfolio is liquid and well-diversified if: (1) it is characterized by a limited sensitivity to price changes of any single equity issue or closely related group of equity issues held in the portfolio; (2) the volatility of the portfolio's value is not dominated by the volatility of any individual equity issue or by equity issues from any single industry or economic sector; (3) it contains a large number of individual equity positions, with no single position representing a substantial portion of the portfolio's total market value; and (4) it consists mainly of issues traded on organized exchanges or in well-established over-the-counter markets.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–29–AD; Amendment 39–12443; AD 2001–13–51]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Model 206L–4, 407, and 427 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD)

2001–13–51, which was sent previously to all known U.S. owners and operators of Bell Helicopter Textron Canada (BHTC) Model 206L–4, 407, and 427 helicopters by individual letters. This AD requires visually inspecting certain driveshafts for a crack, a loose bolt or nut, or red powder residue. If a crack, a loose bolt or nut, or red powder residue is found, replacing the driveshaft before further flight and notifying the FAA within 10 days is also required. This amendment is prompted by a driveshaft failure on a BHTC Model 407 helicopter that resulted in an engine shutdown and an emergency landing. Failure of the driveshaft was due to cracking of the flexframe on the forward end of the driveshaft. In addition, three other incidents of a cracked flexframe on the forward end of the driveshaft on other Model 407 helicopters have been reported. The actions specified by this AD are intended to prevent failure of a driveshaft, loss of drive to the main rotor system, and a subsequent emergency forced landing.

DATES: Effective October 9, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2001–13–51, issued on June 27, 2001, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 9, 2001. Comments for inclusion in the Rules Docket must be received on or before November 20, 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–29–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.

The applicable service information may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272. The service information may also be obtained by e-mailing a request to pselight@bellhelicopter.textron.com. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul Madej, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On June 27, 2001, the FAA issued Emergency AD 2001–13–51 for BHTC Model 206L–4, 407, and 427 helicopters, which requires the following if driveshaft, part number 206–340–300–105, has ever been installed on a BHTC Model 407 helicopter:

- At specified hours time-in-service (TIS), visually inspect each driveshaft for a crack, a loose bolt or nut, or red powder residue.
- Before further flight, replace the driveshaft with an airworthy driveshaft if a crack, a loose bolt or nut, or red powder residue is found. Within 10 days, notify the Manager, Regulations Group, FAA, of the helicopter serial number, driveshaft serial number, and driveshaft hours TIS.
- After the effective date of this AD, interchanging a driveshaft between different helicopter models is prohibited if that driveshaft has ever been installed on a BHTC Model 407 helicopter.

That action was prompted by a driveshaft failure on a BHTC Model 407 helicopter that resulted in an engine shutdown and an emergency landing. Failure of the driveshaft was due to cracking of the flexframe on the forward end of the driveshaft. The BHTC Model 206L–4 and 427 helicopters use the same part-numbered driveshaft. In addition, three other incidents of a cracked flexframe on the forward end of the driveshaft on other Model 407 helicopters have been reported. This condition, if not detected, could result in failure of a driveshaft, loss of drive to the main rotor system, and a subsequent emergency forced landing.

Transport Canada, which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on BHTC Model 407 helicopters. Transport Canada advises that during flight the driveshaft, P/N 206–340–300–105, failed causing engine shutdown and a forced landing. Three other incidents of the cracked flexframe on the forward end of the BHTC Model 407 driveshafts were also reported. Pending further corrective action, Transport Canada determined that a one-time visual inspection for any obvious discrepancy of the driveshaft is warranted.

The FAA has reviewed BHTC Alert Service Bulletin No. 407–01–43, dated June 8, 2001 (ASB), which describes procedures for a one-time inspection of the engine-to-transmission driveshaft, P/N 206–340–300–105. Transport Canada classified this ASB as mandatory and issued AD CF–2001–24, dated June 11, 2001, to ensure the continued airworthiness of BHTC Model 407 helicopters in Canada.

Since the unsafe condition described is likely to exist or develop on other BHTC Model 206L–4, 407, and 427 helicopters of the same type designs, the FAA issued Emergency AD 2001–13–51 to prevent failure of a driveshaft, loss of drive to the main rotor system, and a subsequent emergency forced landing. The AD requires the actions specified above. The inspections must be accomplished in accordance with the ASB described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity and controllability of the helicopter. Therefore, visually inspecting the driveshaft at the specified time intervals and replacing the driveshaft, if necessary, is required before further flight, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on June 27, 2001 to all known U.S. owners and operators of BHTC Model 206L–4, 407, and 427 helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons. However, a few editorial changes have been made to the AD. The zip code listed for the manufacturer has been corrected and an e-mail address for obtaining service information has been added. Also, due to confusion expressed by an operator, paragraph (a)(1)(i) has been changed to clarify that the notification requirement is necessary only if a crack, a loose bolt or nut, or red powder residue is found during the visual inspection. The FAA has determined that these changes will neither increase the economic burden on an operator nor increase the scope of the AD

The FAA estimates that 488 helicopters of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per helicopter to visually inspect the driveshaft. The average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $117,120, assuming that each driveshaft is inspected once.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2001–SW–29–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will 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 final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–13–51 Bell Helicopter Textron Canada: Amendment 39–12443. Docket No. 2001–SW–29–AD.

Applicability: Model 206L–4, 407, and 427 helicopters, with engine-to-transmission driveshaft assembly (driveshaft), part number 206–340–300–105, 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 driveshaft, loss of drive to the main rotor system, and a subsequent emergency forced landing, accomplish the following:

(a) If a driveshaft has ever been installed on a Bell Helicopter Textron Canada (BHTC) Model 407 helicopter, within 25 hours time-in-service (TIS) for driveshafts with 1000 or more hours TIS and for driveshafts with 1000 or less hours TIS that have been removed or installed since helicopter delivery, and within 300 hours TIS for driveshafts with less than 1000 hours TIS that have never been removed or installed since helicopter delivery:

(1) Visually inspect each driveshaft for a crack, loose bolt or nut, or red powder residue, in accordance with the Accomplishment Instructions, paragraphs 1 through 7 of Bell Helicopter Textron Alert Service Bulletin 407–01–43, dated June 8, 2001 (ASB).

(2) Before further flight, if a crack, a loose bolt or nut, or red powder residue is found, replace the driveshaft with an airworthy driveshaft.

(i) If a crack, a loose bolt or nut, or red powder residue is found, notify the Manager, Regulations Group, FAA, Rotorcraft Directorate, Fort Worth, Texas 76193–0111, of the helicopter serial number, driveshaft serial number, and driveshaft hours TIS within 10 days.

(ii) Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056.

(b) After the effective date of this AD, interchanging a driveshaft between different helicopter models is prohibited if that driveshaft has ever been installed on a BHTC Model 407 helicopter.

(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, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

(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.

(e) The visual inspection shall be done in accordance with the Accomplishment Instructions, paragraphs 1 through 7 of Bell Helicopter Textron Alert Service Bulletin 407–01–43, dated June 8, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir,Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272, or by e-mailing a request to pselight@bellhelicopter.textron.com. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on October 9, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2001–13–51, issued June 27, 2001, which contained the requirements of this amendment.

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD CF–2001–24, dated June 11, 2001.

Issued in Fort Worth, Texas, on September 12, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–23416 Filed 9–20–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–385–AD; Amendment 39–12444; AD 2001–19–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 767–200 and –300 series airplanes. This action requires repetitive inspections to find discrepancies of the barrel nuts that attach the vertical fin to body section 48, and follow-on actions. For certain airplanes, this action requires replacement of certain bolts with new bolts. This action also provides for optional terminating actions for the repetitive inspections. This action is necessary to find and fix corroded, cracked or broken barrel nuts that attach the vertical fin to body section 48, which could result in reduced structural integrity of the vertical fin attachment joint, loss of the vertical fin, and consequent loss of controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective October 9, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 9, 2001.

Comments for inclusion in the Rules Docket must be received on or before November 20, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–385–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–385–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Craycraft, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2782; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received several reports of corroded and/or broken barrel nuts on certain Boeing Model 767–200 and –300 series airplanes. One operator indicated that cracked and bulging sealant of two attachment barrel nuts of the vertical fin at body section 48 was found on an airplane having 9,795 total flight hours and 4,184 total flight cycles. A torque check confirmed low torque at these locations, and removal of the sealant revealed that both barrel nuts were corroded and broken. Further investigation revealed that the broken barrel nuts fractured due to stress corrosion cracks that started at corrosion pits. Examination of the attachment bolts showed inadequate sealant on the bolt threads and shank. The lack of sealant initiated galvanic corrosion between the H–11 steel barrel nut and the Inconel bolt, which created the corrosion pits. Nuts made of H–11 steel alloy are susceptible to stress corrosion cracking. Another operator reported cracked sealant and barrel nut corrosion on an airplane having 20,655 total flight hours and 4,768 total flight cycles. Of the sixteen barrel nuts removed from that airplane and inspected, several were found to be corroded.

A recent report was received of four cracked barrel nuts found on a Boeing Model 767–300 series airplane; three of those four were found on one side of the airplane. This report revealed that the issue was more urgent than initial reports indicated. Subsequently, another report was received from an operator of a Group 1 airplane(Group 1 airplanes were delivered with H–11 alloy steel bolts and nuts), indicating that a broken barrel nut was found and both the bolt and the barrel nut were H–11 alloy steel (no dissimilar metal). This report revealed that the unsafe condition also exists on Group 1 airplanes with H–11 alloy steel bolts installed.

Such conditions, if not corrected, could result in reduced structural integrity of the vertical fin attachment joint, loss of the vertical fin, and consequent loss of controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 767–53–0085, dated May 14, 1998, and Boeing Alert Service Bulletin 767–53A0085, Revision 1, dated July 1, 1999. The service bulletins describe procedures for repetitive internal and external visual inspections to find discrepancies (i.e., cracked or damaged sealant, signs of corrosion damage, cracked or broken barrel nuts), of the barrel nuts that attach the vertical fin to body section 48, and follow-on actions. The follow-on actions include, but are not limited to, the following:

- Replacement of the barrel nut with a new Inconel barrel nut if any discrepancy is found at any barrel nut location.
- A torque check on each attachment bolt of the vertical fin if no discrepancy is found at any barrel nut location.
- Replacement of the barrel nut with a new Inconel barrel nut if a bolt can be turned during the torque check.
- Repeat of the internal and external visual inspections.

The service bulletins also provide an optional replacement of all 16 H–11 steel alloy barrel nuts of the vertical fin with Inconel barrel nuts, which would eliminate the need for the repetitive inspections.

Explanation of the Requirements of the Rule

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

Differences Between Alert Service Bulletin and This AD

While the service bulletin specifies internal and external visual inspections to detect discrepancies of the sealant of the barrel nuts that attach the vertical fin to body section 48, this AD requires internal and external detailed visual inspections to detect discrepancies of the sealant. A note has been included in this AD to define that inspection.

Where the compliance time in the service bulletin specifies doing the internal and external visual inspections 1 year after receipt of the service bulletin, this AD requires those inspections be done within 45 days after the effective date of this AD. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the actions. In light of all of these factors, the FAA finds that the compliance time for completing the required inspections represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Although the service bulletin specifies that no more work is necessary for Group 1 airplanes if the H–11 steel alloy attachment bolts of the vertical fin have not been replaced with Inconel bolts, this AD requires the inspections and follow-on actions for both Group 1 and Group 2 airplanes. This changes the applicability in the AD from that specified in the service bulletin, which was divided into two groups, one having line numbers 1 through 154 inclusive, and the other having line numbers 155 through 574 inclusive; to specify line numbers 1 through 574 inclusive.

Figure 5 of the Accomplishment Instructions of the service bulletin specifies that a bolt can be reinstalled if no corrosion, cracks, thread damage, or shank damage is found. However, for Group 1 airplanes with H–11 steel alloy bolts, this AD requires replacement of an H–11 steel alloy bolt with an Inconel bolt, if an Inconel barrel nut is installed at that location.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–385–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will 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 final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–19–04 Boeing: Amendment 39–12444. Docket 2000–NM–385–AD.

Applicability: Model 767–200 and –300 series airplanes, line numbers 1 through 574 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) 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 find and fix corroded, cracked or broken barrel nuts that attach the vertical fin to body section 48, which could result in reduced structural integrity of the vertical fin attachment joint, loss of the vertical fin, and consequent loss of controllability of the airplane; accomplish the following:

Internal/External Detailed Visual Inspections

(a) Do internal and external detailed visual inspections of the barrel nuts at the 16 locations that attach the vertical fin to body section 48 to find discrepancies (i.e., cracked or damaged sealant, signs of corrosion damage, cracked or broken barrel nuts). Do the inspections at the times specified in paragraphs (a)(1) and (a)(2) of this AD, as applicable; per Part 1 of the Accomplishment Instructions of Boeing Service Bulletin 767–53–0085, dated May 14, 1998, or Boeing Alert Service Bulletin 767–53A0085, Revision 1, dated July 1, 1999.

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

(1) For airplanes on which the inspections specified in paragraph (a) of this AD have been done within the last 3 years per Boeing 767 Maintenance Planning Document (MPD) D622T001, Items 5380–311–021 and 5380–312–021: Do the inspections at the later of the times specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Within 3 years or 6,000 flight cycles after doing the most recent inspection per the MPD, whichever comes first.

(ii) Within 45 days after the effective date of this AD.

(2) For airplanes on which the inspections specified in paragraph (a) of this AD have NOT been done within the last 3 years per Boeing 767 MPD D622T001, Items 5380–311–021 and 5380–312–021: Do the inspections within 45 days after the effective date of this AD.

Follow-On Actions

(b) *If no discrepancies are found as a result of any inspection specified in paragraph (a) of this AD:* Before further flight, do a torque check of each of the 16 bolts in the barrel nuts that attach the vertical fin to body section 48 to determine if any bolt turns, per Part 2 of the Accomplishment Instructions of Boeing Service Bulletin 767–53–0085, dated May 14, 1998, or Boeing Alert Service Bulletin 767–53A0085, Revision 1, dated July 1, 1999.

(1) *If no bolt turns:* Repeat the inspections required by paragraph (a) of this AD (and applicable follow-on actions) every 3 years or 6,000 flight cycles, whichever comes first; until paragraphs (d) and (e) of this AD are done, as applicable.

(2) *If any bolt turns:* Before further flight, do the actions specified in paragraphs (b)(2)(i) and (b)(2)(ii) of this AD, as applicable. Then repeat the inspections required by paragraph (a) of this AD (and applicable follow-on actions) every 3 years or 6,000 flight cycles, whichever comes first; until paragraphs (d) and (e) of this AD are done, as applicable.

(i) *For all airplanes:* Replace the barrel nut at that bolt with a new, Inconel barrel nut per Part 3 of the Accomplishment Instructions of the service bulletin. No further action is required for that barrel nut only.

(ii) *For Group 1 airplanes:* If an H–11 steel alloy bolt is installed with the affected barrel nut, replace the bolt with a new, Inconel bolt per Figure 5 of the Accomplishment Instructions of the service bulletin. No further action is required for that bolt only.

(c) *If any discrepancy of any barrel nut is found as a result of any inspection specified in paragraph (a) of this AD:* Before further flight, do the actions specified in paragraphs (c)(1) and (c)(2) of this AD, as applicable.

(1) *For all airplanes:* Replace the affected barrel nut with a new, Inconel barrel nut per Part 3 of the Accomplishment Instructions of Boeing Service Bulletin 767–53–0085, dated May 14, 1998, or Boeing Alert Service Bulletin 767–53A0085, Revision 1, dated July 1, 1999. No further action is required for that barrel nut only.

(2) *For Group 1 airplanes:* If an H–11 steel alloy bolt is installed with the affected barrel nut, replace the bolt with a new, Inconel bolt per Figure 5 of the Accomplishment Instructions of the service bulletin. No further action is required for that bolt only.

Optional Terminating Actions

(d) *For all airplanes:* Except as provided by paragraph (e) of this AD, replacement of all 16 H–11 steel alloy barrel nuts that attach the vertical fin to body section 48, with new, Inconel barrel nuts per Part 3 of the Accomplishment Instructions of Boeing Service Bulletin 767–53–0085, dated May 14, 1998, or Boeing Alert Service Bulletin 767–53A0085, Revision 1, dated July 1, 1999; ends the repetitive inspections required by this AD.

(e) *For Group 1 airplanes:* Accomplishment of paragraph (d) of this AD and replacement of the H–11 steel alloy bolts having an Inconel barrel nut installed at the same location, with new, Inconel bolts per Figure 5 of the Accomplishment Instructions of Boeing Service Bulletin 767–53–0085, dated May 14, 1998, or Boeing Alert Service Bulletin 767–53A0085, Revision 1, dated July 1, 1999; ends the repetitive inspections required by this AD.

Spares

(f) *As of the effective date of this AD:* No person shall install, on any airplane, an Inconel vertical fin attach bolt, unless an Inconel barrel nut is installed at the same location; nor shall any person install an H–11 steel alloy attachment nut or bolt on the vertical fin on any airplane.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(i) The actions shall be done in accordance with Boeing Service Bulletin 767–53–0085, dated May 14, 1998; or Boeing Alert Service Bulletin 767–53A0085, Revision 1, dated July 1, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(j) This amendment becomes effective on October 9, 2001.

Issued in Renton, Washington, on September 14, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23418 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–11]

Amendment of Class D Airspace; Titusville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action makes a technical amendment to the Class D airspace description at Titusville, FL, by changing the name of the Titusville, Space Center Executive Airport to the

Titusville, Space Coast Regional Airport.

EFFECTIVE DATE: 0901 UTC, December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

The Titusville, Space Center Executive Airport, FL, was renamed the Titusville, Space Coast Regional Airport on September 5, 1996. As a result, the Class D airspace legal description must be amended. This rule will become effective on the date specified in the **DATES** section. Since this action has no impact on users of the airspace in the vicinity of the Titusville, Space Coast Regional Airport, Titusville, FL, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Class D airspace designations for airspace areas extending upward from the surface of the earth are published in paragraph 5000 of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class D airspace at Titusville, FL.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

ASO FL D Titusville, FL [REVISED]

Titusville, Space Coast Airport, FL
(Lat. 28°30′50″N, long. 80°47′58″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of Space Coast Regional Airport; excluding the portion within Restricted Area R–2934 when it is effective. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on September 7, 2001.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 01–23565 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30268; Amdt. No. 2069]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form

documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

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

The Rule

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on September 14, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

** * * Effective October 4, 2001*

Ankeny, IA, Ankeny Regional, ILS RWY 36, Orig
Ankeny, IA, Ankeny Regional, VOR/DME RWY 36, Orig-A, (CANCELLED)
Dubuque, IA, Dubuque Regional, ILS RWY 36, Orig
Dubuque, IA, Dubuque Regional, LOC RWY 31, Orig
Dubuque, IA, Dubuque Regional, ILS RWY 31, Amdt 10E, (CANCELLED)
Philadelphia, PA, Philadelphia Intl, ILS RWY 26, Amdt 2
Philadelphia, PA, Philadelphia Intl, ILS PRM RWY 26, Amdt 1 (Simultaneous Close Parallel)
Philadelphia, PA, Philadelphia Intl, ILS RWY 27L, Amdt 12
Philadelphia, PA, Philadelphia Intl, ILS PRM RWY 27L, Amdt 1 (Simultaneous Close Parallel)

** * * Effective November 1, 2001*

Anchorage, AK, Ted Stephens Anchorage Intl, ILS RWY 14, Amdt 2
Carlsbad, CA, McClellan-Palomar, VOR–A, Amdt 7A
Carlsbad, CA, McClellan-Palomar, RNAV (GPS) RWY 24, Orig
Shirley, NY, Brookhaven, RNAV (GPS) RWY 6, Orig
Shirley, NY, Brookhaven, RNAV (GPS) RWY 24, Orig
Shirley, NY, Brookhaven, GPS RWY 6, Orig. CANCELLED
Shirley, NY, Brookhaven, GPS RWY 24, Orig. CANCELLED
Myrtle Beach, SC, Myrtle Beach Intl, RNAV (GPS) RWY 17, Amdt 1
Myrtle Beach, SC, Myrtle Beach Intl, RNAV (GPS) RWY 35, Amdt 1
Anahauc, TX, Chambers County, NDB RWY 12, Amdt 1
Angleton/Lake Jackson, TX, Brazoria County, ILS RWY 17, Amdt 3
Dallas-Fort Worth, TX, Dallas-Fort Worth Intl, ILS RWY 31R, Amdt 11
Dallas-Fort Worth, TX, Dallas-Fort Worth Intl, Converging ILS RWY 31R, Amdt 5
Houston, TX, David Wayne Hooks Memorial, LOC RWY 17R, Amdt 1
Houston, TX, David Wayne Hooks Memorial, NDB RWY 17R, Amdt 11
Houston, TX, David Wayne Hooks Memorial, VOR/DME RNAV RWY 17R, Amdt 4
Houston, TX, David Wayne Hooks Memorial, VOR/DME RNAV RWY 35L, Amdt 4
Houston, TX, Ellington Field, RNAV (GPS) RWY 22, Orig
Houston, TX, Ellington Field, ILS RWY 35L, Amdt 5
Houston, TX, Ellington Field, ILS RWY 22, Amdt 3
Houston, TX, Ellington Field, ILS RWY 17R, Amdt 5
Houston, TX, Ellington Field, GPS RWY 17R, Orig-A (CANCELLED)
Houston, TX, Ellington Field, GPS RWY 35L, Orig (CANCELLED)
Houston, TX, Ellington Field, RNAV (GPS) RWY 17R, Orig
Houston, TX, Ellington Field, RNAV (GPS) RWY 35L, Orig
Houston, TX, George Bush Intercontinental/Houston, RNAV (GPS) ZRWY 9, Orig
Houston, TX, George Bush Intercontinental/Houston, RNAV (GPS) YRWY 9, Orig
Houston, TX, George Bush Intercontinental/Houston, GPS RWY 8, Orig (CANCELLED)
Houston, TX, George Bush Intercontinental/Houston, GPS RWY 9, Orig (CANCELLED)
Houston, TX, George Bush Intercontinental/Houston, RNAV (GPS) RWY 26, Orig
Houston, TX, George Bush Intercontinental/Houston, GPS RWY 26, Amdt 1 (CANCELLED)
Houston, TX, George Bush Intercontinental/Houston, RNAV (GPS) RWY 8, Orig
Houston, TX, George Bush Intercontinental/Houston, ILS RWY 15L, Amdt 12

Houston, TX, George Bush Intercontinental/ Houston, ILS RWY 33R, Amdt 11
Houston, TX, George Bush Intercontinental/ Houston, ILS RWY 8, Amdt 20
Houston, TX, George Bush Intercontinental/ Houston, ILS RWY 9, Amdt 5
Houston, TX, George Bush Intercontinental/ Houston, ILS RWY 26, Amdt 16
Houston, TX, George Bush Intercontinental/ Houston, ILS RWY 27, Amdt 4
Houston, TX, George Bush Intercontinental/ Houston, VOR/DME RWY 15L, Amdt 16
Houston, TX, George Bush Intercontinental/ Houston, VOR/DME RWY 33R, Amdt 14
Houston, TX, George Bush Intercontinental/ Houston, NDB RWY 26, Amdt 2
Houston, TX, Houston-Southwest, LOC/DME RWY 9, Amdt 3
Houston TX, Houston-Southwest, NDB RWY 27, Amdt 4
Houston, TX, Scholes International at Galveston, VOR RWY 13, Amdt 3
Houston, TX, Scholes International at Galveston, ILS RWY 13, Amdt 10
Houston, TX, Sugar Land/Hull Field, ILS RWY 35, Amdt 3
Houston, TX, Sugar Land/Hull Field, NDB RRWY 35, Amdt 5
Houston, TX, Sugar Land/Hull Field, VOR/ DME RNAV RWY 35, Amdt 8
Houston, TX, Weiser Airpark, NDB–D, Orig
Houston, TX, Weiser Airpark, NDB or GPS–A, Orig (CANCELLED)
Houston, TX, West Houston, VOR/DME RNAV RWY 33, Amdt 4
Houston, TX, West Houston, RNAV (GPS) ZRWY 33, Orig
Houston, TX, West Houston, RNAV (GPS) RWY 15, Orig
Houston, TX, West Houston, GPS RWY 15, Orig (CANCELLED)
Houston, TX, West Houston, GPS RWY 33, Orig (CANCELLED)
Houston, TX, West Houston, VOR/DME RNAV RWY 15, Amdt 4
Houston, TX, West Houston, NDB RWY 15, Amdt 3
Houston, TX, West Houston, NDB RWY 33, Amdt 4
Houston, TX, West Houston, VOR–B, Amdt 3
Houston, TX, West Houston, VOR–D Orig
Houston, TX, William P. Hobby, RNAV (GPS) RWY 4, Amdt 1
Houston, TX, William P. Hobby, RNAV (GPS) RWY 17, Amdt 1
Houston, TX, William P. Hobby, RNAV (GPS) RWY 22, Amdt 1
Houston, TX, William P. Hobby, RNAV (GPS) RWY 35, Amdt 1
Houston, TX, William P. Hobby, VOR/DME RWY 30L, Amdt 17
Houston, TX, William P. Hobby, VOR RWY 17, Amdt 1C, (CANCELLED)
Houston, TX, William P. Hobby, VOR RWY 12R, Amdt 18B (CANCELLED)
Houston, TX, William P. Hobby, LOC RWY 22, Amdt 1
Houston, TX, William P. Hobby, VOR/DME RWY 4, Amdt 18
Houston, TX, William P. Hobby, VOR/DME E, Orig
Houston, TX, William P. Hobby, NDB RWY 4, Amdt 33
Houston, TX, William P. Hobby, VOR/DME RWY 35, Amdt 3
Houston, TX, William P. Hobby, ILS RWY 4, Amdt 38
Waco, TX, Waco Regional, VOR RWY 14, Amdt 23

[FR Doc. 01–23570 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30269; Amdt. No. 2070]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

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

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

The Rule

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

FDC/P NOTAMs; the respective FDC/T NOTAMs have been canceled.

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

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on September 14, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT PROCEDURES

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

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

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

2. Part 97 is amended to read as follows:

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

* * * Effective Upon Publication

FDC date	State	City	Airport	FDC No.	Subject
08/14/01	RI	Pawtucket	North Central State	1/8318	VOR or GPS–A, Amdt 6.
08/30/01	WV	Charleston	Yeager	1/9132	RADAR–1, Amdt 12.
08/30/01	MA	Orange	Orange Muni	1/9142	NDB or GPS–B, Amdt 4A.
08/31/01	FL	West Palm Beach	Palm Beach County Park	1/9169	VOR or GPS Rwy 15, Amdt 2B.
09/06/01	IN	Bloomington	Monroe County	1/9394	RNAV (GPS) Rwy 35, Orig.
09/06/01	WA	Tacoma	Tacoma Narrows	1/9399	ILS Rwy 17, Amdt 8.
09/06/01	WA	Tacoma	Tacoma Narrows	1/9400	NDB Rwy 35, Amdt 7.
09/06/01	WA	Fort Lewis/Tacoma	Gray AAF	1/9402	ILS Rwy 15, Amdt 4.
09/06/01	NY	New York	John F. Kennedy Intl	1/9421	ILS Rwy 4R, Amdt 29 (Cat I, II, III).
09/06/01	NC	Kinston	Kinston Regional Jetport at Stallings Field.	1/9426	RNAV (GPS) Rwy 5, Amdt 1.
09/06/01	NC	Kinston	Kinston Regional Jetport at Stallings Field.	1/9427	RNAV (GPS) Rwy 23, Orig.
09/06/01	FL	Orlando	Orlando Sanford	1/9428	RNAV (GPS) Rwy 9L, Amdt 1.
09/06/01	TX	Abilene	Abilene Regional	1/9453	RNAV (GPS) Rwy 35R, Orig.
09/06/01	VT	Rutland	Rutland State	1/9454	VOR/DME Rwy 1, Orig.
09/06/01	IL	Chicago	Chicago Midway	1/9466	ILS Rwy 31C, Amdt 5E.
09/06/01	HI	Kahului	Kahului	1/9536	VOR Rwy 20, Orig-A.
09/06/01	HI	Kahului	Kahului	1/9538	VOR/DME or TACAN Rwy 20, Orig.
09/07/01	GA	Valdosta	Valdosta Regional	1/9582	VOR or GPS Rwy 17, Orig.
09/07/01	GA	Valdosta	Valdosta Regional	1/9583	VOR or GPS Rwy 35, Orig.
09/07/01	GA	Waynesboro	Burke County	1/9584	NDB or GPS Rwy 8, Amdt 2.
09/07/01	CA	Visalia	Visalia Muni	1/9593	VOR Rwy 12, Amdt 5A.
09/07/01	UT	Cedar City	Cedar City Regional	1/9597	VOR Rwy 20, Amdt 6.
09/07/01	UT	Cedar City	Cedar City Regional	1/9598	ILS Rwy 20, Amdt 3.
09/07/01	UT	Cedar City	Cedar City Regional	1/9599	NDB Rwy 20, Amdt 2.
09/07/01	CO	Aspen	Aspen-Pitkin County/Sardy Field	1/9600	VOR/DME or GPS–C, Amdt 4D.
09/07/01	CA	Visalia	Visalia Muni	1/9603	GPS Rwy 12, Orig-A.
09/07/01	CA	Sacramento	McClellan Airfield	1/9607	VOR/DME or TACAN Rwy 34, Orig.
09/07/01	CA	Sacramento	McClellan Airfield	1/9608	VOR/DME or TACAN Rwy 16, Orig.
09/07/01	CA	Sacramento	McClellan Airfield	1/9614	ILS Rwy 16, Orig.
09/11/01	WV	Elkins	Elkins-Randolph Co-Jennings Randolph Field.	1/9737	GPS Rwy 23, Orig-A.

FDC date	State	City	Airport	FDC No.	Subject
09/11/01	WV	Elkins	Elkins-Randolph Co-Jennings Randolph Field.	1/9738	GPS Rwy 5, Orig.
09/12/01	CA	Ontario	Ontario Intl	1/9779	RNAV (GPS) Rwy 26L, Orig.
09/12/01	CA	Ontario	Ontario Intl	1/9780	RNAV (GPS) Rwy 8L, Orig.
09/12/01	CA	Ontario	Ontario Intl	1/9781	RNAV (GPS) Rwy 8R, Orig.
09/12/01	CA	Ontario	Ontario Intl	1/9782	RNAV (GPS) Rwy 26R, Orig.

[FR Doc. 01–23571 Filed 9–20–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30270; Amdt. No. 2071]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

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

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

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and or Flight Management System (FMS) equipment. In considering of the above, the applicable SIAP's will be altered to include ''or GPS or FMS'' in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove ''or GPS or FMS'' from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as ''RNAV'' will be redesignated as ''VOR/DME RNAV'' without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a

''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipate impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on September 14, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.27, 97.33 and 97.35 [Amended]

2. Amend 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's, effective at 0901 UTC on the dates specified:

** * * Effective November 1, 2001*

Miami, FL, Miami Intl, NDB or GPS RWY 27L, Amdt 19, CANCELLED
Miami, FL, Miami Intl, NDB RWY 27L, Amdt 19
Kansas City, MO, Kansas City Intl, NDB or GPS RWY 1L, Amdt 15a, CANCELLED
Kansas City, MO, Kansas City Intl, NDB RWY 1L, Amdt 15A
Miles City, MT, Miles City/Frank Wiley Field, VOR or GPS RWY 4, Amdt 11, CANCELLED
Miles City, MT, Miles City/Frank Wiley Field, VOR RWY 4, Amdt 11
Kinston, NC, Winston Regional Jetport at Stallings Field, VOR or GPS RWY 23, Amdt 13, CANCELLED
Kinston, NC, Kinston Regional Jetport at Stallings Field, VOR RWY 23, Amdt 13
North Platte, NE, North Platte Regional Airport Lee Bird Field, NDB or GPS RWY 30, Amdt 3B, CANCELLED
North Platte, NE, North Platte Regional Airport Lee Bird Field, NDB RWY 30, Amdt 3B
Memphis, TN, Memphis Intl, NDB or GPS RWY 9, Amdt 26B, CANCELLED
Memphis, TN, Memphis Intl, NDB RWY 9, Amdt 26B
Oshkosh, WI, Oshkosh/Wittman Regional, NDB or GPS RWY 36, Amdt 5C, CANCELLED
Oshkosh, WI, Oshkosh/Wittman Regional, NDB RWY 36, Amdt 5C

[FR Doc. 01–23572 Filed 9–20–01; 8:45 am

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 159 and 178

[T.D. 01–68]

RIN 1515–AC84

Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to implement the Continued Dumping and Subsidy Offset Act of 2000, by prescribing the administrative procedures, including the time and manner, under which antidumping and countervailing duties assessed on imported products would be distributed to affected domestic producers as an offset for certain qualifying expenditures. This distribution to the affected producers is known as the continued dumping and subsidy offset.

EFFECTIVE DATE: September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Jeffrey J. Laxague, Office of Regulations and Rulings, (202–927–0505).

SUPPLEMENTARY INFORMATION:

Background

Antidumping duties are imposed upon imported merchandise that the U.S. Department of Commerce has found is, or is likely to be, sold in the United States at less than its fair value. Countervailing duties are imposed upon imported merchandise that the Department of Commerce determines benefits from actionable subsidies bestowed by a foreign government. In all antidumping cases, and in most countervailing duty cases, these duties are only assessed if the U.S. International Trade Commission determines that the imported goods cause material injury or the threat of material injury to a domestic industry. The rules and procedures concerning proceedings leading to orders or findings under which antidumping and countervailing duties are assessed are found in 19 U.S.C. 1671 *et seq.*, in part 207 of the regulations of the U.S. International Trade Commission (19 CFR chapter II, part 207), and in part 351 of the regulations of the International Trade Administration, U.S. Department of Commerce (19 CFR chapter III, part 351).

The Continued Dumping and Subsidy Offset Act of 2000 (''CDSOA'') was enacted on October 28, 2000, as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (''Act'') (Pub. L. 106–387; 114 Stat. 1549). The provisions of the CDSOA are contained in Title X (sections 1001–1003) of the Act.

The CDSOA, in section 1003 of the Act, amended Title VII of the Tariff Act of 1930, by adding a new section 754 (codified at 19 U.S.C. 1675c) in order to provide that assessed duties received pursuant to a countervailing duty order, an antidumping duty order, or an antidumping duty finding under the Antidumping Act of 1921, would be distributed by Customs to affected domestic producers for certain qualifying expenditures that these producers incur after the issuance of such an antidumping duty order or finding, or countervailing duty order. This distribution is called the continued dumping and subsidy offset. It is noted that the continued dumping and subsidy offset under 19 U.S.C. 1675c covers all antidumping and countervailing duty assessments made on or after October 1, 2000, in connection with all antidumping duty orders or findings, or countervailing duty orders, in effect as of January 1, 1999, or issued thereafter. Pursuant to 19 U.S.C. 1675c, the Commissioner of Customs shall prescribe procedures for distribution of the continued dumping and subsidy offset.

Customs Rulemaking

Accordingly, by a document published in the **Federal Register** (66 FR 33920) on June 26, 2001, Customs proposed to amend the Customs Regulations to add a new subpart F to part 159 (19 CFR part 159, subpart F; §§ 159.61–159.64) that principally prescribed the procedures, including the time and manner, and the required information necessary for the distribution of antidumping and countervailing duties assessed under an appropriate order or finding, that would be payable as a continued dumping and subsidy offset to those affected domestic producers for their qualifying expenditures, in accordance with section 754 of the Tariff Act of 1930, as amended (19 U.S.C. 1675c).

In addition, under the Background heading of the proposed rule document (66 FR at 33922–33923), Customs provided several illustrations of the administrative process by which Customs would make distributions of the continued dumping and subsidy offset to affected domestic producers.

Discussion of Comments

The June 26, 2001, notice of proposed rulemaking made provision for the submission of public comments on the proposed regulations for consideration before adoption of those regulations as a final rule. The prescribed comment period closed on July 26, 2001. Forty comments were received by Customs. The issues raised in the comments are summarized and addressed below.

Affected Domestic Producers

Comment: Several commenters requested that Customs clarify the term ''producer''. It was asked in this context whether companies that have filed for bankruptcy could still be affected domestic producers for purposes of the statute.

Customs Response: Customs agrees. Companies that have filed for bankruptcy would be affected domestic producers for purposes of section 1675c, if they remained in operation and continued to produce the product covered by the relevant order or finding, and provided further that such companies complied with the other requirements of the statute.

In addition, companies will be considered to have ceased production if they did not produce the product covered by an order or finding at all during the fiscal year that is the subject of the disbursement. This latter requirement is added in § 159.61(b)(1) which is redesignated as § 159.61(b)(2)(i) in this final rule document.

Comment: Several commenters proposed that domestic parties not on the list of affected domestic producers, as prepared by the U.S. International Trade Commission (USITC), be allowed to file certifications to claim an offset. Also, many comments included a request that the proposed regulations be clarified to provide for the filing of certifications by successor companies to those companies that appeared on the USITC list.

Customs Response: Under the 19 U.S.C. 1675c(d)(1), and as indicated in § 159.61(b), only a party on the USITC list is potentially eligible to receive an offset as an affected domestic producer. However, Customs agrees that a provision must be made for successor companies, as discussed below.

Specifically, where a company has succeeded to the operations of another company that appeared on the USITC list of affected domestic producers, the successor company may file a certification on behalf of the predecessor company. The USITC list is contained in the notice of intention to distribute the continued dumping and subsidy offset that must be published in the **Federal Register** in accordance with § 159.62. In its certification, the company must name the predecessor company to which it has succeeded and it must describe in detail the duly authorized succession by which it is entitled to file the certification on behalf of the predecessor.

A new paragraph (b)(1)(i) is added to § 159.61 in the final rule to address the filing of certifications by successor companies. As already noted, paragraph (b)(1) of proposed § 159.61 is redesignated as paragraph (b)(2)(i) in the final rule.

Comment: A number of commenters inquired as to whether an association whose name appeared on the USITC list for an order or finding could file a certification on behalf of its member companies and, if so, what qualifying expenditures could be included in the certification. It was also asked whether a company that was a member of such an association could file a certification, where the member company did not appear on the USITC list.

Customs Response: An association that appears on the USITC list of affected domestic producers in connection with a given order or finding, as set forth in the notice of distribution published in the **Federal Register** under § 159.62, cannot file a certification on behalf of its member companies. Customs does not believe that an association can properly certify, and thus be held liable for the accuracy of, member companies' qualifying expenditures. In order to certify, one must have direct knowledge of the validity of the expenses being claimed. In Customs view, associations are in no position to do so. The association may, of course, file a certification in its own right to claim an offset for that order or finding, but its qualifying expenditures would naturally be limited to those expenditures that the association itself has incurred in connection with that particular case, after the date of the order or finding.

In addition, an individual member of the association may file a certification to claim an offset for the same order or finding, even though the member company does not appear on the USITC list, provided that the company also meets the other requirements of the statute. It was clearly not the intent of Congress to prevent members of an association that initiated a proceeding at the USITC from filing certifications so that they may qualify for an offset under the statute, since an affected domestic producer is defined as ''any manufacturer, producer, farmer, rancher, or worker representative (including associations of such persons)''.

In its certification, the company must name the association appearing on the USITC list, of which it is a member, and the company must specifically establish that it was a member of the association at the time the association filed the petition with the USITC.

To allow for the filing of certifications by an association's member companies that are not included on the USITC list of affected domestic producers, a new paragraph (b)(1)(ii) is added to § 159.61. Paragraph (b)(2) of proposed § 159.61 is redesignated as paragraph (b)(2)(ii) in the final rule.

Comment: A number of commenters suggested that Customs consult with the USITC on any questions that arise concerning the USITC list of affected domestic producers that appears in the Customs notice of intention to distribute the offset.

Customs Response: Customs already consults with the USITC in this matter and will continue to do so.

Comment: Some commenters suggested that Customs remove questionable parties from the list of affected domestic producers that is forwarded to Customs by the USITC, for example companies which do not appear to meet the domestic production criteria for filing a certification.

Customs Response: Customs will not arbitrarily delete parties from the list of companies supplied by the USITC. If a certification is submitted by a company appearing on the USITC list that third parties believe contains false statements regarding eligibility to file a certification and receive an offset, they may notify the Customs Office of Investigations regarding their allegations.

Qualifying Expenditures

Comment: A number of commenters requested clarification of the term ''qualifying expenditures''. These commenters basically wanted to know the end of the time period within which qualifying expenditures could be incurred for purposes of claiming an offset. For example, if an order was terminated in January 2000, could qualifying expenditures be claimed if they are incurred up until the date the first certification is filed (October 2001),

or are the expenditures incurred limited by the date of the termination?

Customs Response: A qualifying expenditure that may be offset by a distribution of assessed antidumping and countervailing duties encompasses those expenditures that are incurred after the issuance of an order or finding and prior to the termination of the order or finding. Proposed § 159.61(c) is revised in the final rule to reflect this.

Customs expects that claims made for qualifying expenditures will be made in accordance with the statute and that they will be supported by records that would be kept by any prudent person in the ordinary course of business, as required in § 159.63(b) and (c). The record of expenditures being certified should conform to Generally Accepted Accounting Principles in determining when a qualifying expenditure has occurred. To the extent that common problem areas are found during Customs verifications of certifications, Customs will report on such issues in its annual report.

Comment: Several commenters suggested that Customs require companies claiming a distribution of the offset under an order or finding to limit their claims only to those qualifying expenditures that are associated with the product that is the subject of the order or finding.

Customs Response: Customs agrees. The statute (19 U.S.C. 1675c(b)(1)(B)) mandates that an affected domestic producer produce the product that is covered by an order or finding under which the offset is sought. Accordingly, there is a corresponding statutory limitation upon those qualifying expenditures that may lawfully be claimed as an offset under the order or finding. Consequently, qualifying expenditures on which a distribution may be claimed under section 1675c(b)(4) are limited only to those expenditures that can be related to the production of the product that is covered by the scope of the order or finding.

It is Customs position that any other interpretation would only result in absurd consequences. The lack of a like product limitation would discriminate against producers who do not manufacture multiple, disparate products, such as steel and petroleum products. Those producers who make multiple products would be able to claim all their expenditures on facilities and equipment, even if those expenses had little or no connection with the manufacture of the particular product involved in an order or finding. This would potentially reduce funds available for non-diversified producers. There would also be a substantial administrative problem for Customs if there were orders or findings on more than one product in a company's line of merchandise.

In this latter regard, one example would be an affected domestic producer who manufactures five different products, each of which is the subject of a separate antidumping/countervailing duty order or finding, and who incurs $1 million in qualifying expenditures. Of the $1 million in qualifying expenditures, $600,000 is related to the production of just one product, and $100,000 incurred during the production of each of the other four products. In the absence of a same product requirement, the affected domestic producer could simply claim $1 million for each certification. However, Customs would not be able to match the $1 million in claimed expenses with any one of the five special accounts and would therefore have no reasonable basis for apportioning distributions from those accounts.

Proposed §§ 159.61(c) and 159.63(d) are amended in the final rule to reflect this additional limitation upon qualifying expenditures.

Notice of Distribution; Content

Comment: Several commenters proposed that Customs make information available concerning the dollar amounts in the special accounts for an order or finding prior to requiring companies to file certifications.

Customs Response: Customs agrees. In future notices of intention to distribute the offset under § 159.62 for a given fiscal year, Customs will publish the dollar amount in the special account for each order or finding as of June 1 of that fiscal year. Of course, the final amount to be disbursed will differ, but the published amount may serve as an estimate for purposes of determining whether to file a certification for that fiscal year. Proposed § 159.62(b) is changed in the final rule to provide for this.

Content and Sufficiency of Certifications

Comment: Several commenters proposed changing the signing official for the certifications to a lower-level employee, rather than a party legally authorized to bind the affected domestic producer, as required in proposed § 159.63(b).

Customs Response: Customs disagrees. The person signing the certification must be authorized to legally bind the domestic producer. Enforcement actions may be taken against individuals and companies who file false information with Customs.

Comment: One commenter requested that domestic producers be expressly permitted in proposed § 159.63(b)(2) to file claims for partial amounts.

Customs Response: Customs does not believe such a provision needs to be expressly set forth in the regulations. The important point is that any amounts certified by a claimant for distribution must be supported by business records that must be retained for possible Customs verification, as previously noted. If other qualifying expenditures become verified at a later date, those can be included in subsequent certifications to claim a distribution.

Comment: Several commenters requested clarification whether a company that is listed as an affected domestic producer on more than one order or finding may file a separate certification claiming a distribution, respectively, for each order or finding, using the same qualifying expenditures as the basis for distribution in each case. One commenter expressed a concern that Customs might overpay a claimant if a company may file multiple certifications in this way.

Customs Response: When the same product is covered by orders or findings for more than one country, an individual company that is listed for each of those cases must file the same dollar claim for each case, since qualifying expenditures are not associated with a specific country case. Consequently, in order to avoid the possibility of an overpayment in these circumstances, Customs will require each certification to list all other orders or findings where the company is claiming the same qualifying expenditures. This requirement is included in § 159.63(b)(3)(ii) in the final rule. However, as previously observed, those companies that have multiple orders on different products may not claim the same expenditures for all cases. The expenditures claimed must relate to the product covered by the order or finding for which an offset is being claimed.

Comment: Several commenters suggested that the certifications should require an additional statement specifying exactly how a party meets the requirements in the statute for filing a certification.

Customs Response: Customs disagrees. Proposed § 159.63(b)(3) already adequately addresses the requirements concerning those parties that would be entitled to file certifications.

It is also noted that, due to the addition of paragraphs (b)(3)(i) and

(b)(3)(ii) to § 159.63 in the final rule, as indicated above, it has been decided, for editorial clarity, to reorganize paragraph (b)(3) of proposed § 159.63 in the final rule as paragraphs (b)(3), and (b)(3)(i)–(b)(3)(iii).

Correction of Certifications

Comment: Many commenters suggested that Customs not reject certifications for minor errors or omissions. They also proposed a correction period for claimants to perfect their certifications.

Customs Response: Customs agrees. Parties listed in notices of intention to distribute must file their certifications within 60 days after publication of the notice, as already provided in proposed § 159.63(a). However, Customs will then have 15 days after the close of the 60-day filing period to return a certification that is found to be materially incorrect or incomplete. Within 10 days of the date that Customs returns a certification as being materially incorrect or incomplete, Customs must receive a corrected certification from the affected domestic producer. Customs will make every effort to assist companies to perfect their certifications and will not return claims for minor errors or omissions. Proposed § 159.63(c) is revised in the final rule to include these additional provisions regarding the processing of incorrect or incomplete certifications. Nevertheless, claimants should be mindful that it remains their responsibility to meet the requirements of the regulations for filing proper certifications.

Furthermore, in an effort to provide greater notice to domestic producers of Customs intent to distribute the offset, and thus enable the earlier filing of certifications, future notices of distribution will be published at least 90 days before the end of a fiscal year, as opposed to 60 days. Proposed § 159.62(a) is amended in the final rule to this effect.

Verification of Certifications

Comment: One commenter suggested, with reference to proposed § 159.63(d), that Customs verify every certification. Another commenter recommended a 5-year retention requirement for records needed to support claims for distribution, rather than the 3-year period contained in proposed § 159.63(d).

Customs Response: A number of certifications may be selected to determine whether, and to what extent, verifications will be conducted.

However, Customs agrees with the recommendation for a 5-year record retention requirement, and proposed § 159.63(d) is changed in the final rule to provide for this. This accords with the general record retention provision of 5 years that is set forth in § 163.4(a), Customs Regulations (19 CFR 163.4(a)).

Disclosure to Public of Certain Information Contained in Certifications

Comment: With respect to the information contained in the certifications described in proposed § 159.63, over 20 comments were received on the question of whether certain information required to be set forth in the certifications should be made public on a company-specific basis. The comments were equally divided over whether the company name and the dollar amounts claimed for an offset should be made public.

Customs Response: As stated in the proposed rule, Customs was especially interested in receiving public comment as to whether it should adopt the position that the name of the certifying producer and the total amount being certified for distribution should be considered information available for disclosure to the public.

Customs has concluded that the name of the claimant, the total dollar amount claimed by that party on the certification, as well as the total dollar amount that Customs actually disburses to that company as an offset, will be available for disclosure to the public. Customs has determined that this information does not qualify as business confidential information. Proposed § 159.63 is changed in the final rule by adding paragraph (e) to state that the submission of a certification by an affected domestic producer will be construed as an understanding on the part of the affected domestic producer that the foregoing information will be disclosed to the public. Alternatively, a statement in a certification that this information is proprietary and exempt from disclosure will result in Customs rejection of the certification.

Accordingly, as part of the annual report on the Continued Dumping and Subsidy Offset Act (CDSOA), Customs will publish the following by case number: the name of the claimant; the total dollar amount claimed by that party on the certification; and the total dollar amount disbursed to that company by Customs. Proposed § 159.64(g), which concerns the issuance of the annual report, is amended in the final rule to provide for this disclosure of information.

Recommended Conditions/Restrictions on Disbursements

Comment: One commenter suggested that Customs prescribe how domestic producers may spend the disbursements that they receive under proposed § 159.64.

Customs Response: Customs disagrees. There is no statutory requirement as to how a disbursement to an affected domestic producer is to be spent, and, absent statutory authority, Customs may not impose such a requirement.

Comment: One commenter suggested that Customs deduct its administrative costs associated with the program from the offset to be distributed prior to making any disbursements.

Customs Response: Customs disagrees. There is no provision in the statute to allow for such a deduction.

Comment: Two commenters recommended that the disbursements to companies in an industry be reduced by the amount of other Government aid provided to that industry via other programs.

Customs Response: Customs disagrees. Again, there is no provision in the statute to allow for such a reduction. Thus, Customs has no authority to reduce the amount of the offset payable to affected domestic producers under the statute, based upon aid provided to such producers through other Government programs.

Refunds to Importers; Recovery of Overpayments to Domestic Producers

Comment: One commenter requested, in connection with proposed § 159.64(b), that a domestic producer furnish Customs with a surety bond in order to guarantee that any overpayment of assessed duties to the producer would be repaid in the event that a subsequent reliquidation results in a lesser amount of duties being assessed.

Customs Response: Customs disagrees. At this time, it does not appear to be practical or necessary to require domestic producers to file a surety bond to cover the amount of an annual distribution.

Comment: Two commenters expressed concern that administration of the CDSOA under proposed § 159.64(b)(2) would delay the processing of refunds to importers in the case of reliquidations and/or court action. The concern was that Customs would hold up action on a refund request until it had received repayment of the overpaid disbursement from the domestic producers.

Customs Response: Customs will not withhold action on refund claims based on the recovery of overpaid disbursements. Customs will establish procedures to compute the overpaid amounts to be recovered from domestic producers, so that recovery of the

overpayment can be made, but those recoveries will take place independent of the refund of duties to importers. Customs already has authority under 19 U.S.C. 1520(a) to refund excess duties paid, and the necessary monies to make such refunds are authorized to be appropriated annually from the general fund of the Treasury.

Proposed § 159.64(b)(2) is revised in the final rule to include the assurance that refunds to importers will not be delayed pending the recovery of overpayments to domestic producers.

Comment: One commenter asserted that Customs had no authority to require repayment of an offset in proposed § 159.64(b)(3) when Customs had overpaid the offset due to an error in liquidation of an import entry.

Customs Response: The ability to recover potential overpayments of disbursed duties due to the reliquidation of import entries is a central feature of issuing disbursements. If Customs were unable to collect overpayments of disbursed duties due to import entry reliquidations, Customs would simply have to delay all disbursements until the time for reliquidation of the relevant import entries had passed, thereby precluding the possibility of overpayments due to reliquidations. Under this latter scenario, for example, disbursements for entries liquidated in Fiscal Year 2001 would not take place until November of 2002 if Customs did not have a mechanism in place to recover potential overpayments. With this mechanism in place, Customs anticipates completing distributions by the end of November 2001.

Unclaimed Offset Not Available for Future Distribution

Comment: Many commenters stated that assessed duties remaining unclaimed after an annual distribution has occurred should not be deposited into the General Fund, as required under proposed § 159.64(c)(1), but should be available for future distributions to affected domestic producers.

Customs Response: Customs disagrees. In Customs view, sections 1675c(c) and (d)(3) of the statute clearly require disbursement of liquidated duties in each fiscal year, based on certifications timely filed for that year's assessments. There is no provision for disbursing duties collected in one fiscal year based on claims that may be filed two or three years later simply because there was a previous unclaimed balance. The CDSOA provides that ''[s]uch distribution shall be made not later than 60 days after the first day of a fiscal year from duties assessed during the preceding fiscal year.'' 19 U.S.C. 1675c(c).

However, the part of proposed § 159.64(c)(1) that dealt with the transfer of balances to different accounts has been deleted from this section in the final rule. Since that information only concerns internal Customs processing, it is not necessary to be included in the regulations.

Proposed § 159.64(c)(1) is changed in the final rule accordingly; and proposed § 159.64(b)(2) and (b)(3) is changed consistent with § 159.64(c)(1).

Requests for Reconsideration of a Disbursement

Comment: In cases where a distribution to an affected domestic producer was not for the entire amount certified, a number of commenters proposed that the time limit within which an affected domestic producer could request a reconsideration of the amount of the distribution be extended beyond the 10 business-day time limit set forth in proposed § 159.64(c)(3).

Customs Response: Customs agrees. Parties will have 30 calendar days, rather than 10 business days, to request reconsideration of a disbursement. Proposed § 159.64(c)(3) is revised in the final rule to include this requirement.

Termination of Orders or Findings

Comment: A number of commenters requested clarification of Customs actions when an order or finding has been terminated by the U.S. Department of Commerce (Commerce).

Customs Response: When an order or finding is terminated by the Department of Commerce, Customs will work with Commerce to determine the extent of unliquidated entries covered by the case. If, for example, there is more than one Commerce review period pending at the time of termination, and Commerce only issues liquidation instructions for one of the pending review periods, Customs will process the entries covered by the instructions as an annual disbursement. The delayed disbursement referred to in § 159.64(d)(2) is limited to the final distribution when the special account established under the order or finding is terminated.

Interest

Comment: Some commenters suggested, with reference to proposed § 159.64(e), that the Clearing Account and the Special Account that Customs establishes under the CDSOA should be interest-bearing accounts.

Customs Response: Customs disagrees. Briefly, as previously explained in the notice of proposed rulemaking, funds in Government accounts are not interest-bearing unless specified by Congress. Because Congress did not make an explicit provision for the accounts established under the CDSOA to be interest-bearing, no interest may accrue on these accounts. Thus, only interest charged on antidumping and countervailing duty funds themselves, pursuant to the express authority in 19 U.S.C. 1677g, will be transferred to the special accounts and be made available for distribution under the CDSOA.

Comment: A number of commenters wanted to know about the interest that Customs pays when antidumping or countervailing duty deposits exceed the final assessed duty amount. These commenters asked if this interest would have any effect on the amount of the offset for an order or finding.

Customs Response: Interest paid by Customs when deposits exceed the amount of the duties assessed will not be taken from either the clearing account or the special account. It is not a part of, and therefore does not reduce, the computation of the continued dumping and subsidy offset for an order or finding that would be distributed to affected domestic producers.

Annual Report; Content; Certain General Information

Comment: A number of commenters suggested that the annual report also contain the following general information for each order or finding: information regarding the number of entries and dollar amounts in the clearing account at the beginning of each fiscal year; the number and amount of Customs reliquidations during the fiscal year; and the dollar amounts remaining uncollected from Customs bills issued during the fiscal year.

Customs Response: Customs agrees that the annual report should include this information as well. Proposed § 159.64(g) is further revised in the final rule to make reference to the inclusion of this additional information in the annual report for public disclosure. Also, in its annual report, Customs will address any initiatives that have been implemented to improve the liquidation and disbursement process under the CDSOA.

Miscellaneous Issues Raised

Comment: Several commenters objected to the CDSOA as violating the World Trade Organization (WTO) agreements on Dumping and Subsidies and the North American Free Trade Agreement (NAFTA).

Customs Response: These comments concern the statute and not the regulations and, accordingly, fall outside the scope of this rulemaking.

Comment: One commenter requested a public hearing. Another commenter requested an extension of the period for filing comments.

Customs Response: Customs finds that the process of informal rulemaking in accordance with the Administrative Procedure Act (5 U.S.C. 553) conducted in this matter was sufficient. The comments received during the proposed rulemaking comment period fairly and adequately addressed the issues that were presented by the proposed rule, and Customs fully considered all views that were contained in the comments in issuing this final rule document. Neither a public hearing nor an extension of the comment period is necessary in this case.

Comment: Several commenters suggested the term ''assessment'' be defined.

Customs Response: Customs disagrees. As explained in the notice of proposed rulemaking, the assessment of duties on an import entry is accomplished by liquidating the subject entry; and, in pertinent part, the term ''liquidation'' is already defined in § 159.1, Customs Regulations (19 CFR 159.1), as the final computation or ascertainment of the duties accruing on an entry.

Comment: There were a few comments requesting a clarification of the pro rata allocation of the offset to affected domestic producers that is required under the statute (19 U.S.C. 1675c(d)(3)).

Customs Response: Customs believes that proposed § 159.64(c)(2), which addresses this issue, is clear and that no further clarification is necessary. Specifically, where the certified net claims exceed the offset available in a special account, the offset will be distributed on a pro rata basis based on each affected domestic producer's total certified claim. For example, on an individual case with only two claimants, if only $1 million is available for disbursement, where Company A claims total qualifying expenditures of $80 million, and Company B claims total qualifying expenditures of $20 million, Company A would receive $800,000 and Company B would receive $200,000. For those parties filing multiple certifications when there is more than one country case for a specific product, Customs will establish internal controls to prevent payments to affected domestic producers in excess of the amounts claimed.

Comment: One commenter suggested that the regulations specify that Customs decisions in administering the statute are subject to judicial review by the U.S. Court of International Trade (USCIT).

Customs Response: Customs disagrees. The CDSOA does not specify which particular federal court would have jurisdiction to review disputes regarding Customs decisions in administering the statute, and Customs lacks authority to confer jurisdiction on a particular court through its regulations.

Additional Changes

Paragraph (b) of proposed § 159.63 is revised to include a requirement that the certification include a statement that the domestic producer has records to support the qualifying expenditures being claimed. Also, paragraph (b)(1)(vi) of proposed § 159.63, allowing for the distribution of an offset via Electronic Funds Transfer (EFT), is deleted since Customs has not made any provision for the electronic payment of the offset. Furthermore, proposed § 159.64(e) is revised in the final rule to reflect that statutory interest charged on antidumping and countervailing duties at liquidation will be transferred only to the special account for the related order or finding, when such interest is collected from the importer.

Conclusion

After careful consideration of the comments received and further review of the matter, Customs has concluded that the proposed amendments should be adopted with the modifications discussed above.

Inapplicability of Delayed Effective Date of Final Rule Document

Customs finds that good cause exists under 5 U.S.C. 553(d)(3) for dispensing with a delayed effective date for this final rule. The final rule will instead be effective upon its date of publication in the **Federal Register**. Customs finds that it would be contrary to the public interest to delay distributions that affected domestic producers are entitled to under the statute. Moreover, dispensing with a delayed effective date is necessary in order to ensure that Customs is able to timely comply with the statutory requirement that assessed duties received in Fiscal Year 2001 be distributed to affected domestic producers by November 30, 2001 as provided in 19 U.S.C. 1675c(c).

Regulatory Flexibility Act and Executive Order 12866

The amendments implement the terms and conditions of the Continued Dumping and Subsidy Offset Act of 2000, which applies to antidumping and countervailing duties assessed on or after October 1, 2000. The amendments are necessary in order to enable and expedite the distribution of the offset to affected domestic producers. For these reasons, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 60127a *et seq.*), it is certified that these amendments do not have a significant economic impact on a substantial number of small entities. Nor do the amendments meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information in this final rule document was submitted for review and has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under OMB control number 1515–0229. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

This collection of information is contained in § 159.63. This information is necessary in order to enable, and to expedite, the distribution of the continued dumping and subsidy offset to the affected domestic producers. The likely respondents and/or recordkeepers are domestic business organizations, such as manufacturers, producers, ranchers, farmers and worker representatives (including associations of such persons). The estimated average annual burden associated with this information collection is 40 hours per respondent or recordkeeper.

Comments on the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

Part 178, Customs Regulations (19 CFR part 178), containing the list of approved information collections, is revised to reflect the additional

information collection burden imposed under this final rule.

List of Subjects

19 CFR Part 159

Antidumping (liquidation of duties), Countervailing duties (liquidation of duties), Customs duties and inspection, Liquidation of entries for merchandise.

19 CFR Part 178

Administrative practice and procedure, Collections of information, Imports, Paperwork requirements, Reporting and recordkeeping requirements.

Amendments to the Regulations

Parts 159 and 178, Customs Regulations (19 CFR parts 159 and 178), are amended as set forth below.

PART 159—LIQUIDATION OF DUTIES

1. The authority citation for part 159 is amended by adding an authority citation for Subpart F so as to read, in part, as follows:

Authority: 19 U.S.C. 66, 1500, 1504, 1624. Subpart C also issued under 31 U.S.C. 5151. Subpart F also issued under 19 U.S.C. 1675c.

* * * * *

2. Part 159 is amended by adding a new subpart F to read as follows:

Subpart F—Continued Dumping and Subsidy Offset

159.61 General.
159.62 Notice of distribution.
159.63 Certifications.
159.64 Distribution of offset.

Subpart F—Continued Dumping and Subsidy Offset

§ 159.61 General.

(a) *Continued dumping and subsidy offset.* Under section 754 of the Tariff Act of 1930, as amended by Public Law 106–387, 114 Stat. 1549 (19 U.S.C. 1675c), known as the Continued Dumping and Subsidy Offset Act of 2000, assessed duties received on or after October 1, 2000 under a countervailing duty order, an antidumping duty order, or a finding under the Antidumping Act of 1921, will be distributed, as provided under this subpart, to affected domestic producers for certain qualifying expenditures that these affected domestic producers incur after the issuance of such an antidumping duty order or finding, or countervailing duty order. This distribution is called the continued dumping and subsidy offset.

(b) *Affected domestic producer.* (1) *General rule.* Except as provided in paragraph (b)(2) of this section, an ''affected domestic producer'' under paragraph (a) of this section means any manufacturer, producer, farmer, rancher or worker representative (including any association of such persons) that remains in operation continuing to produce the product covered by the antidumping duty order or finding or countervailing duty order, and that was a petitioner or an interested party that supported a petition concerning an antidumping duty order, a finding under the Antidumping Act of 1921, or a countervailing duty order that was entered. It is the responsibility of the U.S. International Trade Commission (USITC) to ascertain and timely forward to Customs a list of the domestic producers potentially considered ''affected domestic producers'' eligible to receive a distribution in connection with each order or finding. In addition to the potential ''affected domestic producers'' set forth on the USITC list, the following parties also are potential ''affected domestic producers'':

(i) *Successor company.* In the case of a company that has succeeded to the operations of a predecessor company that appeared on the USITC list, the successor company may file a certification to claim an offset as an affected domestic producer on behalf of the predecessor company. In its certification, the company must name the predecessor company to which it has succeeded and it must describe in detail the duly authorized succession by which it is entitled to file the certification.

(ii) *A member company of an association.* A member company of an association appearing on the USITC list for an order or finding may file a certification to claim an offset as an affected domestic producer, even though the member company does not itself appear on the USITC list, provided that the company also meets the other requirements of the statute. In its certification, the company must name the association of which it is a member and the company must specifically establish that it was a member of the association at the time the association filed the petition with the USITC.

(2) *Exceptions.* A party who is named on the USITC list is not an ''affected domestic producer'' under the following circumstances:

(i) *Product no longer produced.* A company, business or person that has ceased production of the product covered by the antidumping duty order or finding, or countervailing duty order, *i.e.*, did not manufacture that product at all during the fiscal year that is the subject of the disbursement, is not an affected domestic producer under this section.

(ii) *Acquisition by related company.* (A) *Related company defined.* A company, business or person is not an affected domestic producer if that company, business, or person has been acquired by another company or business that is related to a company that opposed the antidumping or countervailing duty investigation that led to the order or finding. For purposes of this paragraph, a company, business or person is related to another company, business or person if:

(*1*) The company, business or person directly or indirectly controls or is controlled by the other company, business or person;

(*2*) A third party directly or indirectly controls both companies, businesses or persons; or

(*3*) Both companies, businesses or persons directly or indirectly control a third party and there is reason to believe that the relationship causes the first company, business or person to act differently than a nonrelated party.

(B) *Control of one party by another.* For purposes of paragraphs (b)(2)(ii)(A)(*1*) through (b)(2)(ii)(A)(*3*) of this section, one party would be considered to directly or indirectly control another party if the party was legally or operationally in a position to exercise restraint or direction over the other party.

(c) *Qualifying expenditures.* Qualifying expenditures which may be offset by a distribution of assessed antidumping and countervailing duties must fall within the categories described in paragraphs (c)(1) through (c)(10) of this section. These expenditures must be incurred after the issuance, and prior to the termination, of the antidumping duty order or finding or countervailing duty order under which the distribution is sought. Further, these expenditures must be related to the production of the same product that is the subject of the related order or finding, with the exception of expenses incurred by associations which must relate to a specific case.

(1) Manufacturing facilities;
(2) Equipment;
(3) Research and development;
(4) Personnel training;
(5) Acquisition of technology;
(6) Health care benefits for employees paid for by the employer;
(7) Pension benefits for employees paid for by the employer;
(8) Environmental equipment, training, or technology;
(9) Acquisition of raw materials and other inputs; and
(10) Working capital or other funds needed to maintain production.

§ 159.62 Notice of distribution.

(a) *Publication of notice.* At least 90 days before the end of a fiscal year, Customs will publish in the **Federal Register** a notice of intention to distribute assessed duties received as the continued dumping and subsidy offset for that fiscal year. The notice will include the list of domestic producers, based upon the list supplied by the USITC (see § 159.61(b)(1)), that would be potentially eligible to receive the distribution.

(b) *Content of notice.* The notice of intention to distribute the offset will also contain the following:

(1) The case name and number of the particular order or finding concerned, together with the dollar amount contained in the special account for that order or finding as of June 1 of the subject fiscal year (see § 159.64(a)(1)); and

(2) The instructions for filing the certification under § 159.63 in order to claim a distribution.

§ 159.63 Certifications.

(a) *Requirement and purpose for certification.* In order to obtain a distribution of the offset, each affected domestic producer must submit a certification, in triplicate, or electronically as authorized by Customs, to the Assistant Commissioner, Office of Regulations and Rulings, Headquarters, or designee, that must be received within 60 days after the date of publication of the notice in the **Federal Register**, indicating that the affected domestic producer desires to receive a distribution. The certification must enumerate the qualifying expenditures incurred by the domestic producer since the issuance of an order or finding for which a distribution has not previously been made, and it must demonstrate that the domestic producer is eligible to receive a distribution as an affected domestic producer.

(b) *Content of certification.* While there is no established format for a certification, the certification must identify the date of the **Federal Register** notice under which it is submitted, and the case name and the number of the particular order or finding cited in the **Federal Register** notice. The certification must be executed and dated by a party legally authorized to bind the domestic producer. The certification must also state that the information contained in the certification is true and accurate to the best of the certifier's knowledge and belief under penalty of law, and that the domestic producer has records to support the qualifying expenditures being claimed.

(1) *Identifying information for domestic producer.* The certification must include the following identifying information related to the domestic producer:

(i) The name of the domestic producer and any name qualifier, if applicable (for example, any other name under which the domestic producer does business or is also known);

(ii) The address of the domestic producer (if a post office box, the secondary street address must also be included);

(iii) The Internal Revenue Service (IRS) number (with suffix) of the domestic producer, employer identification number, or social security number, as applicable;

(iv) The specific business organization of the domestic producer (corporation, partnership, sole proprietorship); and

(v) The name(s) of any individual(s) designated by the domestic producer as the contact person(s) concerning the certification, together with the phone number(s) and/or facsimile transmission number(s) and electronic mail (email) address(es) for the person(s).

(2) *Amount of claim.* In calculating the amount of the distribution being claimed as an offset, the certification must enumerate the following:

(i) The total amount of qualifying expenditures currently and previously certified by the domestic producer, and the amount certified by category(see § 159.61(c)(1) through (c)(10));

(ii) The total amount of those expenditures which have been the subject of any prior distribution under section 754, Tariff Act of 1930, as amended (19 U.S.C. 1675c); and

(iii) The net amount for new and remaining qualifying expenditures being claimed in the current certification (the total amount currently and previously certified as noted in paragraph (b)(2)(i) of this section minus the total amount the subject of any prior distribution as noted in paragraph (b)(2)(ii) of this section).

(3) *Statement of eligibility to receive distribution.* The certification must contain a statement that the domestic producer desires to receive a distribution and is eligible to receive the distribution as an affected domestic producer (see § 159.61(b)(1) and (b)(2)).

(i) *Amount certified for payment.* The affected domestic producer must affirm that the net amount certified for distribution does not encompass any qualifying expenditures for which distribution has previously been made (see paragraphs (b)(2)(ii) and (b)(2)(iii) of this section).

(ii) *Same qualifying expenditures included on more than one certification.* Where the domestic producer is listed as an affected domestic producer on more than one order or finding covering the same product and files a separate certification for each order or finding using the same qualifying expenditures as the basis for distribution in each case, each certification must list all the other orders or findings where the producer is claiming the same qualifying expenditures.

(iii) *Continued production of product covered by order or finding; acquisition by related company.* The statement must include information as to whether the domestic producer remains in operation and continues to produce the product covered by the particular order or finding under which the distribution is sought (see § 159.61(b)(2)(i)). In addition, the domestic producer must state whether it has been acquired by a company or business that is related to a company, within the meaning of § 159.61(b)(2)(ii)(A)(*1*) through (*3*), that opposed the antidumping or countervailing duty investigation that resulted in the order or finding under which the distribution is sought.

(c) *Review and correction of certification.* A certification that is submitted in response to a notice of distribution and received within 60 days after the date of publication of the notice in the **Federal Register** may be reviewed before acceptance to ensure that all informational requirements are complied with and that any amounts set forth in the certification for current and prior qualifying expenditures, including the amount claimed for distribution, appear to be correct (see paragraph (b)(2) of this section). A certification that is found to be materially incorrect or incomplete will be returned to the domestic producer within 15 days after the close of the 60-day filing period. Within 10 days of the date that Customs returns a certification as being materially incorrect or incomplete, Customs must receive a corrected certification from the affected domestic producer. Customs will make every effort to assist companies to perfect their certifications and will not return claims for minor errors or omissions. However, it remains the sole responsibility of the domestic producer to ensure that the certification is correct, complete and satisfactory so as to demonstrate the entitlement of the domestic producer to the distribution requested. Failure to ensure that the certification is correct, complete and satisfactory as provided in this paragraph will result in the domestic producer not receiving a distribution.

(d) *Verification of certification; supporting records.* Certifications are

subject to verification. Parties, therefore, are required to maintain the accounting records used in developing their claims, for a period of five years after the filing of the certification. The records supporting certifications must be those that are normally kept in the ordinary course of business (see § 163.1(a)(1) and (a)(2)(vi) of this chapter). Parties must be able to demonstrate that their records specifically support each qualifying expenditure enumerated in a certification. In addition, the claimant must be able to support how qualifying expenditures are determined to be related to the production of the product covered by the order or finding.

(e) *Disclosure of information in certifications; acceptance by producer.* The name of the affected domestic producer, the total dollar amount claimed by that party on the certification, as well as the total dollar amount that Customs actually disburses to that company as an offset, will be available for disclosure to the public (see § 159.64(g)(1)). The submission of the certification will be construed as an understanding and acceptance on the part of the domestic producer that this information will be disclosed to the public. Alternatively, a statement in a certification that this information is proprietary and exempt from disclosure will result in Customs rejection of the certification.

§ 159.64 Distribution of offset.

(a) *The creation of Special Accounts and Clearing Accounts.*

(1) *Special Accounts.* As directed in the legislation (19 U.S.C. 1675c(e)), Customs will establish Special Accounts for each antidumping duty order or finding or countervailing duty order, into which funds will be transferred as set out in paragraph (b) of this section. All distributions to affected domestic producers will be made from the Special Accounts.

(2) *Clearing Accounts.* In order to properly manage and account for dumping and subsidy offsets, as well as any requisite refunds to importers, Customs will also establish Clearing Accounts. All estimated antidumping and countervailing duties received pursuant to an antidumping or countervailing order or finding in effect on January 1, 1999, or thereafter, will be deposited into a Clearing Account.

(b) *Distribution of assessed duties received from the Special Accounts; refunds resulting from reliquidation or court action; and overpayments to affected domestic producers.*

(1) *Distribution of assessed duties received from the Special Accounts.*

(i) No later than 60 days after the end of a fiscal year, Customs will distribute the assessed duties transferred from the Clearing Accounts and received into the Special Accounts. The amount distributed shall be referred to as the dumping and subsidy offset;

(ii) Transfers from the Clearing Accounts to the Special Accounts will be made by Customs throughout the fiscal year. Transfers will occur between a Clearing Account and a Special Fund Account when an entry upon which antidumping or countervailing duties are owed is properly liquidated pursuant to an order, finding or receipt of liquidation instructions;

(iii) The amount transferred at liquidation to the Special Account will be dependent upon the amount actually collected on the entry and in the Clearing Account. Following liquidation, additional transfers will be made on the liquidated entry to the corresponding Special Account, as additional antidumping or countervailing duties are collected.

(2) *Refunds resulting from reliquidation or court action.* If any of the underlying entries composing a prior distribution should reliquidate for a refund, such refund will be recovered from the corresponding Special Account. Similarly, refunds to importers resulting from any court action involving those entries will also be recovered from the corresponding Special Account. Refunds to importers will not be delayed pending the recovery of overpayments from domestic producers as set out in paragraph (b)(3) of this section.

(3) *Overpayments to affected domestic producers.* Overpayments to affected domestic producers resulting from subsequent reliquidations and/or court actions and determined by Customs to be not otherwise recoverable from the corresponding Special Account as set out in paragraph (b)(2) of this section will be collected from the affected domestic producers. The amount of each affected domestic producer's bill will be directly proportional to the total dumping and subsidy offset amounts that the affected domestic producer previously received under the related Special Account. All available collection methods will be used by Customs to collect outstanding bills, including but not limited to, administrative offset. Interest at the same rate set out at § 24.3a(c) of this chapter will begin to accrue on unpaid bills 30 days from the bill date.

(c) *Payment of certified claims.*

(1) If the total amount of the certified net claims filed by affected domestic producers does not exceed the amount of the offset available for distribution in the corresponding Special Account, the certified net claim for each affected domestic producer will be paid in full.

(2) If the certified net claims exceed the dumping and subsidy offset amount available in the corresponding Special Account, such offset will be made on a pro rata basis based on each affected domestic producer's total certified claim.

(3) In any case where the distribution is not for the entire certified qualifying expenditure submitted by an affected domestic producer, and if the affected domestic producer believes that the reduction was the result of clerical error or mistake by Customs, it must file a request for reconsideration within 30 calendar days to the address given in the notification. After considering the matter, the Customs Service will notify the party requesting reconsideration of its decision. However, any adjustments will be made only from funds remaining in the account for that case in the current or future fiscal years, and will be paid prior to any future distributions.

(d) *Final distribution and termination of the Special Account.*

(1) A Special Account will be terminated and a final distribution will occur when:

(i) The order or finding with respect to which the account was established has terminated; and

(ii) All entries relating to the order or finding are liquidated, all outstanding amounts collected or properly accounted for by Customs, all related protests, petitions, and court actions fully concluded, and all refunds due to importers on the underlying entries are paid in full.

(2) Once the requirements set out in paragraph (d)(1) of this section have been met, notice of a final distribution will be issued pursuant to § 159.62.

(3) Amounts not timely claimed under the notice of final distribution will be permanently deposited into the General Fund of the Treasury.

(e) *Interest on Special Accounts and Clearing Accounts.* In accordance with Federal appropriations law, and Treasury guidelines on Special Accounts, funds in such accounts are not interest-bearing unless specified by Congress. Likewise, funds being held in Clearing Accounts are not interest-bearing unless specified by Congress. Therefore, no interest will accrue in these accounts. However, statutory interest charged on antidumping and countervailing duties at liquidation will be transferred to the Special Account, when collected from the importer.

(f) *Distribution final and conclusive.* Except as provided in paragraphs (b)(3)

and (c)(3) of this section, any distribution made to an affected domestic producer under this section shall be final and conclusive on the affected domestic producer.

(g) *Annual report; disclosure of information.* Although it is not mandated in the law (19 U.S.C. 1675c), Customs will issue an annual report on the disbursements. This report will be available to the public via the Customs website. The annual report will address any initiatives that have been implemented to improve the liquidation and disbursement process. In addition, the annual report will include the information described in paragraphs (g)(1) and (g)(2) of this section.

(1) *Company-specific information.* The annual report will include the following information concerning those parties that have submitted certifications for a distribution of the offset with respect to each order or finding as identified by its case number:

(i) The name of the claimant;

(ii) The total dollar amount claimed by that party on its certification; and

(iii) The total dollar amount disbursed to that company by Customs.

(2) *General information.* The annual report will include the following general information for each order or finding as identified by its case number:

(i) The number of entries and dollar amounts in the clearing account at the beginning of each fiscal year;

(ii) The number and amount of Customs re-liquidations during the fiscal year; and

(iii) The dollar amounts remaining uncollected from Customs bills issued during the fiscal year.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding a new listing in the table in appropriate numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR section	Description	OMB control No.
* * *	* * *	*
§ 159.63	Distribution of continued dumping and subsidy offset to affected domestic producers.	1515–0229
* * *	* * *	*

Approved: September 17, 2001.

Charles W. Winwood,

Acting Commissioner of Customs.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–23562 Filed 9–18–01; 3:36 pm]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

31 CFR Part 1

Internal Revenue Service; Privacy Act, Implementation

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, as amended, the Department of the Treasury gives notice of a final rule to exempt an Internal Revenue Service system of records entitled ''Third Party Contact Reprisal Records-Treasury/IRS 00.334'' from certain provisions of the Privacy Act. The exemption is intended to comply with the legal prohibitions against the disclosure of certain kinds of information and to protect certain information, about individuals, maintained in this system of records.

EFFECTIVE DATE: September 21, 2001.

FOR FURTHER INFORMATION CONTACT: David Silverman, Tax Law Specialist, 6103/Privacy Operations, Governmental Liaison and Disclosure, Internal Revenue Service, at (202) 622–6200.

SUPPLEMENTARY INFORMATION: The Department of the Treasury published a notice of a proposed rule exempting a system of records from certain provisions of the Privacy Act of 1974, as amended. The Internal Revenue Service (IRS) published the system notice in its entirety at 65 FR 63917–63918 (October 25, 2000), and the proposed rule in the same **Federal Register** on pages 63824–63826.

Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, as amended, if the system is investigatory material compiled for law enforcement purposes. The Third Party Contact Reprisal Records-Treasury/IRS 00.334, contains investigatory material compiled for law enforcement purposes.

The proposed rule requested that public comments be sent to the Internal Revenue Service, Office of Governmental Liaison and Disclosure, 1111 Constitution Ave., NW., Washington, DC 20224, no later than November 24, 2000.

The IRS did not receive comments on the proposed rule. Accordingly, the Department of the Treasury is hereby giving notice that the system of records entitled ''Third Party Contact Reprisal Records-Treasury/IRS 00.334,'' is exempt from certain provisions of the Privacy Act. The provisions of the Privacy Act from which exemption is claimed pursuant to 5 U.S.C. 552a(k)(2) are as follows: 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f).

As required by Executive Order 12866, it has been determined that this proposed rule is not a significant regulatory action, and therefore, does not require a regulatory impact analysis.

The regulation will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby certified that these regulations will not significantly affect a substantial number of small entities. The final rule imposes no duties or obligations on small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1995, the Department of the Treasury has determined that this final rule would not impose new record keeping, application, reporting, or other types of information collection requirements.

List of Subjects in 31 CFR Part 1

Privacy.

Part 1, Subpart C of title 31 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

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

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

2. Section 1.36 paragraph (g)(1)(viii) is amended by adding the following text to the table in numerical order.

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 522a and this part.

* * * * *

(g) * * *
(1) * * *
(viii) * * *

System number	Name of system
* *	* * *
IRS 00.334	Third Party Contact Reprisal Records
* *	* * *

Dated: September 5, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

[FR Doc. 01–23674 Filed 9–20–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–032]

Drawbridge Operating Regulation; Bayou Lafourche, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the SR 1 (Leeville) vertical lift bridge across Bayou Lafourche, mile 13.3, at Leeville, Lafourche Parish, Louisiana. This deviation allows the Louisiana Department of Transportation and Development (LDOTD) to close the bridge to navigation from 8 a.m. until 5 p.m. daily from Thursday, November 8, 2001 through Wednesday, December 5, 2001. This temporary deviation is issued to allow for the cleaning and painting of the counterweight towers of the bridge.

DATES: This deviation is effective from 8 a.m. on Thursday, November 8, 2001 until 5 p.m. on Wednesday, December 5, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obc), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, BridgeAdministration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The SR 1 (Leeville) vertical lift span bridge across Bayou Lafourche, mile 13.3, at Leeville, Lafourche Parish, Louisiana, has a vertical clearance of 40 feet above mean high water in the closed-to-navigation position and 73 feet above mean high water in the open-to-navigation position. The containment equipment for the project will reduce the vertical clearance by two feet. Navigation on the waterway consists mainly of fishing vessels, recreation vessels and tugs with tows. LDOTD requested a temporary deviation from the normal operation of the drawbridge in order to accommodate the cleaning and painting of the bridge counterweight towers. This work is necessary for the continued safe operation of the bridge.

This deviation allows the draw of the SR 1 (Leeville) vertical lift span drawbridge across Bayou Lafourche, 13.3, to remain closed to navigation from 8 a.m. until 5 p.m. daily from Thursday, November 8, 2001 through Wednesday, December 5, 2001.

Dated: September 6, 2001.

Roy J. Casto,

Rear Admiral, U. S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–23685 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–01–091]

RIN 2115–AE47

Drawbridge Operation Regulations: Maybank Highway Bridge, Stono River, Johns Island, SC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations governing the operation of the Maybank Highway Bridge across the Stono River mile 11.0, Johns Island, Charleston County, SC. This rule alters the existing on-demand operating schedule by placing the bridge on a regular opening schedule Monday through Friday except Federal holidays. This rule also allows the bridge to remain closed during the morning and evening rush hours. This rule is necessary to facilitate traffic flow during the construction of a replacement bridge.

DATES: This rule is effective on October 22, 2001.

ADDRESSES: Comments and material received from the public as well as documents indicated in this preamble as being available in the docket are part of docket [CGD07–01–091] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Miami, Florida, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Project Officer, Seventh Coast Guard District, Bridge Branch, at (305) 415–6743.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM was unnecessary and contrary to public interest since immediate action is needed to alleviate traffic congestion due to the advanced progress of the bridge replacement project.

Background and Purpose

The Maybank Highway Bridge across the Stono River mile 11.0 at Johns Island, Charleston County, SC, has a vertical clearance of 8 feet in the closed position at mean high water and a horizontal clearance of 55 feet between fenders. On November 6, 2000, the South Carolina Department of Transportation requested a modification from the current operating regulation in 33 CFR 117.5 which requires the drawbridge to open on signal.

Under this rule, the Maybank Highway Bridge shall open on signal: except that the draw need not open from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday except Federal holidays. Between 9 a.m. and 4 p.m., Monday through Friday except Federal holidays, the draw need open only on the hour and half hour. The

draw shall open as soon as possible for the passage of tugs with tows, public vessels of the United States and vessels in a situation where a delay would endanger life or property.

The John Limehouse Bridge, which is in close proximity to the Maybank Highway Bridge, is being replaced with a high-level fixed bridge. In addition, the Maybank Highway Bridge is also scheduled to be replaced. These two bridges are main access arteries onto and off of Johns Island, SC. This regulation will improve the transportation scheme for vehicular traffic during the construction of these bridge projects.

Regulatory Evaluation

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

Small Entities

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

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit under the Maybank Highway Bridge from 7 a.m. until 6 p.m., Monday through Friday, except Federal holidays. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities as the rule allows scheduled openings and all exempt vessels shall be passed at any time.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531—1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard has considered the environmental impact of this action and has determined under Figure 2–1, paragraph 32(e) of Commandant Instruction M16475.1D, that this rule is categorically excluded from further environmental documentation.

Indian Tribal Governments

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

Energy Effects

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Redesignate § 117.937 [Savannah River] as § 117.936.

3. Add § 117.937 to read as follows:

§ 117.937 Stono River, mile 11.0 at Johns Island, SC.

The draw of the Maybank Highway Bridge shall open on signal; except that the draw need not open from 7 a.m. to 9 a.m. and from 4p.m. to 6 p.m., Monday through Friday except Federal holidays. Between 9 a.m. and 4 p.m., Monday through Friday except Federal holidays, the draw need open only on the hour and half hour. The draw shall open as soon as possible for the passage of tugs with tows, public vessels of the United States and vessels in a situation where a delay would endanger life or property.

Dated: September 10, 2001.

J.S. Carmichael,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 01–23684 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–031]

Drawbridge Operating Regulation; Bayou Lafourche, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the SR 1 (Leeville) vertical lift bridge across Bayou Lafourche, mile 13.3, at Leeville, Lafourche Parish, Louisiana. This deviation allows the Louisiana Department of Transportation and Development (LDOTD) to close the bridge to navigation from 8 a.m. until noon and from 1 p.m. until 5:30 p.m. daily from Monday, September 24, 2001 through Saturday, November 3, 2001. This temporary deviation is issued to allow for the cleaning and painting of the vertical lift span of the bridge.

DATES: This deviation is effective from 8 a.m. on Monday, September 24, 2001 until 5:30 p.m. on Saturday, November 3, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obc), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, BridgeAdministration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The SR 1 (Leeville) vertical lift span bridge across Bayou Lafourche, mile 13.3, at Leeville, Lafourche Parish, Louisiana, has a vertical clearance of 40 feet above mean high water in the closed-to-navigation position and 73 feet above mean high water in the open-to-navigation position. The containment equipment for the project will reduce the vertical clearance by two feet. Navigation on the waterway consists mainly of fishing vessels, recreation vessels and tugs with tows. LDOTD requested a temporary deviation from the normal operation of the drawbridge in order to accommodate the cleaning and painting of the vertical lift span on the bridge. This work is necessary for the continued safe operation of the bridge. A separate deviation will be required in the future to accommodate the cleaning and painting of the tower counterweight sections of the bridge.

This deviation allows the draw of the SR 1 (Leeville) vertical lift span drawbridge across Bayou Lafourche, 13.3, to remain closed to navigation from 8 a.m. until noon and from 1 p.m. until 5:30 p.m. from Monday, September 24, 2001 through Saturday, November 3, 2001.

Dated: September 6, 2001.

Roy J. Castro,

Rear Admiral, U. S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–23683 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–01–094]

Drawbridge Operation Regulations: Highbridge Road Drawbridge, Atlantic Intracoastal Waterway, Volusia County, Florida

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Highbridge Road Drawbridge, Atlantic Intracoastal Waterway, mile 816, Volusia County, Florida. This deviation allows the bridge owner to provide single leaf openings from September 17, 2001 through September 30, 2001. This temporary deviation is required to allow the bridge owner to safely complete repairs to the bridge.

DATES: This deviation is effective from 8 a.m. on September 17, 2001 until 5 p.m. on September 30, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket [CGD07–01–094] and will be available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Miami, FL 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Section at (305) 415–6743.

SUPPLEMENTARY INFORMATION: Highbridge Road Drawbridge, Atlantic Intracoastal Waterway, Volusia County, Florida, is a double leaf bridge with a vertical clearance of 15 feet above mean high water (MHW) measured at the fenders in the closed position and a horizontal clearance of 91 feet. The current operating regulation in 33 CFR 117.5 requires the draw to fully open on signal.

On July 17, 2001, the drawbridge owner requested a deviation from the current operating regulations to allow the owner to complete repairs.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.5 to complete these repairs. Under this deviation, the Highbridge Road Drawbridge, shall open on single leaf from 8 a.m. on September 17, 2001 until 5 p.m. on September 30, 2001.

Dated: September 12, 2001.

Greg E. Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 01–23682 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 3 and 13

RIN 2900–AK68

Veterans Benefits and Health Care Improvement Act of 2000

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends various Department of Veterans Affairs (VA) regulations concerning the definition of the term ''active military, naval, or air service''; the payment limitation based on the value of certain incompetent veterans' estates; the plot allowance for certain individuals buried in State veterans' cemeteries; and the limitation on payment of pension for certain recipients of Medicaid-covered nursing home care. The amendments are necessary to reflect statutory changes contained in the Veterans Benefits and Health Care Improvement Act of 2000.

DATES: *Effective Date:* November 1, 2000.

FOR FURTHER INFORMATION CONTACT: Bob White, Team Leader, Plain Language Regulations Project, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7228. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Section 301 of the Veterans Benefits and Health Care Improvement Act of 2000 (the Act), Pub. L. No. 106–419, amended 38 U.S.C. 101(24), which defines the term ''active military, naval, or air service'' to also include periods of inactive duty training during which individuals become disabled or die from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident that occurred during such training. Section 301 also amended 38 U.S.C. 106(d) to provide that if a person was disabled or died as a result of any of these three diseases having occurred while the person was proceeding directly to or returning directly from a period of active duty for training or inactive duty training, such person would be deemed to have been on active duty for training or inactive duty training, as the case may be. We have amended paragraphs (a) and (e) of 38 CFR 3.6 to reflect the new statutory requirements.

Section 304 of the Act amended 38 U.S.C. 5503(b)(1), which sets forth a limitation on the payment of benefits to certain incompetent veterans who are hospitalized or institutionalized at government expense, who have neither spouse nor child, and who have estates with values that equal or exceed a specified amount. Under prior law, benefits were discontinued when the value of such veterans' estates equaled or exceeded $1,500; payments could not be resumed until the value of those estates had been reduced to $500. Under section 304 of the Act, effective November 1, 2000, benefits may not be discontinued until the estate of an affected incompetent veteran equals or exceeds an amount equal to five times the rate of compensation payable under 38 U.S.C. 1114(j) (the rate payable to a totally disabled veteran with no dependents). Under the new provision, benefit payments discontinued because of the estate limitation may not be resumed until the veteran's estate has been reduced to one-half the amount of the new estate limitation.

Because the rate of compensation payable under 38 U.S.C. 1114(j) is generally increased on an annual basis to keep pace with inflation, VA would have to make annual regulatory amendments to ten different regulations if we were to simply insert new dollar amounts where the regulations currently specify $1,500 and $500. This would be extremely burdensome on VA and would invariably result in regulations that specify incorrect dollar amounts until amendments to reflect increases in those amounts made their way through the regulatory process.

To prevent this result, VA has amended 38 CFR 3.557(b) to describe the method required by section 304 of the Act for calculating the dollar values for the estates of incompetent veterans which will trigger discontinuance or resumption of benefit payments. Each time there is an increase in the rate of compensation payable under 38 U.S.C. 1114(j), VA will calculate the new dollar values for discontinuance and resumption and will publish those dollar values in the Notices section of the **Federal Register**. The new values will be effective on the same day that the increase in the section 1114(j) rate becomes effective. In this way VA will be spared the burden of annually amending numerous regulations, and the public will have access to both the calculation method and the actual dollar value calculated using that method.

In § 3.557(b) we are also deleting the introductory phrase ''Effective December 1, 1959,''. That phrase has no relevance to current claims processing.

In addition to § 3.557 there are several other regulations referring to the estate values that trigger discontinuance or resumption of benefits for certain incompetent veterans, either in their titles, text or cross-references. We have amended these regulations to remove references to specific dollar amounts. Where amounts appeared in the regulatory text, we have replaced them with references to the amounts calculated under § 3.557(b). Where specific amounts appeared in titles or cross-references we have amended them to eliminate reference to a dollar amount. The affected regulations are §§ 3.353, 3.452, 3.501, 3.558, 3.559, 3.1007, 13.70, 13.71 and 13.108.

Section 333 of the Act amended 38 U.S.C. 2303(b)(1), which governs eligibility for the plot or interment allowance when a veteran is buried in a cemetery, or a section of a cemetery, that is owned by a State or by an agency or a political subdivision of a State. The allowance was previously payable only if the cemetery, or section of the cemetery, was used solely for the interment of persons who were eligible for burial in a national cemetery. Section 333 expanded eligibility to include cemeteries, or sections of cemeteries, that are also used for the interment of persons who were members of a reserve component of the Armed Forces not otherwise eligible for burial in a national cemetery or who were former members of such a reserve component not otherwise eligible for burial in a national cemetery who were discharged or released from service under conditions other than dishonorable. We have amended § 3.1604(d)(1)(ii) to reflect these expanded eligibility criteria. These criteria apply only to the burial of persons dying on or after November 1, 2000.

Section 402(e) of the Act extended, until September 30, 2008, the expiration date for 38 U.S.C. 5503(f), which governs the amount of pension payable to certain veterans and surviving spouses receiving Medicaid-covered nursing home care. That provision was due to expire on September 30, 2002. We have amended § 3.551(i) to reflect the statutory change.

This final rule reflects statutory requirements. Accordingly, there is a basis for dispensing with the prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

Because no notice of proposed rulemaking was required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612). Even so, the Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory

Flexibility Act. This final rule will not directly affect any small entities. Only VA beneficiaries are directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirement of sections 603 and 604.

(The Catalog of Federal Domestic Assistance program numbers are 64.101, 64.104, 64.105, 64.109, 64.110, and 64.127.)

List of Subjects

38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

38 CFR Part 13

Surety bonds, Trusts and trustees, and Veterans.

Approved: May 21, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR parts 3 and 13 are amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.6, paragraphs (a) and (e) are revised to read as follows:

§ 3.6 Duty periods.

(a) *Active military, naval, and air service.* This includes active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty or from a covered disease which occurred during such training. For purposes of this section, the term ''covered disease'' is limited to—

(1) An acute myocardial infarction,

(2) A cardiac arrest, or

(3) A cerebrovascular accident.

(Authority: 38 U.S.C. 101(24))

* * * * *

(e) *Travel status—training duty (disability or death from injury or covered disease).* Any individual:

(1) Who, when authorized or required by competent authority, assumes an obligation to perform active duty for training or inactive duty training; and

(2) Who is disabled or dies from an injury or covered disease incurred while proceeding directly to or returning directly from such active duty for training or inactive duty training shall be deemed to have been on active duty for training or inactive duty training, as the case may be. The Department of Veterans Affairs will determine whether such individual was so authorized or required to perform such duty, and whether the individual was disabled or died from an injury or covered disease so incurred. In making such determinations, there shall be taken into consideration the hour on which the individual began to proceed or return; the hour on which the individual was scheduled to arrive for, or on which the individual ceased to perform, such duty; the method of travel performed; the itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this paragraph, the burden of proof shall be on the claimant.

(Authority: 38 U.S.C. 106(d))

§ 3.353 [Amended]

3. In § 3.353, paragraph (b)(1) is amended by removing ''in excess of $1,500 (§ 3.557(b))'' and adding, in its place, ''that equals or exceeds the amount specified in § 3.557(b)(4)''.

4. The ''CROSS REFERENCES'' section immediately following § 3.452 is revised to read as follows:

§ 3.452 Veterans benefits apportionable.

* * * * *

Cross References: Institutional awards. See § 3.852. Disappearance of veteran. See § 3.656. Reduction because of hospitalization. See § 3.551. Penal institutions. See § 3.666. Incompetents; estate equals or exceeds statutory limit and institutionalized. See § 3.557.

§ 3.501 [Amended]

5. In § 3.501, paragraph (i)(7) is amended by removing ''$1,500'' each time it appears and adding, in its place, ''the amount specified in § 3.557(b)(4)''.

§ 3.551 [Amended]

6. In § 3.551, paragraph (i) is amended by removing ''2002'' and adding, in its place, ''2008''.

7. Section 3.557 is amended by:

A. Revising the section heading and paragraph (b).

B. In paragraph (d) removing ''$1,500'' and adding, in its place, ''the amount specified in paragraph (b)(4) of this section''.

C. Revising The ''CROSS REFERENCES'' section immediately following § 3.557.

The revisions read as follows:

§ 3.557 Incompetents; estate equals or exceeds statutory limit and institutionalized.

* * * * *

(b) Where a veteran:

(1) Is rated incompetent by VA,

(2) Has neither spouse nor child,

(3) Is hospitalized, institutionalized or domiciled by the United States or any political subdivision, with or without charge, and

(4) Effective November 1, 2000, has an estate, derived from any source, which equals or exceeds an amount which is five times the rate of compensation specified in 38 U.S.C. 1114(j), further payments of pension, compensation or emergency officer's retirement pay will not be made, except as provided in paragraph (d) of this section, until the estate is reduced to one-half that amount. Whenever there is an increase in the rate of compensation payable under 38 U.S.C. 1114(j) for a veteran with a service-connected disability rated as total, effective on the date such increase becomes effective, the amount specified in paragraph (b)(4) shall be an amount equal to five times such increased rate of compensation. The dollar value of that increased amount, as well as the dollar value of one-half that amount, will be published in the Notices section of the **Federal Register**. If the veteran is hospitalized for observation and examination, the date treatment began is considered the date of admission.

* * * * *

Cross References: Veterans disability pension. See § 3.454(c). Reductions and discontinuances; general. See § 3.500. Reductions and discontinuances; veterans. See § 3.501. Amounts withheld or not paid incompetent veteran. See § 3.1007. Estate equals or exceeds statutory limit. See § 13.108 of this chapter. Determination of value of estate. See § 13.109 of this chapter.

8. In § 3.558, the section heading and paragraph (a) are revised to read as follows:

§ 3.558 Resumption and payment of withheld benefits; incompetents with estates that equaled or exceeded statutory limit.

(a) Where payment has been discontinued by reason of § 3.557(b), it will not be resumed during hospitalization except as provided in § 3.557(e) or paragraph (b) of this section until proper notice has been received showing the estate is reduced to one-half the amount specified in § 3.557(b)(4) or less. Payments will not

be made for any period prior to the date on which the estate was reduced to one-half the amount specified in § 3.557(b)(4) or less.

(Authority: 38 U.S.C. 5503)

* * * * *

9. Section 3.559 is amended by:

A. Revising the section heading.

B. In paragraph (a), removing ''$500'' and adding, in its place, ''one-half the amount specified in § 3.557(b)(4)''.

C. In paragraph (b), removing ''is then $1,500 or more'' and adding, in its place, ''equals or exceeds the amount specified in § 3.557(b)(4)''.

The revision reads as follows:

§ 3.559 Resumption—where the estate equals or exceeds the statutory limit and includes chose in action.

* * * * *

§ 3.1007 [Amended]

10. Section 3.1007 is amended by removing ''$1,500'' and adding, in its place, ''the amount specified in § 3.557(b)(4)''.

Subpart B—Burial Benefits

11. The authority citation for part 3, subpart B continues to read as follows:

Authority: 105 Stat. 386, 38 U.S.C. 501(a), 2302–2308, unless otherwise noted.

12. In § 3.1604, paragraph (d)(1)(ii) is revised to read as follows:

§ 3.1604 Payments from non-Department of Veterans Affairs sources.

* * * * *

(d) * * *

(1) * * *

(ii) The deceased veteran is buried in a cemetery or a section thereof which is used solely for the interment of persons who are eligible for burial in a national cemetery or who, with respect to persons dying on or after November 1, 2000, were at the time of death members of a reserve component of the Armed Forces not otherwise eligible for such burial or were former members of such a reserve component not otherwise eligible for such burial who were discharged or released from service under conditions other than dishonorable.

* * * * *

PART 13—VETERANS BENEFITS ADMINISTRATION, FIDUCIARY ACTIVITIES

13. The authority citation for part 13 continues to read as follows:

Authority: 72 Stat. 1114, 1232, as amended, 1237; 38 U.S.C. 501, 5502, 5503, 5711, unless otherwise noted.

§ 13.70 [Amended]

14. In § 13.70, paragraph (a)(2) is amended by removing ''$1,500'' and adding, in its place, ''the amount specified in § 3.557(b)(4) of this chapter''.

§ 13.71 [Amended]

15. In § 13.71, paragraph (b) is amended by removing ''$1,500'' and adding, in its place, ''the amount specified in § 3.557(b)(4) of this chapter''.

16. Section 13.108 is amended by:

A. Revising the section heading.

B. In paragraph (a), removing ''$1,500'' and adding, in its place, ''the amount specified in § 3.557(b)(4) of this chapter'', and by removing ''$500'' and adding, in its place, ''one-half the amount specified in § 3.557(b)(4) of this chapter''.

C. In paragraph (c), removing ''exceeds $1,500'' and adding, in its place, ''equals or exceeds the amount specified in § 3.557(b)(4) of this chapter''.

The revision reads as follows:

§ 13.108 Estate equals or exceeds statutory limit; 38 U.S.C. 5503(b)(1).

* * * * *

[FR Doc. 01–23552 Filed 9–20–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0060a; MT–001–0032a; FRL–7055–4]

Approval and Promulgation of Air Quality Implementation Plans for Colorado and Montana: Transportation Conformity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Colorado and Montana State Implementation Plans (SIPs) that incorporate consultation procedures for transportation conformity. The conformity rules assure that in air quality nonattainment or maintenance areas, projected emissions from transportation plans and projects stay within the motor vehicle emissions ceiling in the SIP. The transportation conformity SIP revisions enable the States to implement and enforce conformity consultation procedures in regulations for Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws. We are approving these SIP revisions under sections 110(k) and 176 of the Clean Air Act (Act).

DATES: This rule is effective on November 20, 2001 without further notice, unless EPA receives adverse comment by October 22, 2001. If we receive adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices:

United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466; and,

United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

Copies of the State documents relevant to this action are available for public inspection at:

Colorado Department of Public Health and Environment, 4300 Cherry Creek Dr. S., Denver, Colorado 80246–1530.

Montana Department of Environmental Quality, Planning, Prevention and Assistance Division, 1520 East 6th Avenue, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Kerri Fiedler, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Telephone number: (303) 312–6493.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''our,'' or ''us'' is used, we mean EPA.

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I. Background

a. What Is Transportation Conformity?

Conformity first appeared in the Act's 1977 amendments (Public Law 95–95). Although the Act did not define conformity, it stated that no Federal department could engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP which has been approved or promulgated.

The Act's 1990 Amendments expanded the scope and content of the conformity concept by defining conformity to an implementation plan. Section 176(c) of the Act defines conformity as conformity to an implementation plan's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards (NAAQS) and achieving expeditious attainment of such standards. Also, the Act states that no Federal activity will: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

b. Why Must the States Submit a Transportation Conformity SIP?

We were required to issue criteria and procedures for determining conformity of transportation plans, programs, and projects to a SIP by section 176(c) of the Act. The Act also required that each State submit a revision to its SIP including conformity criteria and procedures. We published the first transportation conformity rule in the November 24, 1993, **Federal Register** (FR), and it was codified at 40 CFR part 51, subpart T and 40 CFR part 93, subpart A. We originally required the States and local agencies to adopt and submit a transportation conformity SIP revision to us by November 25, 1994. However, we revised the transportation conformity rule on August 7, 1995 (60 FR 40098), November 14, 1995 (60 FR 57179), August 15, 1997 (62 FR 43780), and it was codified under 40 CFR part 51, subpart T and 40 CFR part 93, subpart A—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws (62 FR 43780). Our action of August 15, 1997, required the States to change their rules and submit a SIP revision by August 15, 1998.

c. How Does Transportation Conformity Work?

The Federal (or State) transportation conformity rule applies to all nonattainment and maintenance areas in a State. The Metropolitan Planning Organizations (MPOs), the State Departments of Transportation (in absence of a MPO), and U.S. Department of Transportation (USDOT) make conformity determinations. These agencies make conformity determinations on programs and plans such as transportation improvement programs, transportation plans, and projects. The MPOs calculate the projected emissions for the transportation plans and programs and compare those calculated emissions to the motor vehicle emissions ceiling established in the SIP. The calculated emissions must be smaller than the motor vehicle emissions ceiling (the ''emissions budget'') for showing positive conformity with the SIP.

II. Approval of the States' Transportation Conformity Rules

a. What Did the States Submit?

On November 5, 1999, the Governor of Colorado submitted a SIP revision that includes revisions to Colorado Regulation No. 10, Criteria for Analysis of Conformity, Part B—Conformity to State Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under title 23 U.S.C. or the Federal Transit Act. The Colorado Air Quality Control Commission (AQCC) adopted this SIP revision on October 15, 1998 after appropriate public participation and interagency consultation.

On August 26, 1999, the Governor of Montana submitted a SIP revision that includes revisions to the Transportation Conformity section of its air quality rules (Sub-Chapter 13 of the Administrative Rules of Montana 9.2.2). The Montana Board of Environmental Review adopted this SIP revision on May 14, 1999 after appropriate public participation and interagency consultation. This SIP revision superseded an earlier version of the transportation conformity SIP that was adopted on August 8, 1996 and submitted on February 21, 1997.

b. What Is EPA Approving Today and Why?

We are approving the Colorado and Montana transportation conformity rules except for the incorporation by reference of 40 CFR Part 93, Subpart A, into Colorado Regulation No. 10. The rationale for this exclusion is discussed in Section II.D of this action. ''Incorporation by Reference'' (IBR) means that the State adopted the Federal rules without rewriting the text of the Federal rules but by referring to them for inclusion as if they were printed in the State regulation. EPA is not taking action on the States' IBR of the Federal rule for reasons discussed below. The effect of this action is that the States' consultation procedures will take the place of the general guidelines articulated in 40 CFR 93.105, and the remainder of the Federal rule will continue to apply for conformity purposes. Each State also adopted definitions that supplement, and in some cases, replace the definitions in § 93.101 of the Federal conformity rule. We are approving these definitions.

c. How Did the States Satisfy the Interagency Consultation Process?

Our rule requires the States to develop their own processes and procedures for interagency consultation among the Federal, State, and local agencies and resolution of conflicts meeting the criteria in 40 CFR Part 93, § 93.105. The SIP revisions must include processes and procedures to be followed by the MPO, State DOT, and USDOT in consulting with the State and local air quality agencies and EPA before making conformity determinations. Also, the transportation conformity SIP revision must have processes and procedures for the State and local air quality agencies and EPA in coordinating development of applicable SIPs with MPOs, State DOT, and USDOT.

The States developed their own consultation rules based on the elements in 40 CFR 93.105. We have determined that each State adequately included all elements of 40 CFR 93.105 and met the EPA SIP requirements.

d. Why Is EPA Not Acting on the States' IBR of the Federal Rule?

We promulgated the most recent transportation conformity rule on August 15, 1997. On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued its opinion in *Environmental Defense Fund* v. *Environmental Protection Agency*, No. 97–1637. The Court granted the environmental group's petition for

review and ruled that 40 CFR 93.102(c)(1), 93.121(a)(1), and 93.124(b) are unlawful and remanded 40 CFR 93.118(e)(1) and 93.120(a)(2) to EPA for revision to harmonize these provisions with the requirements of the Act. The sections that were included in this decision were:

(1) 40 CFR 93.102(c)(1) which allowed certain projects for which the National Environmental Policy Act (NEPA) process has been completed by the DOT to proceed toward implementation without further conformity determinations during a conformity lapse,

(2) 40 CFR 93.118(e) which allowed use of motor vehicle emissions budgets (MVEB) in the submitted SIPs after 45 days if EPA had not declared them inadequate,

(3) 40 CFR 93.120(a)(2) which allowed use of the MVEB in a disapproved SIP for 120 days after disapproval,

(4) 40 CFR 93.121(a)(1) which allowed the nonfederally funded projects to be approved if included in the first three years of the most recently conforming transportation plan and transportation improvement programs, even if conformity status is currently lapsed, and

(5) 40 CFR 93.124(b) which allowed areas to use a submitted SIP that allocated portions of a safety margin to transportation activities for conformity purposes before EPA approval.

Since the States were required to submit transportation conformity SIPs not later than August 15, 1998, and include those provisions in verbatim form, Colorado's SIP revision includes all those sections which the Court ruled unlawful or remanded for consistency with the Act. Montana's transportation conformity SIP was adopted and submitted subsequent to the court's decision. Montana attempted to address the court decision by not submitting for IBR the sections of the Federal rule affected by the lawsuit. However, Montana's submittal is not consistent with EPA's most recent interpretations of the sections of the rule affected by the court decision.

Because the court decision has invalidated several sections of the rule, we believe that it would be reasonable to exclude the States' IBR of the rule from this SIP approval action. As a result, we are not taking any action on the IBR of 40 CFR Part 93, Subpart A into the State conformity rules. Conformity determinations should comply with the relevant requirements of the statutory provisions of the Act underlying the court's decision on these issues, and with the remaining sections of the Federal rule not affected by the court decision. (EPA issued guidance on May 14, 1999 on how to implement these provisions in the interim prior to EPA amendment of the Federal transportation conformity rules.) Once these Federal rules have been revised, agencies performing conformity determinations in Colorado and Montana should comply with the requirements of the revised Federal rule until corresponding provisions of the Colorado and Montana conformity SIPs have been amended and approved by EPA. Since EPA is not acting on the States' IBR of any sections of the Federal conformity rule, the Federal rule, along with EPA's guidance for implementing the court decision, will continue to apply for conformity determinations, with the exception of the consultation provisions of the State programs which we are approving today which will apply in lieu of the consultation provision of the Federal rule.

III. Final Action

In this action, we are approving revisions to the Colorado and Montana transportation conformity SIPs. These SIP revisions were submitted by the Governor of Colorado on November 5, 1999 and by the Governor of Montana on August 26, 1999. We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revisions if adverse comments are filed. This rule will be effective on November 20, 2001 without further notice unless we receive adverse comments by October 22, 2001. If we receive adverse comments, we will publish a timely withdrawal of the direct final rule, in the **Federal Register**, informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 20, 2001, and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

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. 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. section 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. section 804(2). This rule will be effective November 20, 2001 unless EPA receives adverse written comments by October 22, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 20, 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 5, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

Chapter I, title 40, part 52, of the Code of Federal Regulations is amended to read 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 G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(92) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(92) On November 5, 1999, the Governor of Colorado submitted Regulation No. 10, Criteria for Analysis of Conformity, Part B—Conformity to State Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, that incorporates conformity consultation requirements implementing 40 CFR Part 93, Subpart A into State regulation.

(i) Incorporation by reference.

(A) Regulation No. 10, Criteria for Analysis of Conformity, Part B—Conformity to State Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, 5 CCR 1001–12, as adopted October 15, 1998, effective November 30, 1998.

* * * * *

Subpart BB—Montana

3. Section 52.1370 is amended by adding paragraph (c)(47) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(47) On August 26, 1999, the Governor of Montana submitted Administrative Rules of Montana Sub-Chapter 13, ''Conformity'' that incorporates conformity consultation requirements implementing 40 CFR Part 93, Subpart A into State regulation.

(i) Incorporation by reference.

(A) Administrative Rules of Montana 17.8.1301, 17.8.1303, and 17.8.1305; through 1313, effective June 4, 1999; and 17.8.1304 effective August 23, 1996.

* * * * *

[FR Doc. 01–23596 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket SC–038–200102(a); FRL–7062–1]

Approval and Promulgation of State Plans for DesignatedFacilities and Pollutants: SC

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) is approving the section 111(d)/129 Plan submitted by the South Carolina Department of Health and Environmental Control (DHEC) on September 19, 2000, for the State of South Carolina. The section 111(d)/129 Plan for South Carolina implements and enforces the Emissions Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) units.

DATES: This final rule is effective on October 22, 2001.

ADDRESSES: Copies of all materials considered in this rulemaking may be examined during normal business hours at the following location: EPA Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

FOR FURTHER INFORMATION CONTACT: Gregory Crawford at EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960, (404) 562–9046.

SUPPLEMENTARY INFORMATION:

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I. What Action Is Being Taken by EPA Today?

We are approving the South Carolina State Plan, as submitted on September 19, 2000, for the control of air emissions from HMIWIs, except for those HMIWIs located in Indian Country. When EPA developed our New Source Performance Standard (NSPS) for HMIWIs, we also

developed EG to control air emissions from older HMIWIs. (See 62 FR 48348–48391, September 15, 1997, 40 CFR part 60, subpart Ce (Emission Guidelines and Compliance Times for HMIWIs) and subpart Ec (Standards of Performance for HMIWIs for Which Construction is Commenced After June 20, 1996)). The South Carolina DHEC developed a State Plan, as required by sections 111(d) and 129 of the Clean Air Act (the Act), to adopt the EG into their body of regulations, and we are acting today to approve it.

II. The HMIWI State Plan Requirement

What Is a HMIWI State Plan?

A HMIWI State Plan is a plan to control air pollutant emissions from existing incinerators which burn hospital waste or medical/infectious waste. The plan also includes source and emission inventories of these incinerators in the State.

Why Are We Requiring South Carolina To Submit a HMIWI State Plan?

States are required under sections 111(d) and 129 of the Act to submit State Plans to control emissions from existing HMIWIs in the State. The State Plan requirement was triggered when EPA published the EG for HMIWIs under 40 CFR part 60, subpart Ce (see 62 FR 48348, September 15, 1997).

Under section 129 of the Act, EPA is required to promulgate EG for several types of existing solid waste incinerators. These EG establish the Maximum Achievable Control Technology (MACT) standards that States must adopt to comply with the Act. The HMIWI EG also establishes requirements for monitoring, operator training, permits, and a waste management plan that must be included in State Plans.

The intent of the State Plan requirement is to reduce several types of air pollutants associated with waste incineration.

Why Do We Need To Regulate Air Emissions From HMIWIs?

The State Plan establishes control requirements which reduce the following emissions from HMIWIs: particulate matter; sulfur dioxide; hydrogen chloride; nitrogen oxides; carbon monoxide; lead; cadmium; mercury; and dioxin/furans. These pollutants can cause adverse effects to the public health and the environment. Dioxin, lead, and mercury bioaccumulate through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Exposure to dioxin and furans can cause skin disorders, cancer, and reproductive effects such as endometriosis. Dioxin and furans can also affect the immune system. Acid gases affect the respiratory tract, as well as contribute to the acid rain that damages lakes and harms forests and buildings. Exposure to particulate matter has been linked with adverse health effects, including aggravation of existing respiratory and cardiovascular disease and increased risk of premature death. Nitrogen oxide emissions contribute to the formation of ground level ozone, which is associated with a number of adverse health and environmental effects.

What Criteria Must a HMIWI State Plan Meet To Be Approved?

The criteria for approving a HMIWI State Plan include requirements from sections 111(d) and 129 of the Act and 40 CFR part 60, subpart B. Under the requirements of sections 111(d) and 129 of the Act, a State Plan must be at least as protective as the EG regarding applicability, emission limits, compliance schedules, performance testing, monitoring and inspections, operator training and certification, waste management plans, and recordkeeping and reporting. Under section 129(e), State Plans must ensure that affected HMIWI facilities submit Title V permit applications to the State by September 15, 2000. Under the requirements of 40 CFR part 60, subpart B, the criteria for an approvable section 111(d) plan include demonstration of legal authority, enforceable mechanisms, public participation documentation, source and emission inventories, and a State progress report commitment.

III. What Does the South Carolina State Plan Contain?

The South Carolina DHEC adopted the Federal EG and NSPS into Chapter 61 of the South Carolina Code, Regulation No. 61–62.5, Standard Number 3.1, ''Hospital/Medical/Infectious Waste Incinerators.'' The State rules were effective on May 26, 2000. The South Carolina State Plan contains:

1. A demonstration of the State's legal authority to implement the section 111(d)/129 State Plan;
2. State rule, Standard Number 3.1, as the enforceable mechanism;
3. An inventory of approximately 4 known designated facilities, along with estimates of their potential air emissions;
4. Emission limits that are as protective as the EG;
5. A compliance date of May 26, 2001;
6. Testing, monitoring, reporting and recordkeeping requirements for the designated facilities;
7. Records from the public hearing on the State Plan; and,
8. Provisions for progress reports to EPA.

IV. Is My HMIWI Subject to These Regulations?

The EG for existing HMIWIs affect any HMIWI built on or before June 20, 1996. If your facility meets this criterion, you are subject to these regulations.

V. What Steps Do I Need To Take?

You must meet the requirements listed in South Carolina Regulation No. 61–62.5, Standard Number 3.1, summarized as follows:

1. Determine the size of your incinerator by establishing its maximum design capacity.
2. Each size category of HMIWI has certain emission limits established which your incinerator must meet. See Table I of section III (Emission Limitations) of Standard Number 3.1, to determine the specific emission limits which apply to you. The emission limits apply at all times, except during startup, shutdown, or malfunctions, provided that no waste has been charged during these events.
3. There are provisions to address small rural incinerators (if your unit is applicable).
4. You must meet a 10% opacity limit on your discharge, averaged over a six-minute block.
5. You must have a qualified HMIWI operator available to supervise the operation of your incinerator. This operator must be trained and qualified through a State-approved program, or a training program that meets the requirements listed under Section IX (Operator Training and Qualification Requirements) of Standard Number 3.1.
6. Your operator must be certified, as discussed in 5 above, no later than May 26, 2001.
7. You must develop and submit to South Carolina DHEC a waste management plan. This plan must be developed under guidance provided by the American Hospital Association publication, An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities, 1993, and must be submitted to South Carolina DHEC no later than 60 days following the initial performance test for the affected unit.
8. You must conduct an initial performance test to determine your incinerators compliance with these emission limits. This performance test must be completed no later than May

26, 2001, and as required under 40 CFR 60.37e and Section IV (Performance Specifications) of Standard Number 3.1.

9. You must install and maintain devices to monitor the parameters listed under Table IV of Section V (Monitoring Requirements) of Standard 3.1.

10. You must document and maintain information concerning pollutant concentrations, opacity measurements, charge rates, and other operational data. This information must be maintained for a period of five years.

11. You must submit an annual report to South Carolina DHEC containing records of annual equipment inspections, any required maintenance, and unscheduled repairs. This annual report must be signed by the facilities manager.

VI. Significant Issues and Changes?

A total of one comment letter was received during the public comment period for the proposed Plan approval, which ended on June 6, 2001. The issues are summarized below and addressed in a comment and response document contained in the docket:

(1) The commenter questioned why South Carolina Regulation No. 61–62.5, Standard Number 3.1, Section VII, subparagraph (c)(8) contained the requirements of § 60.56c(i) for the approval of site-specific operating parameters to be established during the initial performance test and continuously monitored thereafter. Section 129 of the Act requires section 111(d)/129 State plans to be ''at least as protective as the guidelines.'' In accordance with the section 111(d), section 129, subpart B, and subpart Ce requirements, the South Carolina regulation, specifically subparagraph (c)(8), includes the § 60.56c(i) requirements, in order for the State plan for South Carolina to be deemed an approvable section 111(d)/129 plan for implementing the emission guidelines for HMIWI.

(2) The commenter questioned why South Carolina Regulation No. 61–62.5, Standard Number 3.1, Section VII, subparagraph (a)(1) requires HMIWI facilities constructed before June 20, 1996, to perform a source test no later than 12 months following the effective date of the State standard. Section 60.24(g) of subpart B allows any State to adopt or enforce ''compliance schedules requiring final compliance at earlier times than those specified in subpart C or in applicable guideline documents.'' In accordance with the subpart B requirements, the South Carolina regulation, specifically subparagraph (a)(1), includes a compliance schedule earlier than specified in subpart Ce.

(3) These comments raise no specific issues or arguments affecting approval of the South Carolina section 111(d)/129 plan.

VII. Why Is the South Carolina HMIWI State Plan Approvable?

EPA compared the South Carolina rules (Chapter 61 of the South Carolina Code, Regulation No. 61–62.5, Standard Number 3.1) against our HMIWI EG. EPA finds the South Carolina rules to be at least as protective as the EG. The South Carolina State Plan was reviewed for approval against the following criteria: 40 CFR 60.23 through 60.26, *Subpart B—Adoption and Submittal of State Plans for Designated Facilities;* 40 CFR 60.30e through 60.39e, *Subpart Ce—Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators;* and, 40 CFR 62.14400 through 62.14495, *Subpart HHH—Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or before June 20, 1996.* The South Carolina State Plan satisfies the requirements for an approvable section 111(d)/129 plan under subparts B and Ce of 40 CFR part 60 and subpart HHH of 40 CFR part 62. For these reasons, we are approving the South Carolina HMIWI State Plan.

VIII. Administrative Requirements

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action 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 ''Protection of Children from Environmental Health Risks and Safety Risks'' (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. 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 20, 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 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: September 7, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

Subpart PP—South Carolina

2. Section 62.10100 is amended by adding paragraphs (b)(5) and (c)(5) to read as follows:

§ 62.10100 Identification of plan.

* * * * *

(b) * * *

(5) South Carolina Designated Facility Plan (Section 111(d)/129) for Hospital/Medical/Infectious Waste Incinerators, submitted on September 19, 2000, by the South Carolina Department of Health and Environmental Control.

(c) * * *

(5) Existing hospital/medical/infectious waste incinerators.

3. Subpart PP is amended by adding a new § 62.10170 and a new undesignated center heading to read as follows:

Air Emissions From Hospital/Medical/Infectious Waste Incinerators

§ 62.10170 Identification of sources.

The plan applies to existing hospital/medical/infectious waste incinerators for which construction, reconstruction, or modification was commenced before June 20, 1996, as described in 40 CFR part 60, subpart Ce.

[FR Doc. 01–23604 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 97

[FRL–7058–2]

RIN 2060–AJ47

Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport—Federal NO_X Budget Trading Program, Rule Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the Federal NO_X Budget Trading Program regulations to revise the allowance allocations for certain NO_X Budget units subject to the program. In January 2000, EPA took final action (the January 2000 final rule) under section 126 of the Clean Air Act (CAA) on petitions filed by eight Northeastern States seeking to mitigate interstate transport of nitrogen oxides (NO_X), one of the precursors of ground-level ozone. EPA determined that a number of large electric generating units (EGUs) and large industrial boilers and turbines (non-EGUs) named in the petitions emit in violation of the CAA prohibitions against significantly contributing to nonattainment or maintenance problems in the petitioning States. EPA also established the Federal NO_X Budget Trading Program as the control remedy for these sources, determined allowable emissions for the sources, and allocated authorizations to emit NO_X (*i.e.,* NO_X allowances) to the sources.

After promulgation of EPA's January 2000 final rule, some owners, or associations of owners, of EGUs or non-EGUs filed petitions with the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) challenging, among other things, the allowance allocations for certain units under the rule. Subsequently, EPA entered into settlements with these owners or associations of owners. Today's action finalizes revised allocations for these units in a manner consistent with the settlements.

In addition, after promulgation of the January 2000 final rule, owners of non-EGUs requested EPA to correct allowance allocations for two other units under the rule. EPA responded that it was treating the requests as requests for reconsideration of the two units' allocations under the rule and would propose to revise the allocations. Today's action finalizes revised allocations for these units.

DATES: The final rule is effective October 22, 2001.

ADDRESSES: Docket No. A–97–43, containing supporting information used in developing today's final rule, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center at the above address. EPA may charge a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: Dwight C. Alpern, at (202) 564–9151, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW (6204J), Washington, DC 20460; or the Acid Rain Hotline at (202) 564–9089.

SUPPLEMENTARY INFORMATION:

Availability of Related Information

The official record for this rulemaking, as well as the public version, has been established under Docket No. A–97–43 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, that does not include any information claimed as confidential business information, is available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in the **ADDRESSES** section. In addition, the **Federal Register** rulemaking actions under section 126 and the associated documents are located at *http://www.epa.gov/ttn/rto/126*.

EPA has issued a separate rule on NO_X transport entitled, ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone'' (the NO_X State implementation plan (NO_X SIP) call). The rulemaking docket for that rule contains information and analyses that were relied on in the January 2000 final rule. In promulgating the January 2000 proposed rule, EPA incorporated by reference the entire NO_X SIP call record. Documents related to the NO_X SIP call are available for inspection in Docket No. A–96–56 at the address and times given above. In addition, certain documents associated with the NO_X SIP

call are located at *http://www.epa.gov/ttn/oarpg/otagsip.html.*

Outline

The information in this preamble is organized as follows:

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II. Final Rule Revisions
A. Rationale for revising units' allocations.
B. Final approach for obtaining allowances for units' revised allocations.
C. Amount of allowances for units' revised allocations.
D. Changes to regulatory text.
III. Administrative Requirements
A. Executive Order 12866: Regulatory Impacts Analysis
B. Regulatory Flexibility Act: Small Entity Impacts
C. Unfunded Mandates Reform Act
D. Paperwork Reduction Act
E. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
F. Executive Order 12898: Environmental Justice
G. Executive Order 13132: Federalism
H. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
I. National Technology Transfer and Advancement Act
J. Executive Order 13211: Energy Effects
K. Congressional Review Act

I. Background

In January 2000, EPA took final action under section 126 of the CAA on petitions filed by eight Northeastern States seeking to mitigate interstate transport of NO_X.[1] 65 FR 2674 (January 18, 2000). Section 126 of the CAA authorizes a downwind State to petition EPA for a finding that an existing or new (or modified) major stationary source or a group of such sources emits or would emit in violation of section 110(a)(2)(D)(i) by contributing significantly to nonattainment of a National Ambient Air Quality Standard or interfering with maintenance of such a standard in a downwind State. EPA determined that certain EGUs and non-EGUs named in the petitions emit in violation of the CAA prohibitions against significantly contributing to nonattainment or maintenance problems in the petitioning States. The EGUs and non-EGUs covered by the January 2000 final rule are in the following States or portions of States and the District of Columbia: Delaware; Indiana; Kentucky; Maryland; Michigan; North Carolina; New Jersey; New York; Ohio; Pennsylvania; Virginia; and West Virginia. 65 FR 2675.

EPA established the Federal NO_X Budget Trading Program as the control remedy for these sources. EPA determined allowable emissions for the sources and allocated NO_X allowances to the sources. Under this program, an affected unit (referred to as a '' NO_X Budget unit'') may buy or sell allowances but must hold, after the end of the ozone season, a number of allowances at least equal to the number of tons of NO_X that the unit emitted during that ozone season.

For purposes of allocating allowances, EPA set for each State (or portion of State) NO_X emission budgets (in tons of NO_X per ozone season) for EGUs and non-EGUs. The EGU budget [1a] for each State is the larger of the total ozone season heat input for EGUs in the State for 1995 or 1996, increased by a growth rate through 2007, and multiplied by a control level of 0.15 lb. NO_X per mmBtu. The non-EGU budget [2] for each State is the non-EGU ozone season NO_X emissions in the State for 1995, increased by a growth rate through 2007, at a 60 percent control level. EPA then allocated allowances to each existing unit, based on the unit's historical heat input. For EGUs, the average of the two highest ozone season heat inputs from 1995–1998 was used as the historical heat input. For non-EGU's, the 1995 ozone season heat input or, if data were available, the average of the two highest ozone season heat inputs from 1995–1998 was used as the historical heat input. 40 CFR 97.42(a). EPA also adjusted each unit's allocations so that the total number of allowances allocated to EGUs and the total number of allowances allocated to non-EGUs in a given State equaled 95 percent of the EGU budget and of the non-EGU budget respectively for that State. 40 CFR 97.42(b) and (c). Five percent of the budget was reserved for allocations to new units.

After EPA promulgated the January 2000 final rule, owners, or associations of owners, of EGUs or non-EGUs filed petitions with the D.C. Circuit challenging, among other things, the allowance allocations for certain units in the Federal NO_X Budget Trading Program regulations. Subsequently, EPA entered into settlements with some of these owners and associations of owners. Today's action finalizes revised allowance allocations for these units, in a manner consistent with the settlements.

In addition, after promulgation of the January 2000 final rule, owners of non-EGUs submitted letters to EPA requesting correction of the allowance allocations for two other units under the rule. EPA responded that it was treating the letters as requests for reconsideration of the two units' allocations under the rule and would propose to revise the allocations. Today's action finalizes revised allocations for these units.

II. Final Rule Revisions

EPA is adopting specific, limited revisions to provisions of the Federal NO_X Budget Trading Program rule, i.e., part 97, in order to change the NO_X allowance allocations for certain NO_X Budget units. In today's final rule, EPA is specifying which units will receive revised allocations, how EPA will obtain the additional allowances used for the revised allocations, and what will be the amount of each unit's revised allocation. As discussed below, EPA is revising the allocations for the units discussed in section II.A of today's preamble. To provide the revised allocations, EPA is using allowances that were allocated initially to units that EPA has subsequently determined are not NO_X Budget units and therefore not subject to the Federal NO_X Budget Trading Program. This approach to obtaining allowances for the revised allocations is discussed in section II.B. In section II.C, EPA discusses the amount of each unit's revised allocation.

The specific rule revisions necessary to implement the above-described approach are discussed in section II.D of today's preamble. EPA is revising Appendices A and B to part 97 in order to include revised allocations for the units identified in section II.A and remove allocations for some other units that EPA has previously determined not to be NO_X Budget units.

EPA did not consider, or request comment on, any other changes to part 97 or the January 2000 final rule. The December 2000 proposed rule was limited to changes to part 97 that are necessary either: to correct the allocations for the units specifically identified here; or to provide the Administrator general authority to address similar allocation-quantity issues that may arise in the future.

A. Rationale for Revising Units' Allocations

In today's final rule, EPA is revising allocations for the following units:

1. A group of units referred to as ''stranded'' units: Unit 0B7, plant 00003,

[1] This background is for the convenience of the reader to understand better the final revisions in sections II.B.2, II.C, and II.D below. EPA did not reconsider or request comment on any of the provisions in part 97, except to the extent discussed in preamble sections II.B.2, II.C, and II.D of the December 2000 proposed rule that initiated the instant rulemaking. *See* 65 FR 80398, 80402–4 (December 21, 2000).

[1a] For details on the budget calculations, see the January 18, 2000 **Federal Register** Notice.

[2] Ibid.

Union Carbide—South Charleston Plant, Kanawha County, West Virginia; and the Package Boiler at Weyerhaeuser Company Plymouth, plant 0069, Martin County and Power Boiler No. 2 at Weyerhaeuser Company New Bern Mill, plant 0104, Craven County in North Carolina;

2. SEI Birchwood, plant 12 (''Birchwood'');

3. A group of all West Virginia non-EGUs: Unit 612, plant 00001, Dupont-Belle, Kanawha County; Unit 006, plant 00001, Elkem Metals Company L.P.—Alloy Plant, Fayette County; Units 001 and 003, plant 00002, PPG Industries, Inc., Marshall County; Units 010, 011, and 012, plant 00007, Aventis Cropscience, Kanawha County; and Unit 0B6, plant 00003, Union Carbide—South Charleston Plant, Kanawha County;

4. Riley Bark Boiler, Plant 0159, Blue Ridge Paper Products Company, Haywood County, North Carolina (''Blue Ridge''); and

5. Unit 0056, plant K3249, Michigan State University, Ingham County, Michigan (''Michigan State'').

In the December 2000 proposed rule, EPA discussed in detail the circumstances concerning EPA's original determinations in the January 2000 final rule of the allocations for these units. 65 FR 80398, 80399–400 (December 21, 2000). EPA then evaluated these circumstances and provided the reasons for the proposed conclusion that the respective units' allocations in the January 2000 final rule should be revised. In particular, EPA proposed to find, for the stranded units and Birchwood, that the owners did not have a reasonable opportunity to comment on the allocations for their units. EPA proposed that the allocations should be revised based on corrected data. 65 FR 80400. With regard to all non-EGUs in West Virginia, EPA proposed to find that the owners of the units agreed that the allowances had been incorrectly distributed among the units due to the submission of erroneous data to EPA. EPA proposed that the allowances should be redistributed among those units to reflect the distribution agreed upon by those owners. *Id.* With regard to the Blue Ridge and Michigan State units, EPA proposed to find that it had misinterpreted the comments submitted by the units' owners and proposed that the allocations should be revised to reflect the correct interpretation of those comments. *Id.*

No commenters objected to the above-described proposed findings concerning any of the units or to the proposals to revise the units' allocations. Based on the reasons set forth in the December 2000 proposed rule and on the supporting record, EPA is today adopting as final these findings and conclusions.

In addition, one commenter requested that EPA address the status under the NO_X Budget Trading Program of two additional units not addressed in the December 2000 proposed rule. Specifically, the commenter requested that EPA determine that one unit for which an allocation is provided in the January 2000 final rule (*i.e.,* Point 004, plant 0006, International Paper—Franklin (formerly Union Camp Corp/Fine Paper Div), Isle of Wright County, Virginia) is not actually a NO_X Budget unit and is not subject to the requirements of the NO_X Budget Trading Program. The commenter also requested that EPA determine that a second unit that was not allocated allowances (*i.e.,* Unit 17, plant 0006, International Paper—Franklin, Isle of Wright County, Virginia) is actually a NO_X Budget unit and subject to the program and should receive an allocation.

With regard to the requested determination that the first unit is not a NO_X Budget unit, part 97 already provides a procedure for EPA to make such a determination without revising the regulations. Under § 97.42(g)(1), the Administrator may determine that a unit allocated allowances is not actually a NO_X Budget unit and that the Administrator will not record the allocation. Using this procedure, EPA has already issued final determinations that several other units are not NO_X Budget units. Since this procedure is available for the unit referenced by the commenter and since issues concerning this unit are in any event outside the scope of the December 2000 proposed rule, EPA is not determining in this rulemaking the status of this unit under the NO_X Budget Trading Program. Instead, EPA recently issued a determination under § 97.42(g)(1) concluding that the unit is not a NO_X Budget unit.

With regard to the status of the second unit referenced by this commenter, issues concerning this unit are outside the scope of the December 2000 proposed rule. EPA therefore is not addressing these issues, or taking any action, concerning the unit in this rulemaking.[3]

[3] Similarly, issues raised by another commenter, concerning the lack of allowance allocations for another unit (referred to as DTE River Rouge No. 1 LLC), are outside the scope of the December 2000 proposed rule, and EPA is not addressing, or taking any action concerning, this unit in this rulemaking.

B. Final Approach for Obtaining Allowances for Units' Revised Allocations

EPA's general approach to obtaining allowances for revised allocations for the identified units is to adopt methodologies that will result in the least disruption to the Federal NO_X Budget Trading Program, while maintaining unchanged the emission reductions required under the program and the existing State EGU and non-EGU budgets that reflect those reductions.

1. Final approach for West Virginia non-EGUs.

Since the issues concerning the West Virginia non-EGUs (including one ''stranded'' unit) involve the entire West Virginia non-EGU budget sector, EPA proposed in the December 2000 proposal to obtain allowances for the non-EGUs' revised allocations by redistributing the allocations for that sector. The redistribution will not affect any units other than those needing revised allocations. Further, the redistribution is the least disruptive approach for revising the units' allocations. In fact, since the owners of all the West Virginia non-EGUs have agreed on the amounts of the revised allocations for the units, the owners could have accomplished this redistribution on their own at any time, simply by using the unrestricted trading allowed under the Federal NO_X Budget Trading Program to transfer allowances among the units.

No commenters objected to this approach for revising the allocations for the West Virginia non-EGUs. For the above reasons, EPA adopts this approach.

2. Approach for Other Units

For the other units identified above, EPA proposed in the December 2000 proposal to use first the allowances that were allocated in the January 2000 final rule to units that EPA subsequently determined not to be NO_X Budget units. To the extent an insufficient amount of allowances were available from such non-NO_X Budget units, EPA proposed to use allowances from the compliance supplement pool. In the December 2000 proposal, EPA stated that there were sufficient allowances available for non-NO_X Budget units to provide allowances for all of the identified units except the Birchwood unit. Thus, under the proposal, non-NO_X Budget units would provide all additional allowances for all the identified units except the Birchwood unit, which would receive

some but not all of its additional allowances from non-NO_X Budget units.

The most accurate approach for providing revised allocations for the ''stranded'', Birchwood, Blue Ridge, and Michigan State units would be to recreate the allocations that would have resulted if EPA had originally used the correct data for them when the allocations were established in the January 2000 final rule. This approach would require reallocating allowances for each, entire budget sector (*i.e.,* the EGU or non-EGU sector for a given State) that includes one or more of these five units.

This is because, if the two ''stranded'' units [4] and the Birchwood, Blue Ridge, and Michigan State units had been provided the proper number of allowances in the January 2000 final rule, the allocations for all units in their respective budget sectors in their respective States would have been affected. Under § 97.42(b) and (c), each existing unit is allocated its proportionate share of the budget for its respective sector (EGU or non-EGU) for its respective State. For example, allocations for an EGU in a given State are determined by: multiplying an emission rate (0.15 lb/mmBtu) times each unit's historical heat input; totaling the results for all EGUs in the State; and adjusting each EGU's allocation proportionately until the total number of allowances allocated to the EGUs in the State equals 95 percent of the State's EGU budget. Non-EGU allocations are determined in the same way except that the emission rate (0.17 lb/mmBtu) is different and the allocations must equal 95 percent of the non-EGU budget.

Consequently, if EPA were to take the approach of recreating the original allocations based on the correct data, the allocations of all units in each entire budget sector would be revised. Further, because there would then be more units receiving allocations than in the original allocation process, each unit (other than the two ''stranded'' units and the Birchwood, Blue Ridge, and Michigan State units) would have a reduced allocation.

As explained in the December 2000 proposal, EPA believes that this approach would result in disruption of the Federal NO_X Budget Trading Program, and for the units in the program, far out of proportion to the scope of the problem. No commenters supported this approach to providing revised allocations for the ''stranded'', Birchwood, Blue Ridge, and Michigan State units. For the above reasons, EPA concludes that it should adopt an approach that is less disruptive to the Federal NO_X Budget Trading Program and the units in the program than a full reallocation of allowances to all units in each, entire budget sector.

i. Use of allocations to non-NO_X Budget units.

EPA stated in the December 2000 proposed rule that using allowances that were allocated mistakenly under the January 2000 final rule to units that were not actually NO_X Budget units is the least disruptive method of providing allowances for the revised allocations. Appendices A and B of the January 2000 final rule list the allocations for specific units thought to be NO_X Budget units. Under § 97.42(g)(1)(i), if EPA subsequently determines that any unit in Appendix A or B is not actually a NO_X Budget unit, the Administrator will not record the listed allocations in an account for the unit. Instead, the Administrator will record the allocations in the allocation set-aside for new units in the State in which the unit is located, in addition to the 5 percent of the EGU and non-EGU budgets already comprising the set-aside. 40 CFR 97.42(g)(2).[5] EPA concluded in the December 2000 proposed rule, that revising NO_X Budget units' allocations using allowances mistakenly allocated to non-NO_X Budget units is the approach that is the least disruptive of reasonable expectations of owners and operators and, thus, of compliance planning for NO_X Budget units. *See* 65 FR 80402.

Two commenters claimed that revising allocations using allowances made available through determinations under § 97.42(g)(1) would disrupt compliance planning. These commenters note that, under the existing regulations, allowances originally allocated to units determined not to be NO_X Budget units are added to the allocation set-aside for new units. One of the commenters claims that ''it is reasonable that companies planning'' new units ''would have factored into their compliance plans assumptions concerning the availability * * * of allowances freed up'' under § 97.42(g) determinations, including those determinations ''made several months ago.''

However, in establishing this mechanism for correcting allocations to non-NO_X Budget units, EPA stated that it expected that such allocations would occur ''rarely, if ever.'' 65 FR 2707. EPA's intent, of course, was not to make errors resulting in allocations to non-NO_X Budget units, and there was no reason for owners and operators to assume that there would be errors or rely on such an assumption. On the contrary, since EPA stated that the mechanism for correcting such errors would rarely be needed, owners and operators of new units had no reasonable expectation that the mechanism would ever be used and that any incorrectly allocated allowances would be added to the allocation set-aside.

Moreover, the commenter speculated, without providing any support, that owners and operators changed their compliance planning for new units during the few months between June-August 2000, when the bulk of the § 97.42(g) determinations were issued, and December 2000 when EPA issued the proposal to revise allocations for the identified units using allowances from these § 97.42(g) determinations. For example, the commenter provides no evidence that any owner or operator incurred expenses, or made decisions, concerning compliance of its units on the assumption that allowances would be available for the units under § 97.42(g). The commenter's unsupported speculation warrants little or no weight. Further, the relatively short period during which the owners and operators could have thought that such allowances would be available was unlikely to result in any significant changes in compliance planning. On balance, EPA concludes that owners and operators did not reasonably rely, to any significant extent, on the availability of allowances under § 97.42(g) for new units.

The commenters objecting to using non-NO_X Budget units' allowances to provide allowances to the two ''stranded'' units and the Birchwood, Blue Ridge, and Michigan State units also argued that EPA should increase the State trading budgets by the amounts of the additional allowances to be provided to the identified units. However, the commenters ignore the fact that if, in setting the State EGU and non-EGU budgets, EPA had originally used the correct data concerning the *non-NO_X Budget units* mistakenly allocated allowances, the State EGU or non-EGU budgets in which the non-NO_X Budget units were included in the

[4] The third ''stranded'' unit is a West Virginia non-EGU, whose revised allocation is addressed above in preamble section II.B.1.

[5] One commenter expressed concern that, since the rule states that the allocation set-aside is established as equaling 5% of the State EGU and non-EGU budgets, the allowances originally allocated to non-NO_X Budget units could not be added to the allocation set-aside. However, § 97.42(d)(1) states what the initial amount of the allocation set-aside will be and does not preclude or contradict § 97.42(g)(2), which states specifically that other allowances may be subsequently added to the set-aside.

January 2000 final rule would have been lower and therefore the total number of allowances allocated under those budgets would have been less.

This is because all of the non-NO_X Budget units mistakenly allocated allowances had heat input values that were used to calculate the respective State EGU or non-EGU budgets. For example, the State EGU budget for Michigan was based on the total heat input for all large EGUs in 1995, and each of the non-NO_X Budget units originally treated as large EGUs in Michigan [6] had heat input values in 1995 that were included in the State EGU budget. Also, the State EGU budgets for North Carolina and Virginia [7] were based on the total heat input for large EGUs in 1996, and each of the non-NO_X Budget units originally treated as large EGUs in those States [8] had heat input values in 1995 that were included in the respective State EGU budget. Similarly, the State non-EGU budgets were based on total heat input for large non-EGUs in the respective States in 1995, and all the non-NO_X Budget units originally treated as large non-EGUs in those States had heat input values in 1995 that were included in the respective State non-EGU budget.[9] Although the treatment of the non-NO_X Budget units inflated somewhat the State EGU or non-EGU budgets, EPA did not reduce these budgets when it issued determinations removing the non-NO_X budget units from the trading program. Instead, EPA took back the allowances allocated to these non-NO_X budget units and provided in part 97 that these allowances would be added to the set-aside for new units in the respective States.

In short, EPA's approach concerning the non-NO_X Budget units already somewhat inflated the State EGU or non-EGU budgets. The commenters' approach would compound this result by further increasing State EGU or non-EGU budgets to provide additional allowances to the identified NO_X Budget units. In addition, under the commenter's approach of further increasing the EGU or non-EGU budgets of the States involved (*i.e.,* Michigan, North Carolina, and Virginia), those States' budgets would be calculated in a different manner (*i.e.,* with amounts of allowances added to the amounts derived using the generally applied methodology for calculating budgets) than any other States' budgets. EPA maintains that it is reasonable to use the allowances that were mistakenly allocated to non-NO_X Budget units, and that somewhat inflated certain State EGU or non-EGU budgets, to provide additional allowances to the identified NO_X Budget units, rather than further increasing those State EGU or non-EGU budgets.

According to one of the commenters supporting the approach of increasing the State trading budgets to provide revised allocations, the State trading budget (for Virginia) would have been higher if EPA had originally used the correct historical heat input data for one of the identified units (the Birchwood unit). However, this comment is based on an incorrect factual premise.

Actually, Virginia's trading budget was based on the higher of total EGU heat input in 1995 or 1996, the 1996 total was the higher value, and the Birchwood unit did not commence operation until after the 1996 control period. The incorrect heat input data submitted to, and used by, EPA to set Virginia's EGU budget showed heat input for the Birchwood unit for the 1996 control period. That incorrect value was used to calculate the Virginia budget. Thus, if EPA originally had been provided and had used the correct heat input data for the Birchwood unit, Virginia's EGU budget would be *lower* than the amount in the January 2000 final rule. The commenter's approach would result in further increase of that budget and would result in Virginia's budget being calculated in a manner inconsistent with other States' budgets.

In summary, EPA concludes that using non-NO_X Budget units' allowances has little or no disruptive impact on units in the NO_X Budget Trading Program. EPA also maintains that this is a reasonable approach for providing revised allocations for the identified units.

As discussed above, after issuance of the December 2000 proposed rule and during the comment period on that proposal, a commenter informed EPA of a unit, not previously identified, that was allocated allowances in the January 2000 final rule but that is not actually a NO_X Budget unit. The issues concerning the status of this unit (*i.e.,* Point 004, plant 0006, International Paper—Franklin (formerly Union Camp Corp/Fine Paper Div), Isle of Wright County, Virginia) as a NO_X Budget unit were outside the scope of December 2000 proposed rule and this rulemaking, and there is a separate procedure under § 97.42(g)(1) for addressing such issues. EPA therefore issued a letter under § 97.42(g)(1) on August 1, 2001, in which EPA determined that the unit was not actually a NO_X Budget unit. Further, EPA stated in the letter that, consistent with § 97.42(g)(1)(i), the 262 allowances allocated to the unit would not be recorded for the unit.

Consequently, there are 262 additional allowances that were mistakenly allocated to a non-NO_X Budget unit in Virginia and that are available under the approach proposed in the December 2000 proposal for providing additional allowances to the Birchwood unit. As a result, there are sufficient allowances available from non-NO_X Budget units in Virginia to provide the full amount of additional allowances necessary for the Birchwood unit.[10]

ii. Use of compliance supplement pool or allocation set-aside allowances.

In the December 2000 proposed rule, EPA stated that using allowances from the State compliance supplement pool was the next least disruptive method of providing allowances for the revised allocations, after the use of non-NO_X Budget units' allowances.EPA explained that use of the compliance supplement pool allowances would be less disruptive than using allowances from the allocation set-aside, which is used for allocations to new units. *See* 65 FR 80403.

However, as discussed above, EPA has determined that there are sufficient allowances available from non-NO_X Budget units to provide allowances for all of the identified units, including the Birchwood unit. There is no need to use the compliance supplement pool for any

[6] These units are 491 E 48th Street Units −7 and −8, J B Sims Unit 65, and James De Young Unit 5.

[7] These units are Craven County Wood Energy Unit ST_RGY in North Carolina and Stone Container Unit ST_ner in Virginia.

[8] These units are 491 E 48th Street Units −7 and −8, J B Sims Unit 65, and James De Young Unit 5.

[9] These units are: Points 0201 through 0204 and 0205, plant A7809, National Steel Corp, Wayne County, Michigan; Points 0218 and 0219, plant A8640, Rouge Steel Corp., Wayne County, Michigan; Point 0084, plant A4033, Dow Chemical, Midland County, Michigan; Point 030, plant 0078, FMC Corp—Lithium Div. Hwy 161, Gaston County, North Carolina; Point 007, plant 0069, Weyerhaeuser Co. Plymouth, Martin County, North Carolina; and Point 004, plant 0006, International Paper—Franklin (formerly Union Camp Corp/Fine Paper Div), Isle of Wright County, Virginia.

[10] Although, at the time of the December 2000 proposal EPA was not aware that Point 004, plant 0006, International Paper—Franklin (formerly Union Camp Corp/Fine Paper Div), Isle of Wright County, Virginia was a non-NO_X Budget unit and that allowances allocated to the unit might be available to use for the Birchwood unit, such use of these allowances is squarely within the scope of the December 2000 proposal. In that proposal, EPA proposed generally to provide additional allowances to units warranting additional allocations using allowances allocated to units that were non-NO_X Budget units. 65 FR 80401; *see also* 65 FR 80404 (proposing to modify § 97.42(g) to establish a general procedure for using non-NO_X Budget units' allowances to provide additional allowances to individual NO_X Budget units warranting increased allocations).

State in which the identified units are located to provide any allowances needed for the units' revised allocations. For the reasons discussed below, EPA concludes that non-NO_X Budget units should provide all additional allowances for all the identified units.

First, EPA maintains that use of non-NO_X Budget units' allowances is less disruptive to the NO_X Budget Trading Program and units in the program than using allowances from the compliance supplement pool. The purpose of the pool is to provide additional allowances for 2003 and 2004 above and beyond the State EGU and non-EGU budgets for units ''that are unable to meet the compliance deadline'' during those years. 63 FR 57356, 57428 (October 27, 1998) (explaining purpose of pool in NO_X SIP call); *see also* 64 FR 28250, 28310 (May 25, 1999) (adopting pool in Federal NO_X Budget Trading Program for same reasons as in NO_X SIP call). The compliance deadline is feasible without the compliance supplement pool. However, the additional allowances in this pool will ensure that any units unable to install NO_X control equipment (e.g., because of concerns for reliability of electric generation during a shutdown for installation) in 2003 or 2004 are able to obtain allowances in the meantime. See 63 FR 57428.

The compliance supplement pool allowances are initially distributed to units that make early NO_X emission reductions. Owners and operators of units that reduce the units' NO_X emissions below a specified level after 2000 and before 2003, the year when the control requirements of the Federal NO_X Budget Trading Program first take effect, may apply for compliance supplement pool allowances. 40 CFR 97.43(a). Owners and operators of units in the Ozone Transport Commission NO_X Budget Program may also apply for compliance supplement pool allowances to the extent the units have banked allowances for 2000 or 2001 under that program. 40 CFR 97.43(b). Although the compliance supplement pool is distributed to units with early reductions or with banked allowances under the Ozone Transport Commission NO_X Budget Trading Program, units ''that need extra allowances for compliance will have access to them through the allowance market.'' 65 FR 2714. EPA provided credit for early reductions ''merely as a mechanism for managing the [compliance supplement pool], not as an independent program with a purpose separate from that of the [compliance supplement pool]''. *State of Michigan v. EPA,* 213 F.3d 663, 694 (D.C. Cir. 2000).

However, EPA recognizes that using some of the compliance supplement pool allowances for revised allocations would reduce the amount of allowances potentially available for early reductions. Each State has a fixed number of allowances in the State compliance supplement pool. *See* 65 FR 2767 (Appendix D showing compliance supplement pool for each State). Using the pool would make fewer allowances potentially available for early reductions and so would be more disruptive to the Federal NO_X Budget Trading Program and other units than using non-NO_X Budget unit allowances.

Second, using allowances from the allocation set-aside, would also be more disruptive than using non-NO_X Budget unit allowances. The allocation set-aside is allocated to new units for years before they have the necessary historical data to be treated as existing units in future allocation updating. The allocation set-aside therefore plays an important role of integrating new units into the NO_X Budget Trading Program. EPA set the allocation set-aside at 5% of the State EGU and non-EGU budgets so that the pool would be large enough to accommodate all new sources. EPA is concerned that using allowances from the allocation set-aside to revise the identified units' allocations may result in fewer allowances being available for individual new units. *See* 65 FR 80403. EPA notes that no commenter indicated a preference for using allowances from the allocation set-aside (or from the compliance supplement pool), in lieu of non-NO_X Budget units' allowances.

In summary, EPA concludes that the compliance supplement pool or allocation set-aside allowances should not be used to obtaining allowances for any of the identified units.

C. Amounts of Allowances for Units' Revised Allocations

In the December 2000 proposed rule, EPA proposed the amounts of allowances to use for the units' revised allocations. For the West Virginia non-EGUs (including one ''stranded'' unit), EPA proposed to use the allocations requested by all the owners of those units. 65 FR 80403. EPA did not receive any comments objecting to these revised allocations. For the reasons set forth in the proposed-rule preamble, today's final rule adopts these revised allocations.

EPA also proposed in the December 2000 proposal to calculate the revised allocations for two ''stranded'' units and the Birchwood, Blue Ridge, and Michigan State units by using the average emission rate underlying the allocations for the respective unit's State budget sector (EGUs or non-EGUs) in Appendix A or B in the January 2000 final rule. Specifically, as discussed above, the allocations to each EGU in Appendix A or non-EGU in Appendix B are calculated by multiplying the unit's historical heat input by an initial average emission rate (0.15 lb/mmBtu for EGUs and 0.17 lb/mmBtu for non-EGUs) and then adjusting the results so that the total of the allocations to all EGUs or all non-EGUs in the unit's State equals 95 percent of the State EGU budget or State non-EGU budget respectively. Thus, all EGU allocations for the State have a common underlying average emission rate, and all non-EGU allocations for the State have a common underlying average emission rate, which may differ from that for EGU allocations.

In calculating allocations for the ''stranded'', Birchwood, Blue Ridge, and Michigan State units, EPA proposed to use the underlying average emission rate for units in the State budget sector in the same State as the respective unit. EPA proposed to multiply each unit's historical heat input (calculated under § 97.42(a))by the appropriate underlying average emission rate. See 40 CFR 97.42(a) (establishing 1995–1998 as the historical period for 2003–2007 allocations); and Memorandum on Calculation of Revised Allocations, Document No. XIV–B–01(showing how the revised allocations are calculated and attaching the supporting documentation of the heat input data).

EPA did not receive any comments objecting to the proposed methodology for calculating the revised allocations. One commenter stated that the revised allocation listed in the proposed rule language for one unit (Unit 005, plant 0159, Blue Ridge Paper Products Inc., Haywood County, North Carolina) was incorrect. In considering the comment, EPA found that the amount of the allocation as reflected in the Memorandum on Calculation of Revised Allocations in the record was different than the number listed in the proposed rule language for the unit. EPA agrees that the amount in the memorandum is correct and that the number in the proposed rule is wrong. In today's final rule, EPA is correcting the allocation for the Blue Ridge unit to be consistent with the memorandum in the record and is otherwise adopting the revised allocations in the proposed rule, based on the reasons set forth above and on the supporting record.

D. Changes to regulatory Text.

In today's final rule, EPA is adopting the following revisions to the language of specific sections of part 97.

1. Appendices A and B Revisions.

EPA is adopting several rule revisions to implement the above-described revised allocations and approach for obtaining allowances for those allocations. First, today's final rule revises Appendices A and B to part 97 in order to include revised allocation amounts for the identified units as discussed above. In addition, when Appendix A or B incorrectly references an identified unit or fails to list the unit at all, EPA is correcting these errors.

Second, today's final rule revises Appendices A and B to remove allocations for units that EPA has previously determined not to be NO_X Budget units. Included in these revisions is the removal of the unit, noted above, that EPA recently determined was a non- NO_X Budget unit for which allowances should not be recorded.[11] As discussed above, under § 97.42(g), the Administrator may determine that a unit allocated allowances in Appendix A or B does not meet the applicability requirements in § 97.4 and so is not actually a NO_X Budget unit. In response to requests for such determinations, EPA has issued final determinations that 4 units listed in Appendix A and 28 units listed in Appendix B are not NO_X Budget units and will not have allocations recorded in their accounts. No commenters on the December 2000 proposed rule objected to reflecting final determinations under § 97.42(g) in revisions to the appendices. Appendix A. Today's final rule merely reflects, in regulatory text, these final determinations.

2. Section 97.42(g) revisions

In the December 2000 proposal, EPA proposed revisions to § 97.42 (allocation procedures) that would authorize the Administrator to issue orders correcting other units' allocations, where correction was warranted, using allowances allocated to units determined not to be NO_X Budget units. Under the proposed revisions, the Administrator could determine that the number of allowances actually allocated to an existing NO_X Budget unit for 2003–2007 in Appendix A or B is less than the number of allowances provided under § 97.42(a) through (d) and that equitable considerations warranted correction of such unit's allocation. The Administrator could also determine that the number of allowances actually allocated to a new NO_X Budget unit for 2003–2007 or to any NO_X Budget unit for 2008 or thereafter, using procedures in § 97.42(a) through (d), was less than the number of allowances provided under § 97.42(a) through (d) and that equitable considerations warranted correction of such unit's allocation. Moreover, in the order, the Administrator could determine that allowances mistakenly allocated to non- NO_X Budget units located in the same State as the unit would be used to supplement, and thereby correct, the unit's actual allocation. EPA stated that the use of orders—rather than rule revisions—to make unit-specific allocations from allocations to non- NO_X Budget units would allow for much more expeditious correction of a unit's allocations where correction was warranted and still provide opportunity for interested parties to submit objections.

Several commenters objected to the proposed revision of § 97.42(g) on the ground that, among other things, State budgets should be increased to provide additional allowances for units whose original allocations were incorrect and warranted an increase. The commenters also claimed that the proposed revision provided fewer procedural protections for participants and other members of the public than provided through a rulemaking proceeding. As discussed above, EPA concludes above that there is no basis for increasing the State budgets to provide additional allowances for the units specifically identified in this final rule as warranting increased allocations. Further, additional procedural protections (if any were necessary) could be provided in a final rule. However, EPA has decided that the most prudent course is to retain—at this time—the flexibility to address case-by-case the issue of how to obtain additional allowances for any other units that EPA may determine in the future warrant increased allocations, rather than deciding that question on a generic basis now by adopting the proposed revisions. EPA is therefore not taking action in today's final rule on the proposed revisions to § 97.42(g).[12]

3. Section 97.43 Revisions

In the December 2000 proposal, EPA proposed alternative revisions that would provide allowances from the State compliance supplement pool for the Birchwood unit. EPA proposed to revise § 97.43 to add a new paragraph (c)(9) that would specifically allocate to the Birchwood unit in Virginia 725 allowances from the Virginia compliance supplement pool. The new provisions also would address the interaction of this unit-specific allocation with other provisions of the rule concerning compliance supplement pool allowances. As discussed above, there are now sufficient non- NO_X Budget unit allowances to satisfy the revised allocation for the Birchwood unit. The proposed new paragraph (c)(9) is therefore unnecessary, and EPA has decided not to adopt that revision.

In the December 2000 proposal, EPA also proposed to revise § 97.43 to add a new paragraph (d) that would authorize the Administrator, on a generic basis, to issue orders determining that the number of allowances allocated in Appendix A or B (or using § 97.42(a) through (d) procedures) for a unit was less than the number of allowances provided under § 97.42(a) through (d) and that equitable considerations warrant correction of such allocation. The Administrator could also determine in the order that allowances in the compliance supplement pool of the State where the unit is located would be used to supplement, and thereby correct, the unit's allocation.

Several commenters objected to the proposed new paragraph (d) of § 97.43 on the ground that, among other things, State budgets should be increased to provide additional allowances for units whose original allocations were incorrect and warranted an increase. The commenters also claimed that the proposed revision provided fewer procedural protections for participants and other members of the public than provided through a rulemaking proceeding. As discussed above, EPA concludes above that there is no basis for increasing the State budgets to provide additional allowances for the units specifically identified in this final rule as warranting increased allocations. Further, additional procedural protections (if any were necessary) could be provided in a final rule. However, EPA has decided that the most prudent course is to retain—at this

[11] Removal of this unit was not specifically referenced in the December 2000 proposed rule because the determination that the unit was a non- NO_X Budget unit was not issued until August 1, 2001. However, EPA maintains that there is good cause under section 553(b)(3)(B) of the Administrative Procedure Act for finalizing this revision without notice and comment. The August 1, 2001 determination is final, and the revision merely ensures that Appendix B reflects this final determination. Even without such revision, the final determination would be effective and the allowances originally allocated to the unit would be available for allocation in today's final rule to the Birchwood unit. Notice and comment are therefore unnecessary.

[12] One commenter that supports the proposed revisions to § 97.42(g) and § 97.43 suggests that the date for compliance under the January 2000 final rule with the requirement to hold allowances should be extended to May 1, 2004. EPA is not addressing this issue in this final rule since the issue is beyond the scope of the December 2000 proposed rule and the rulemaking.

time—the flexibility to address on a case-by-case basis the issue of how to obtain additional allowances for any units that EPA may determine in the future warrant increased allocations, rather than deciding that question on a generic basis now by adopting the proposed revisions. EPA is therefore not taking action in today's final rule on the proposed revisions to § 97.43.

III. Administrative Requirements

A. Executive Order 12866: Regulatory Impacts Analysis

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The 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 obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that today's final rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and, therefore, is not subject to OMB review.

B. Regulatory Flexibility Act: Small Entity Impacts

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), Pub. L. No. 104–121, generally requires the Agency to prepare 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. Such entities include small businesses, small organizations, and small governmental jurisdictions.

In determining whether a rule has a significant, economic impact on a substantial number of small entities, the impact of concern is any significant, adverse, economic impact on small entities since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives ''which minimize any significant, economic impact of the proposed rule on small entities.'' 5 U.S.C. 603 and 604.

Today's final rule revision is not significant enough to change the regulatory burden or economic impact of the existing Federal NO_X Budget Trading Program rule. Moreover, for virtually all NO_X Budget units addressed, the final rule either increases the number of allowances allocated and thus reduces the burden of the program or does not change the number of allowances allocated and thus does not change the program burden. To the extent the final rule removes certain units from the allocation tables, EPA has already issued final orders removing the allocations for these units, and the final rule has no effect other than to update the allocation tables to make them consistent with those orders. Only one unit's allocation is reduced by today's final rule, and the owners of that unit, agreeing that the unit's original allocation was erroneously overstated, requested EPA to make the reduction.

For these reasons, I certify that today's final rule will not have a significant, economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, the Agency generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rule with ''Federal mandates'' that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Section 205 of the UMRA generally requires that, before promulgating a rule for which a written statement is needed, EPA must identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why the alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with regulatory requirements.

EPA has determined that today's final rule does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector in any one year. For the reasons discussed above, today's final rule revision is not significant enough to change the overall regulatory burden or economic impact of the Federal NO_X Budget Trading Program rule on any parties, including State, local or tribal governments. Accordingly, little or no additional costs to State, local, or tribal governments in aggregate, or to the private sector, will result from the final rule. Similarly, EPA has determined that today's final rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's final rule is not subject to the requirements of sections 202, 203, or 205 of the UMRA.

D. Paperwork Reduction Act

Today's final revisions to part 97 will not impose any new information collection burden subject to the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*). Today's final rule does not change either the scope of the units covered by, or the information requirements for units under, the Federal NO_X Budget Trading Program.

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.

Copies of the previously submitted Information Collection Request concerning the Federal NO_X Budget Trading Program may be obtained from the Director, Regulatory Information Division; EPA; 401 M St. SW (mail code 2137); Washington, DC 20460 or by calling (202) 564–2740.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The Executive Order 13045 (62 FR 19885 (April 23, 1997)) applies to any rule that the Agency determines (1) is ''economically significant'' as defined under Executive Order 12866 and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, 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 EPA.

Today's final rule is not subject to Executive Order 13045 because it is not ''economically significant'' as defined under Executive Order 12866. Further, EPA does not have reason to believe that the environmental health risks or safety risks addressed by this action present a disproportionate risk to children.

F. Executive Order 12898: Environmental Justice

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations.

Today's final rule does not have a disproportionately high and adverse human health or environmental effects on minorities and low-income populations.

G. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255 (August 10, 1999), requires the Agency 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'' are 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.''

Today's final 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. Thus, Executive Order 13132 does not apply to this rule.

H. 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 final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This final rule does not anticipate substantial compliance cost expenditures by tribal governments nor substantial direct effects on cultural practices of tribes. Thus, Executive Order 13175 does not apply to this rule.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d), 15 U.S.C. 272 note, directs the Agency to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's final rule does not involve any technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. 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.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et.seq. (CRA), as added by the Small Business Regulatory Enforcement Fairness Act of 1966, does not apply because this action is not a rule, for purposes of 5 U.S.C. 8014(3). This action qualifies as a rule of particular applicability because its application is limited to specifically named entities, and as such, it is exempt from the CRA.

List of Subjects in 40 CFR Part 97

Environmental protection, Administrative practice and procedure, Air pollution control, Emissions trading, Intergovernmental relations, Nitrogen oxides, Ozone, Ozone transport, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 97—[AMENDED]

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

Authority: 42 U.S.C. 7401, 7403, 7426, and 7601.

APPENDIX A—[AMENDED]

2. Appendix A to part 97 is amended by:

a. Removing all entries for ''MI, 491 E. 48 TH STREET'', ''MI, JB SIMS'', ''NC, CRAVEN COUNTY WOOD ENERGY'', and ''VA, STONE CONTAINER''; and

b. Removing two entries for ''VA, SEI BIRCHWOOD'' and adding in their place one entry for ''VA, SEI BIRCHWOOD''.

The addition read as follows:

APPENDIX A TO PART 97—FINAL SECTION 126 RULE: EGU ALLOCATIONS, 2003–2007

State	Plant	Plant id	Point id	NO_X allocation for EGUs
*	*	*	*	*
VA	SEI BIRCHWOOD	12	1	305
*	*	*	*	*

APPENDIX B—[AMENDED]

3. Appendix B to part 97 is amended by:

a. Removing all entries for ''IN, Allen, MICHELIN NORTH AMERICA, INC'', ''IN, Elkhart, SUPERIOR LAMINATING, INC'', ''IN, Kosciusko, THE DALTON FOUNDRIES INC'', ''KY, Carroll, DOW CORNING CORP'', ''KY, Shelby, ICHIKOH MANUFACTURING'', ''KY, Scott, TOYOTA MOTOR MFG USA INC'', and ''KY, Hardin, USAARMC & FORT KNOX''; removing the first entry for ''MI, Midland, DOW CHEMICAL USA''; removing all entries for ''MI, Wayne, NATIONAL STEEL CORP'', ''MI, Wayne, ROUGE STEEL CO'', ''NC, Gaston, FMC CORP—LITHIUM DIV. HWY 161'', ''NJ, Middlesex, FORD MOTOR COMPANY'', ''NJ, Bergen, GARDEN STATE PAPER CO'', ''NJ, Passiac, HOFFMAN LAROUCHE INC. C/O ENVIR''; ''WV, Grant, NORTH BRANCH POWER STATION'', and ''WV, Brooke, WHEELING—PITTSBURGH STEEL''; removing the second entry for ''VA, Isle of Wright, INTERNATIONAL PAPER—FRANKLIN (FORMERLY UNION CAMP CORP/FINE PAPER DIV)'';

b. Revising the fourth entry for ''MI, Ingham, MICHIGAN STATE UNIVERSITY'';

c. Revising the second entry for ''NC, Martin, WEYERHAEUSER PAPER CO. PLYMOUTH'';

d. Revising the entries for ''WV, Kanawha, DUPONT—BELLE''; and ''WV, Fayette, ELKEM METALS COMPANY L.P.—ALLOY PLANT''; revising two entries for ''WV, Marshall, PPG INDUSTRIES, INC''; revising the three entries for ''WV, Kanawha, AVENTIS CROPSCIENCE''; and revising the seven entries for ''WV, Hancock, WEIRTON STEEL CORPORATION''; and

e. Adding in alphabetical order by State by plant and numerical order by point entries for ''NC, Haywood, BLUE RIDGE PAPER PRODUCTS'', ''NC, Craven, WEYERHAEUSER COMPANY NEW BERN MILL'', and ''WV, Kanawha, UNION CARBIDE—SOUTH CHARLESTON PLANT''.

The revisions and additions read as follows:

APPENDIX B TO PART 97—FINAL SECTION 126 RULE: NON-EGU ALLOCATIONS, ALLOCATIONS, 2003–2007

State	County	Plant	Plant ID	Point ID	NO_X allocation for non-EGUs
*	*	*	*	*	*
MI	Ingham	MICHIGAN STATE UNIVERSITY	K3249	0056	73
*	*	*	*	*	*
NC	Haywood	BLUE RIDGE PAPER PRODUCTS INC	0159	005	129
*	*	*	*	*	*
NC	Martin	WEYERHAEUSER COMPANY PLYMOUTH	0069	009	25
NC	Craven	WEYERHAEUSER COMPANY NEW BERN MILL	0104	006	72
*	*	*	*	*	*
WV	Kanawha	DUPONT—BELLE	00001	612	54
WV	Fayette	ELKEM METALS COMPANY L.P.—ALLOY P PLANT	00001	006	116
WV	Marshall	PPG INDUSTRIES, INC	00002	001	195
WV	Marshall	PPG INDUSTRIES, INC	00002	003	419
WV	Kanawha	AVENTIS CROPSCIENCE	00007	010	113
WV	Kanawha	AVENTIS CROPSCIENCE	00007	011	102
WV	Kanawha	AVENTIS CROPSCIENCE	00007	012	105
WV	Kanawha	UNION CARBIDE—SOUTH CHARLESTON PLANT	0003	0B6	92
WV	Kanawha	UNION CARBIDE—SOUTH CHARLESTON PLANT	0003	0B7	45
WV	Hancock	WEIRTON STEEL CORPORATION	00001	030	31
WV	Hancock	WEIRTON STEEL CORPORATION	00001	088	30
WV	Hancock	WEIRTON STEEL CORPORATION	00001	089	2
WV	Hancock	WEIRTON STEEL CORPORATION	00001	090	110
WV	Hancock	WEIRTON STEEL CORPORATION	00001	091	253
WV	Hancock	WEIRTON STEEL CORPORATION	00001	092	208
WV	Hancock	WEIRTON STEEL CORPORATION	00001	093	200

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301162; FRL–6797–2]

RIN 2070–AB78

Propamocarb Hydrochloride; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation revises time-limited tolerances for residues of propamocarb hydrochloride in or on tomato and tomato, paste and revokes the time limited tolerance for residues of propamocarb hydrochloride in or on tomato, puree. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on tomatoes. This regulation revises maximum permissible levels for residues of propamocarb hydrochloride in these food commodities. The revised tolerances will expire and are revoked on December 31, 2003.

DATES: This regulation is effective September 21, 2001. Objections and requests for hearings, identified by docket control number OPP–301162, must be received by EPA on or before November 20, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301162 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703 308–9364; and e-mail address: pemberton.libby@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301162. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is revising the tolerances for residues of the fungicide propamocarb hydrochloride, propyl [3-(dimethylamino)propyl] carbamate monohydrochloride, by increasing the residue levels in or on tomato and tomato, paste, to 2 and 5 ppm, respectively, and removing the level for tomato, puree. These revised tolerances will expire and are revoked on December 31, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

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

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

408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

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

III. Emergency Exemption for Propamocarb hydrochloride on Tomato and FFDCA Tolerances

Failure to control late blight in tomatoes with the registered fungicides have been caused almost exclusively by immigrant strains of late blight (Phytophthora infestans), which are resistant to the control of choice, metalaxyl. Before the immigrant strains of late blight arrived, all of the strains in the United States were previously controlled by treatment with metalaxyl. Presently, there are no fungicides registered in the United States that will provide adequate control of the immigrant strains of late blight. EPA has authorized under FIFRA section 18 the use of propamocarb hydrochloride on tomato for control of late blight in California. After having reviewed the submission, EPA concurs that an emergency condition exists for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of propamocarb hydrochloride in or on tomato and tomato paste. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is revising these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on December 31, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on tomato and tomato paste after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed the levels that were authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

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

IV. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of propamocarb hydrochloride and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of propamocarb hydrochloride in or on tomato and tomato paste at 2 and 5 ppm, respectively ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follows.

A. Toxicological Endpoints

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

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

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

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

To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for propamocarb hydrochloride used for human risk assessment is shown in the following Table 1:

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary females 13–50 years of age	NOAEL = 150 mg/kg/day UF = 100 Acute RfD = 1.5 mg/kg/day	FQPA SF = 1X aPAD = acute RfD FQPA SF = 1.5 mg/kg/day	Rabbit Developmental LOAEL = 300 mg/kg/day based on increased post-implantation loss
Acute dietary general population including infants and children	NOAEL = 200 mg/kg/day UF = 100 Acute RfD = 2.0 mg/kg/day	FQPA SF = 1X aPAD = acute RfD FQPA SF = 2.0 mg/kg/day	Acute neurotoxicity screening battery-Rat LOAEL = 2,000 mg/kg/day based on decreased body weight gain and decreased motor activity
Chronic dietary all populations	NOAEL= 12 mg/kg/day UF = 100 Chronic RfD = 0.12 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD FQPA SF = 0.12 mg/kg/day	Carcinogenicity study-Mouse LOAEL = 95 mg/kg/day based on decreased body weight and body weight gain in females
Short-term (1 to 7 days) and Intermediate-term (1 week-several months) Dermal (occupational/residential)	Dermal study NOAEL= 150 mg/kg/day	LOC for MOE = 100 (Occupational) LOC for MOE = 100 (Residential)	21–day dermal toxicity study-Rabbit LOAEL = 525 mg/kg/day based on decreased body weight gain in females
Short-term (1 to 7 days) and Intermediate-term (1 week-several months) Inhalation (occupational/residential)	Inhalation (or oral) study NOAEL= 150 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Occupational) LOC for MOE = 100 (Residential)	Developmental toxicity study-Rabbit Developmental LOAEL = 300 mg/kg/day based on increased post-implantation loss Maternal LOAEL = 300 mg/kg/day based on decreased body weight gain
Cancer (oral, dermal, inhalation)	''Not likely''	Not applicable	Acceptable oral rat and mouse carcinogenicity studies; no evidence of carcinogenic or mutagenic potential

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

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.499) for the residues of propamocarb hydrochloride, in or on potatoes. Time-limited tolerances for inadvertent residues have been established in or on wheat and wheat by-products. In addition, time-limited tolerances for residues in or on tomato and tomato, paste, and puree have also been established at levels lower than those described in this document. Risk assessments were conducted by EPA to assess dietary exposures from propamocarb hydrochloride 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. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: Acute analyses were performed for females 13–50 years old and the general U.S. population (including infants and children); the acute risk was analyzed at the 95th percentile. The aPAD for females 13–50 years old and the general U.S. population (including infants and children) are 1.5 mg/kg/day and 2.0 mg/kg/day, respectively. For acute dietary risk estimates, EPA's level of concern is >100% aPAD. The results of the acute analysis indicate that the acute dietary risk estimates for the general U.S. population and all population subgroups (at the 95th percentile) associated with the proposed uses of propamocarb hydrochloride do not exceed EPA's level of concern.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment, the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: A chronic

analysis was performed for the general U.S. population and all population subgroups. The cPAD for the general U.S. population and all subgroups is 0.12 mg/kg/day. For chronic dietary risk estimates, EPA's level of concern is >100% cPAD. The results of the chronic analysis indicate that the chronic dietary risk estimates for the general U.S. population and all population subgroups associated with the proposed uses of propamocarb hydrochloride do not exceed EPA's level of concern.

iii. *Cancer.* There is no concern for mutagenic potential, and there is no evidence of carcinogenic potential in either the rat or mouse. Propamocarb hydrochloride has been classified as ''not likely to be carcinogenic in humans.'' Therefore, a cancer dietary exposure analysis was not performed.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for propamocarb hydrochloride 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 propamocarb hydrochloride.

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

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

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

Based on the GENEEC and SCI-GROW models the EECs of propamocarb hydrochloride for acute exposures are estimated to be 1,030 parts per billion (ppb) for surface water and 2.08 ppb for ground water. The EECs for chronic exposures are estimated to be 340 ppb for surface water and 2.08 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).

Propamocarb hydrochloride is currently registered for use on the following residential non-dietary sites: Turfgrass and ornamentals at residential, recreational and golf course sites. However, the usage information in the 1995 Reregistration Eligibility Decision (RED) for propamocarb hydrochloride and the label statement that only protected handlers may be present in the treated area during application, indicate that only commercial applicators will apply the registered end-use product Banol (EPA Registration Number 432–942, contains 66.5% propamocarb hydrochloride) mainly on golf courses and there will be no use on residential or recreational turf. The risk assessment was conducted using the following residential exposure assumptions: An MOE of 100 is adequate to ensure protection from propamocarb hydrochloride via the dermal and inhalation routes for residential exposures. The high-end scenario for residential post-application exposure is the golf course use. The post-application risk assessment is based on generic assumptions as specified by the newly proposed Residential Standard Operating Procedures (SOPs) and recommended approaches by Health Effects Division's (HED's) Exposure Science Advisory Committee. Short-term post-application exposures are expected for the adult and adolescent golfer. Golfer exposure is expected through minimal hand contact with the golf ball and dermal contact to the lower legs from treated plant surfaces. Since it is assumed that the adolescent golfer would have a proportionally similar exposure to adults, a dermal post-application assessment was performed for the adult golfer only. The calculated MOE for the golfer is 980 and, therefore, does not exceed EPA's level of concern. Since the short- and intermediate-term toxicological endpoints are the same, the golfer post-application exposure assessment is expected to provide adequate exposure estimates for both the short- and intermediate-term. In the event of intermediate-term exposure, propamocarb hydrochloride residues are expected to dissipate over time. Therefore, this assessment is expected to present a high-end conservative estimate of actual 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 propamocarb hydrochloride 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, propamocarb hydrochloride 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 propamocarb hydrochloride has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Safety Factor for Infants and Children

1. *Safety factor for infants and children.*—i. *In general.* FFDCA section

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

ii. *Prenatal and postnatal sensitivity.* There is no evidence of quantitative or qualitative enhanced susceptibility to infants and children. In the rat, developmental effects occur only at doses that cause mortality in the dams. The maternal LOAEL of 740 milligrams active ingredient/kilogram/day (mg a.i./kg/day) is based on mortality. The maternal NOAEL is 221 mg a.i./kg/day. The developmental LOAEL of 740 mg a.i./kg/day is based on increased gestation day (GD) 20 fetal death and a possible increase in minor skeletal anomalies. The developmental NOAEL is 221 mg a.i./kg/day. In the rabbit, developmental effects occur only at doses where there is maternal toxicity. EPA believes that the post implantation loss is actually due to the increased abortions in the does. The maternal LOAEL of 300 mg a.i./kg/day is based on decreased body weight gains for GD 6–18 and possible increased abortions. The maternal NOAEL is 150 mg a.i./kg/day. The developmental LOAEL of 300 mg a.i./kg/day is based on increased post-implantation loss. The developmental NOAEL is 150 mg a.i./kg/day. In the reproduction toxicity study, offspring effects only occurred at levels resulting in maternal toxicity. The LOAEL for systemic/parental toxicity is 8,000 ppm based on decreased body weights of F_0 and F_1 adults. The systemic/parental toxicity NOAEL is 1,250 ppm.

2. *Conclusion.* There is a complete toxicity data base for propamocarb hydrochloride and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed because the prenatal and postnatal toxicology data base is complete and there is no indication of increased susceptibility. A developmental neurotoxicity study is not required. The dietary (food and drinking water) exposure assessments will not underestimate the potential exposures for infants and children from the use of propamocarb hydrochloride.

D. Aggregate Risks and Determination of Safety

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

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

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to propamocarb hydrochloride 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 propamocarb hydrochloride on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to propamocarb hydrochloride will occupy 1% of the aPAD for the U.S. population, 1% of the aPAD for females 13 years and older, 3% of the aPAD for all infants (< 1 year old); and 3% of the aPAD for children 1–6 years old. In addition, despite the potential for acute dietary exposure to propamocarb hydrochloride in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of propamocarb hydrochloride in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO PROPAMOCARB HYDROCHLORIDE

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
All infants (< 1 year old)	2.0	3	1,030	2.08	19,000
Children (1–6 years old)	2.0	3	1,030	2.08	19,000
Females (13–50 years old)	1.5	1	1,030	2.08	45,000
General U.S. population	2.0	1	1,030	2.08	69,000

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to propamocarb hydrochloride from food will utilize 7% of the cPAD for the U.S. population; 9%

of the cPAD for all infants < 1 year old; and 23% of the cPAD for children 1–6 years old. It has been assumed that there are no residential uses for propamocarb hydrochloride that result in chronic residential exposure to propamocarb hydrochloride. Based on the use pattern, chronic residential exposure to residues of propamocarb hydrochloride is not expected. In addition, despite the potential for chronic dietary exposure to propamocarb hydrochloride in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of propamocarb hydrochloride in 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 PROPAMOCARB HYDROCHLORIDE

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.12	7	340	2.08	3,900
Infants (< 1 year old)	0.12	9	340	2.08	1,100
Children (1–6 years old)	0.12	23	340	2.08	920
Females (13–50 years old)	0.12	5	340	2.08	3,400

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). Propamocarb hydrochloride is currently registered for use(s) that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for propamocarb hydrochloride.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 950, 1,100 and 1,100 for females 13–50 years old, males 13–19 years old and the general U.S. population, respectively. The short-term aggregate risk assessment estimates risks likely to result from 1–7 day exposure to propamocarb hydrochloride residues in food, drinking water, and residential pesticide uses. High-end estimates of the residential exposure are used in the short-term assessment. Average values are used for food and drinking water exposure.

For short-term aggregate exposure risk, the oral and dermal exposures can be combined since both are based on the same toxicity endpoint (decreased body weight). An MOE of 100 is adequate to ensure protection from propamocarb hydrochloride via the dermal route for residential exposures.

According to the 1995 RED for propamocarb hydrochloride (Estimated Usage of Pesticide, p. 3), ''almost all usage of propamocarb hydrochloride in the United States is concentrated on golf courses with approximately 100,000 to 200,000 pounds (lb) active ingredient (ai) applied per year.'' The label for Banol states that only protected handlers may be present in the treated area during application. For these reasons, it is assumed that this product will be used by commercial applicators, mainly on golf courses. The high-end scenario for residential post-application exposure is the golf course use of Banol. Therefore, in aggregating short-term risk, the Agency considered background chronic dietary exposure (food and drinking water) and short-term golfer dermal exposure. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of propamocarb hydrochloride in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.–AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO PROPAMOCARB HYDROCHLORIDE

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
Females (13–50 years old)	950	100	1,030	2.08	40,000
Males (13–19 years old)	1,100	100	1,030	2.08	63,000
General U.S. population	1,100	100	1,030	2.08	63,000

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). The short-term aggregate assessment adequately addresses both the short- and intermediate-term golfer dermal exposures. The short- and intermediate-term dermal endpoints were chosen from the 21–day dermal rabbit toxicity study. The short-term golfer exposure was calculated assuming 1–7 day exposure to propamocarb hydrochloride. The intermediate-term aggregate risk assessment estimates risks likely to result from 7 days to 3 months exposure. In the event of intermediate-term exposure, propamocarb hydrochloride residues are expected to dissipate over time. Therefore, the short-term aggregate assessment is expected to present a high-end conservative estimate of intermediate-term risk. As the short-term aggregate risk assessment represents the high-end scenario, an

intermediate-term assessment was not performed.

5. *Aggregate cancer risk for U.S. population.* An aggregate cancer risk analysis was not performed since there is no concern for mutagenic potential and there is no evidence of carcinogenic potential in either the rat or mouse. Propamocarb has been classified as ''not likely to be carcinogenic in humans.''

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 propamocarb hydrochloride residues.

V. Other Considerations

A. Analytical Enforcement Methodology

A gas chromatography method was utilized for the determination of propamocarb hydrochloride residues in/on raw agricultural commodity samples collected from the potato field study and field rotational crop study. The reported limit of quantitation was 0.05 ppm. The method validation and concurrent method recovery data indicate that this method is adequate to support the time-limited tolerances associated with this action. An identical method is proposed for tolerance assessment. The proposed method has undergone a successful independent lab validation and petition validation method. EPA concludes that the requirements for a plant enforcement method have been fulfilled.

A ruminant feeding study is required. Conclusions about the need for livestock tolerances and appropriate enforcement analytical method are deferred until receipt of the ruminant feeding study and determination of the residues of concern in livestock.

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

A CODEX MRL of 1 mg/kg has been established for residues of propamocarb per se in/on tomatoes. The use pattern used for determining the CODEX MRL differs from that in this section 18 exemption (maximum use rate overseas is 3.2 lb a.i./acre per application, the maximum use rate in the United States is 0.9 lb a.i./acre. No Canadian or Mexican residue limits have been established.

C. Conditions

The conditions of registration will include submission of a livestock feeding study (which determines the metabolites N-oxide propamocarb, 2-hydroxy propamocarb and oxazolidine) and storage stability data from the livestock feeding study. The need for a livestock analytical enforcement method and livestock tolerances will be determined after receipt of the ruminant feeding study and determination of the residues of concern in livestock. A corrosion characteristics study must be submitted as soon as completed.

VI. Conclusion

Therefore, the tolerances are revised for residues of propamocarb hydrochloride, propyl [3-(dimethylamino)propyl]carbamate monohydrochloride, in or on tomato and tomato, paste at 2 and 5 ppm, respectively. In addition, the tolerance for residues of propamocarb hydrochloride in or on tomato puree is hereby revoked.

VII. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301162 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 20, 2001.

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

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

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

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

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

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301162, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VIII. Regulatory Assessment Requirements

This final rule revises and revokes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). 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 special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

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

IX. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: September 10, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.499, the table in paragraph (b) is amended by revising the entry for Tomato, paste, by removing the entries for Tomato, puree and Tomatoes, and by adding an entry for Tomato to read as follows:

§ 180.499 Propamocarb hydrochloride; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
* *	*	* *
Tomato	2.0	12/31/03
Tomato, paste	5.0	12/31/03
* *	*	* *

* * * * *

[FR Doc. 01–23608 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301174; FRL–6803–1]

RIN 2070–AB78

Azoxystrobin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of azoxystrobin in or on acerola, atemoya, avocado, biriba, black sapote, leafy greens (Brassica) subgroup (subgroup 5B), bushberry subgroup (subgroup 13B), canistel, cherimoya, custard apple, eggplant, feijoa, grass forage, grass hay, guava, ilama, jaboticaba, jackfruit, juneberry, lingonberry, longan, loquat, lychee, mamey sapote, mango, okra, passion fruit, pawpaw, papaya, pepper, peppermint (tops), persimmon, pulasan, rambutan, salal, sapodilla, soursop, Spanish lime, spearmint (tops), star apple, starfruit, strawberry, sugar apple, tamarind, turnip (tops), watercress, wax jambu, and white sapote. The Interregional Research Project #4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996. This final rule establishes permanent tolerances for azoxystrobin, and as part of that process the Agency has reassessed existing tolerances. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. All permanent tolerances for azoxystrobin were established after August 2, 1996. Consequently, regarding the actions in this final rule, no tolerance reassessments are counted toward the August 2002 review deadline of FFDCA section 408(q).

DATES: This regulation is effective September 21, 2001. Objections and requests for hearings, identified by docket control number OPP–301174, must be received by EPA on or before November 20, 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–301174 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 308–9368; and e-mail address: jamerson.hoyt@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' 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–301174. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of May 30, 2001 (66 FR 29317) (FRL–6782–2), 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 pesticide petitions (PP) for tolerances by IR–4, 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390. This notice included a summary of the petitions prepared by Zeneca Ag Products, the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.507 be amended by establishing tolerances for combined residues of the fungicide azoxystrobin, methyl (E)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate) and its Z-isomer (methyl (Z)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate, in or on food commodities as follows:

1. *PP 0E6211* proposed to establish tolerances for strawberry at 10 parts per million (ppm), mint at 30 ppm, grass forage (from grass grown for seed) at 15 ppm, grass (from grass grown for seed) hay at 20 ppm, and watercress, tropical fruits, persimmon, paw paw, tamarind, jackfruit, and loquat at 3.0 ppm. Since ''tropical fruits'' are not defined for tolerance purposes by EPA, the petition was amended by IR-4 to delete tropical fruits at 3.0 ppm and to add proposed tolerances for acerola, atemoya, avocado, biriba, black sapote, canistel, cherimoya, custard apple, feijoa, guava, ilama, jaboticaba, longan, lychee, mamey sapote, mango, passion fruit, papaya, pulasan, rambutan, sapodilla, soursop, Spanish lime, star apple, starfruit, sugar apple, wax jambu and white sapote at 2.0 ppm. In addition, the proposed tolerance levels for persimmon, paw paw, tamarind, jackfruit and loquat were reduced to 2.0 ppm.

2. *PP 1E6238* proposed to establish tolerances for bushberry subgroup, lingonberries, juneberries, and salal at 3.0 ppm.

3. *PP 1E6264* proposed to establish tolerances for the leafy Brassica greens subgroup and turnip greens at 25 ppm, and pepper, eggplant and okra at 2.0 ppm.

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for combined residues of azoxystrobin on acerola, atemoya, avocado, biriba, black sapote, canistel, cherimoya, custard apple, eggplant, feijoa, guava, ilama, jaboticaba, jackfruit, longan, loquat, lychee, mamey sapote, mango, okra, passion fruit, pawpaw, papaya, pepper, persimmon, pulasan, rambutan, sapodilla, soursop, Spanish lime, star apple, starfruit, sugar apple, tamarind, wax jambu and white sapote at 2.0 ppm; bushberry subgroup, juneberry, lingonberry, salal, and watercress at 3.0 ppm; strawberry at 10 ppm; grass forage at 15 ppm; grass hay at 20 ppm; leafy greens (Brassica) subgroup and turnip (tops) at 25 ppm; peppermint (tops) and spearmint (tops) at 30 ppm. EPA's assessment of exposures and risks associated with establishing the tolerances 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 azoxystrobin are discussed in Unit III.A. of the **Federal Register** of September 29, 2000 (65 FR 58404).

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 1×10^{-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 azoxystrobin used for human risk assessment is shown in the following Table 1:

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary (general population including infants and children)	NOAEL = <200 mg/kg/day UF = 300 Acute RfD = 0.67 mg/kg/day	FQPA SF = 1X aPAD = acute RfD ÷ FQPA SF = 0.67 mg/kg/day	Acute neurotoxicity study in rats LOAEL = 200 mg/kg/day based on diarrhea at 2–hours post dose at all dose levels up to and including 200 mg/kg/day (the LOAEL)
Chronic dietary (all populations)	NOAEL= 18 mg/kg/day UF = 100 Chronic RfD = 0.18 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD ÷ FQPA SF = 0.18 mg/kg/day	Combined chronic toxicity/carcinogenicity feeding study in rats LOAEL = 34/117 mg/kg/day in males/females based on reduced body weights in both sexes and bile duct lesions in males
Short-term (1–7 days) Incidental oral (residential)	NOAEL= 25 mg/kg/day UF = 100	FQPA SF = 1X	Prenatal developmental oral toxicity study in rats LOAEL = 100 mg/kg/day based on increased maternal diarrhea, urinary incontinence, and salivation
Intermediate-term (1 week to several months) Incidental oral (residential)	NOAEL= 20 mg/kg/day UF = 100	FQPA SF = 1X	90–Day feeding study in rats LOAEL = 211/223 mg/kg/day in males/females based on decreased body weight gain in both sexes and clinical signs indicative of reduced nutrition
Short-intermediate, and long-term dermal (residential)	None	None	21–Day repeated dose dermal study in rats. No dermal or systemic toxicity was seen at the limit dose (1,000 mg/kg/day). This risk assessment is not required
Short-term inhalation (1 to 7 days) (residential)	Oral study NOAEL= 25 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (residential)	Prenatal developmental oral toxicity study in rats LOAEL = 100 mg/kg/day based on increased maternal diarrhea, urinary incontinence, and salivation
Intermediate-term inhalation (1 week to several months) (residential)	Oral study NOAEL = 20 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (residential)	90–Day feeding study in rats LOAEL = 211/223 mg/kg/day in males/females based on decreased body weight gain in both sexes and clinical signs indicative of reduced nutrition
Long-term inhalation (>180 days) (residential)	None	None	This risk assessment is not applicable to the use of azoxystrobin
Cancer (oral, dermal, inhalation)	None	None	Azoxystrobin is classified ''as not likely to be carcinogenic in humans''

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

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.507) for the combined residues of azoxystrobin, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from azoxystrobin 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. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: Tolerance level residues were assumed and it was also assumed that 100% of the crops and other commodities with proposed or established azoxystrobin tolerances contained those residues. Anticipated residues, and percent crop treated (PCT) values of less than 100%, were not used.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment, the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Tolerance level residues were assumed and it was also assumed that 100% of the crops and other commodities with proposed or established azoxystrobin tolerances contained those residues. Anticipated residues, and PCT values of less than 100%, were not used.

iii. *Cancer.* Since carcinogenicity studies produced no evidence that azoxystrobin is a carcinogen, the Agency concluded that azoxystrobin is

unlikely to be a human carcinogen. There is also, as a consequence, no carcinogenicity endpoint, and this analysis was not performed.

2. *Dietary exposure from drinking water*. Although moderately persistent in soils and stable to hydrolysis, the likelihood of azoxystrobin moving into ground and surface water is low due to high soil/water partitioning coefficients and low single application rates. However, with multiple applications and repeated usage, azoxystrobin and especially its degradate compound 2 may eventually build up in environmental compartments and move into drinking water resources. Compound 2 has greater potential to leach into ground water than the parent as indicated in the terrestrial field studies. In these studies, the parent azoxystrobin remained on the soil surface whereas compound 2 was detected in deeper soil profiles.

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

The Agency uses the First Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The SCI-GROW model is used to predict pesticide concentrations in shallow ground water. For a screening-level assessment for surface water EPA will use FIRST (a tier 1 model) before using PRZM/EXAMS (a tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/EXAMS model includes a percent crop (PC) area factor as an adjustment to account for the maximum PC coverage within a watershed or drainage basin.

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

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

Based on the FIRST and SCI-GROW models, the estimated environmental concentrations (EECs) of azoxystrobin for acute exposures are estimated to be 170 parts per billion (ppb) for surface water and 0.06 ppb for ground water. The EECs for chronic exposures are estimated to be 33 ppb for surface water and 0.06 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).

Azoxystrobin is currently registered for use on the following residential non-dietary sites: turf and ornamentals. The risk assessment was conducted using the following residential exposure assumptions:

Products containing azoxystrobin may be applied to turf 1 to 5 times per year at rates up to 0.95 lb active ingredient (a.i) per acre (i.e., not to exceed 5 lb a.i. per acre per year) and to ornamentals at rates up to 0.75 lb a.i. per acre every 7 to 14 days, but not to exceed 5 lb a.i./acre/year. The currently registered labels do not prohibit homeowners from mixing/loading/applying either the flowable concentrate or the water-dispersible granule formulations. This residential exposure and risk assessment was conducted using the application rate for turf because it is the highest use rate.

Residential handlers may be exposed to azoxystrobin for both short-term dermal and inhalation exposure to azoxystrobin when mixing, loading and applying the formulations. Adults and children may be exposed to azoxystrobin residues from dermal contact with foliage during post-application activities. Toddlers may receive short-term and intermediate-term oral exposure from incidental ingestion during post-application activities.

As no dermal endpoint was selected, a dermal exposure and risk assessment was not conducted for residential handlers or post-application activities. NOAELs of 25 mg/kg/day and 20 mg/kg/day were selected for assessing the risk from short-term and intermediate-term incidental oral exposures, respectively. These same NOAELs were selected for assessing the risks from short-term and intermediate-term inhalation exposures. The level of concern for risk assessment purposes is 100.

No chemical-specific exposure or residue dissipation data for handler or post-application activities were submitted in support of the registered lawn uses. EPA's Draft Standard Operating Procedures (SOPs) for Residential Exposure Assessments, and Recommended Revisions, were used as the basis for all residential handler exposure calculations. Some of the handler exposure data used in this assessment are from the Outdoor Residential Exposure Task Force (ORETF). The task force recently submitted proprietary data to the Agency on hose-end sprayers, push-type granular spreaders, and handgun sprayers. The ORETF data were used in this assessment in place of Pesticide Handler Exposure Data (PHED) for the garden hose-end sprayer scenario. The ORETF data were designed to replace the present PHED data base with higher-confidence, higher quality data that contains more replicates than the PHED data for those scenarios.

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 azoxystrobin 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, azoxystrobin 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 azoxystrobin 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.* Prenatal development studies in rats and rabbits, and a 2-generation reproductive toxicity study in rats did not indicate increased susceptibility of young rats or rabbits to *in utero* and/or postnatal exposure.

iii. *Conclusion.* There is a complete toxicity data base for azoxystrobin and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The Agency has determined that the 10X FQPA safety factor to protect infants and children should be removed (that is, set to 1) because, in addition to the completeness of the toxicological data base and the lack of increased susceptibility of young rats and rabbits to prenatal and postnatal exposure to azoxystrobin, the unrefined chronic dietary exposure estimates will overestimate dietary exposure, and ground and surface water modeling data produce upper-bound concentration estimates.

E. Aggregate Risks and Determination of Safety

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

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

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to azoxystrobin will occupy 11% of the aPAD for the U.S. population, 11% of the aPAD for females 13 years and older, and 20% of the aPAD for children 1 to 6 years, the subpopulation at greatest exposure. In addition, there is potential for acute dietary exposure to azoxystrobin 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 aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO AZOXYSTROBIN

Population Subgroup	aPAD (mg/kg)	%aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. population	0.67	11	170	0.06	21,000
Females (13 to 50 years)	0.67	11	170	0.06	18,000
Children (1 to 6 years)	0.67	20	170	0.06	5,400

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to azoxystrobin from food will utilize 12% of the cPAD for the U.S. population, 11% of the cPAD for females 13 to 50 years, and 18% of the cPAD for children 1 to 6 years, the subpopulation at greatest exposure. Based on the use pattern, chronic residential exposure to residues of azoxystrobin is not expected. In addition, there is potential for chronic dietary exposure to azoxystrobin 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 AZOXYSTROBIN

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.18	12	33	0.06	5,600
Females (13 to 50 years)	0.18	11	33	0.06	4,800
Children (1 to 6 years)	0.18	18	33	0.06	1,500
Seniors 55+ years	0.18	12	33	0.06	5,600

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). Azoxystrobin is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for azoxystrobin. A short-term risk assessment is required for adults because there is a residential handler inhalation exposure scenario. In addition, a short-term risk assessment is required for infants and children because there is a residential post-application oral exposure scenario. As no short-term or intermediate-term dermal endpoint was established, there is no dermal component to these aggregate risk assessments. For adults, the daily inhalation dose is aggregated with the chronic exposure to food and water. For infants and children, the incidental oral exposure from residential post-application activities for infants and children was aggregated with chronic exposure from food and water.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 1,183 for adults and 490 for children 1 to 6 years. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of azoxystrobin in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO AZOXYSTROBIN

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
U.S. population	1,183	100	33	0.06	8,050
Children (1 to 6 years)	490	100	33	0.06	2,000

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). Azoxystrobin is currently registered for use(s) that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for azoxystrobin. An intermediate-term risk assessment is not required for adults because residential handler scenarios are not expected to occur for longer than a short-term timeframe. However, an intermediate-term risk assessment is required for infants and children because of the residential post-application oral exposure scenario. As no dermal endpoint was established, there is no dermal component to this aggregate risk assessment. As was necessary for the short-term aggregate assessment, the incidental oral exposure from residential post application activities for infants and children was aggregated with average exposure from food and water.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in an aggregate MOE of 580 for children 1 to 6 years. This aggregate MOE does not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of azoxystrobin in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO AZOXYSTROBIN

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Intermediate-Term DWLOC (ppb)
Children (1 to 6 years old)	580	100	33	0.06	2,100

5. *Aggregate cancer risk for U.S. population.* Azoxystrobin is classified as ''not likely to be carcinogenic in humans'' based on the results of carcinogenicity studies in mice and rats. Therefore, azoxystrobin is not expected to pose a cancer risk to humans.

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 azoxystrobin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate methodology is available for enforcement of the proposed tolerances. RAM 243, is a gas chromatography with nitrogen-phosphorus detection (GC/NDP) method previously submitted by the registrant which can be used for the analysis of the tolerances in or on non-oily commodities. This method has been reviewed and validated by the Agency, and will be submitted to the Food and Drug Administration (FDA) for inclusion in Pesticide Analytical Manual (PAM) II. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

No Codex, Canadian, or Mexican maximum residue levels have been established for residues of azoxystrobin in or on these commodities. Therefore, no tolerance discrepancies exist between countries for this chemical.

V. Conclusion

Therefore, the tolerances are established for combined residues of azoxystrobin, methyl (E)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate) and its Z-isomer (methyl (Z)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate, in or on acerola at 2.0 ppm, atemoya at 2.0 ppm, avocado at 2.0 ppm, biriba at 2.0 ppm, black sapote at 2.0 ppm, bushberry subgroup at 3.0 ppm, canistel at 2.0 ppm, cherimoya at 2.0 ppm, custard apple at 2.0 ppm, eggplant at 2.0 ppm, feijoa at 2.0 ppm, grass forage at 15 ppm, grass hay at 20 ppm, guava at 2.0 ppm, ilama at 2.0 ppm, jaboticaba at 2.0 ppm, jackfruit at 2.0 ppm, juneberry at 3.0 ppm, leafy greens (Brassica) subgroup at 25 ppm, lingonberry at 3.0 ppm, longan at 2.0 ppm, loquat at 2.0 ppm, lychee at 2.0 ppm, mamey sapote at 2.0 ppm, mango at 2.0 ppm, okra at 2.0 ppm, passion fruit at 2.0 ppm, pawpaw at 2.0 ppm, papaya at 2.0 ppm, pepper at 2.0 ppm, peppermint (tops) at 30 ppm, persimmon at 2.0 ppm, pulasan at 2.0 ppm, rambutan at 2.0 ppm, salal at 3.0 ppm, sapodilla at 2.0 ppm, soursop at 2.0 ppm, Spanish lime at 2.0 ppm, spearmint, tops at 30 ppm, star apple at 2.0 ppm, starfruit at 2.0 ppm, strawberry at 10 ppm, sugar apple at 2.0 ppm, tamarind at 2.0 ppm, turnip (tops) at 25 ppm, watercress at 3.0 ppm, wax jambu at 2.0 ppm, white sapote at 2.0 ppm.

VI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301174 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 20, 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–301174, 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 special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

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 10, 2001.

Peter Caulkins,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.507 is amended by alphabetically adding the following commodities to the table in paragraph (a)(1) to read as follows:

§ 180.507 Azoxystrobin; tolerances for residues.

(a) * * *

Commodity	Parts per million
Acerola	2.0
* * * * *	
Atemoya	2.0
Avocado	2.0
* * * * *	
Biriba	2.0
Brassica, leafy greens, subgroup	25
Bushberry subgroup	3.0
Canistel	2.0
* * * * *	
Cherimoya	2.0
* * * * *	
Custard apple	2.0
Eggplant	2.0
Feijoa	2.0
* * * * *	
Grass, forage[1]	15
Grass, hay[1]	20
Guava	2.0
* * * * *	
Ilama	2.0
Jaboticaba	2.0
Jackfruit	2.0
Juneberry	3.0
Lingonberry	3.0
Longan	2.0
Loquat	2.0
Lychee	2.0
Mango	2.0
Okra	2.0
Passion fruit	2.0
Pawpaw	2.0
Papaya	2.0
* * * * *	
Pepper	2.0
Peppermint, tops	30
Persimmon	2.0
* * * * *	
Pulasan	2.0
Rambutan	2.0
* * * * *	
Salal	3.0
Sapodilla	2.0
Sapote, black	2.0
Sapote, mamey	2.0
Sapote, white	2.0
Soursop	2.0
* * * * *	
Spanish lime	2.0
Spearmint, tops	30
Star apple	2.0
Starfruit	2.0
* * * * *	
Strawberry	10
Sugar apple	2.0
Tamarind	2.0
* * * * *	
Turnip, tops	25
* * * * *	
Watercress	3.0
Wax jambu	2.0
* * * * *	

[1] There are no U.S. registrations for rangeland or pasture grass.

* * * * *

[FR Doc. 01–23607 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301178; FRL–6799–2]

RIN 2070–AB78

Paraquat; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of paraquat in or on dry pea; endive; field corn grain, forage and stover; pop corn grain and stover; globe artichoke; and persimmon. The Interregional Research Project Number 4 (IR-4) and Zeneca Ag. Products requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). This final rule establishes permanent tolerances for paraquat and as part of that process the Agency has reassessed existing tolerances. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. All permanent tolerances for paraquat that existed on August 2, 1996, were previously reassessed by the Paraquat Dichloride Reregistration Eligibility Document signed September 30, 1996. Consequently, regarding the actions in this final rule, no tolerance reassessments are counted toward the August 2002 review deadline of FFDCA section 408(q).

DATES: This regulation is effective September 21, 2001. Objections and requests for hearings, identified by docket control number OPP–301178, must be received by EPA on or before November 20, 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–301178 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9368; and e-mail address: jamerson.hoyt@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules'', and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the**Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/

opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301178. 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 October 7, 1998 (63 FR 53902) (FRL–6026–3), December 3, 1999 (64 FR 67905) (FRL–6392–6), and June 21, 2000 (65 FR 38535) (FRL–6558–9), EPA issued notices pursuant to section 408 of the FFDCA, 21 U.S.C. 346a as amended by the FQPA (Public Law 104–170) announcing the filing of pesticide petitions (PP) for a tolerance by the IR-4, 681 U.S. Highway # 1 South, North Brunswick, NJ 08902–3390 and Zeneca Ag. Products, 1800 Concord Pike, P.O. Box 15458, Wilmington, DE 19850–5458. These notices included summaries of the petitions prepared by Zeneca Ag. Products, the registrant. There were no comments received in response to the notice of filings.

The petitions requested that 40 CFR 180.205 be amended by establishing tolerances for residues of the desiccant, defoliant and herbicide paraquat, 1,1′-dimethyl-4,4′-bipyridinium-ion, derived from application of the dichloride salt (calculated as the cation), in or on various food commodities, as follows:

1. PP 5F1625, submitted by Zeneca Ag. Products, proposed tolerances for field corn and pop corn grain at 0.05 part per million (ppm); field corn and pop corn forage at 3.0 ppm; field corn and pop corn stover at 10.0 ppm. The proposed tolerance for field corn and pop corn grain was increased to 0.1 ppm to harmonize with the Codex maximum residue limit (MRL) of 0.1 ppm for maize.

2. Food additive petition 5H5088, submitted by Zeneca Ag. Products, proposed a food additive tolerance for corn flour at 0.1 ppm. The proposed tolerance for corn flour was subsequently withdrawn since EPA determined that the tolerance for field corn grain at 0.1 ppm is adequate to cover residues in corn flour.

3. PP 1E4019, submitted by IR-4, proposed a tolerance for globe artichoke at 0.05 ppm.

4. PP 9E6026, submitted by IR-4, proposed a tolerance for endive at 0.05 ppm.

5. PP 7E4857, submitted by IR-4, proposed a tolerance with regional registration for dry pea at 0.3 ppm. IR-4 proposed that registration be geographically limited based on the geographical representation of the available residue data (residue data submitted by IR-4 for dry peas are from Washington and Idaho). EPA concluded that there is no need to regionally restrict the registration for dry peas since there is available residue data for dry beans, which also have a tolerance at 0.3 ppm for a similar use of paraquat.

6. 9E6009, submitted by IR-4, proposes a tolerance for persimmon at 0.05 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 tolerances for residues of paraquat on dry pea; endive; field corn grain, forage and stover; pop corn grain and stover; globe artichoke; and persimmon. EPA's assessment of exposures and risks associated with establishing the tolerances 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 paraquat 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
870.3150	Subchronic in nonrodents (dogs)	NOAEL = 0.5 mg/kg/day LOAEL = 1.5 mg/kg/day based on increased absolute and relative lung weight, alveolitis and alveolar collapse.

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

Guideline No.	Study Type	Results
870.3250	Subchronic dermal toxicity (rabbits)	NOAEL = 1.15 mg/kg/day LOAEL = 2.6 mg/kg/day based on scabbing at the dosing site.
870.3465	Subchronic inhalation toxicity (rats)	NOAEL = 0.01 μg/L LOAEL = 0.1 μg/L based on nasal discharge and squamous keratinizing metaplasia, and/or hyperplasia of the epithelium of the larynx.
870.3700	Prenatal developmental in rodents (rats)	Maternal NOAEL = 3 mg/kg/day Maternal LOAEL = 5 mg/kg/day based on death occurred in 2 of 30 rats at 5 mg/kg/day and 6 of 30 at 10 mg/kg/day. Developmental NOAEL = 1 mg/kg/day Developmental LOAEL = 5 mg/kg/day based on delayed ossification.
870.3700	Prenatal developmental in rodents (Alderley Park mice)	Maternal NOAEL = 1 mg/kg/day Maternal LOAEL = 5 mg/kg/day based on reduction in body weight gain. Developmental NOAEL = 1 mg/kg/day Developmental LOAEL = 5 mg/kg/day based on based on partial ossified 4th sternebrae.
870.3800	Reproduction and fertility effects (Wistar-derived Alderley Park strain of rats)	Parental/Systemic NOAEL = 1.25 mg/kg/day Parental/Systemic LOAEL = 3.75 mg/kg/day based on increased incidence of alveolar histiocytes . Reproductive NOAEL ≥ 7.5 mg/kg/day
870.4100	Chronic toxicity/carcinogenicity rodents (Fisher 344 rats)	NOAEL = 1.25 mg/kg/day LOAEL = 3.75 mg/kg/day based on increased incidence of opacities/cataracts in males, ptosis/swollen eyelids in females, and non-neoplastic lung lesions in male non-survivors.
870.4100	Chronic toxicity/carcinogenicity rodents (Wistar rats)	NOAEL = 4.15 mg/kg/day LOAEL = 12.25 mg/kg/day based on increased mortality in males and females; decreased erythrocytes, hemoglobin, and serum protein in males and females; decreased hematocrit, glucose and corpuscular cholinesterase activity in males; decreased leucocytes, albumin/globulin ratio and alkaline phosphatase, glutamic-oxaloacetic transaninase, and glutamic-pyruvic transaminase activities in females; increased polymorphonucleocytes in males; increased potassium and glucose in females; decreased absolute and/or relative weights of heart in males and females, and liver and brain in females; and decreased absolute weights of kidneys in males and females and ovaries.
870.4100	Chronic toxicity (dogs)	NOAEL = 0.45 mg/kg/day LOAEL = 0.93 mg/kg/day based on a dose-related increase in severity and extent of chronic pneumonitis.
870.1000	Gene mutation	Not mutagenic in *Salmonella typhimurium* assay or genotoxic in the Unscheduled DNA synthesis assay *in vivo* or *in vitro*.
870.5375	Cytogenetics	In structural chromosomal aberration tesing using human lymphocytes, the results were weakly positive and the sister chromatid exchange assay was positive. Paraquat was negative for chromasomal aberration in the bone marrow test system and there was no evidence of suppress fertility or dominant lethal mutagenicity in mice.

B. Toxicological Endpoints

The dose at which 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 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 paraquat used for human risk assessment is shown in the following Table 2:

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and LOC for Risk Assessment	Study and Toxicological Effects
Acute dietary (females 13–50 years of age)	NOAEL = 1.25 mg/kg/day UF = 100 Acute RfD = 0.0125 mg/kg/day	FQPA SF = 3X aPAD = acute RfD ÷ FQPA SF = 0.0042 mg/kg/day	3–Generation reproduction study in rats LOAEL = 3.75 mg/kg/day based on increased incidence of alveolar histiocytes.
Acute dietary (general population including infants and children)	NOAEL = 1.25 mg/kg/day UF = 100 Acute RfD = 0.0125 mg/kg/day	FQPA SF = 1X aPAD = acute RfD ÷ FQPA SF = 0.0125 mg/kg/day	3–Generation reproduction study in rats LOAEL = 3.75 mg/kg/day based on increased incidence of alveolar histiocytes
Chronic dietary (all populations)	NOAEL = 0.45 mg/kg/day UF = 100 Chronic RfD = 0.0045 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD ÷ FQPA SF = 0.0045 mg/kg/day	1–Year feeding study in dogs LOAEL = 0.93 mg/kg/day based on increase in severity and extent of chronic pneumontis
Short- and intermediate - term dermal	Oral study NOAEL = 1.25 mg/kg/day (dermal absorption rate = 0.3%)	LOC for MOE = 100 (residential)	3–Generation reproduction study in rats LOAEL = 3.75 mg/kg/day based on increased incidence of alveolar histiocytes
Long-term dermal (several months to lifetime)	Oral study NOAEL = 0.45 mg/kg/day (dermal absorption rate = 0.3% when appropriate)	LOC for MOE = 100 (residential)	1–Year feeding study in dogs LOAEL = 0.93 mg/kg/day based on increase in severity and extent of chronic pneumonitis
Inhalation (any time period)	Inhalation study NOAEL = 0.01 mg/kg/day (respirable particle)	LOC for MOE = 100 (residential)	21–Day inhalation study LOAEL = 0.1 mg/kg/day based on squamous keratinizing metaplasia and/or hyperlasia of the epithelium of the larynx; increased incidence of alveolar histocytes.
Inhalation (any time period)	Oral study NOAEL = 1.25 mg/kg/day (nonrespirable particles)	LOC for MOE = 100 (residential)	3–Generation reproduction study LOAEL = 3.75 mg/kg/day based on increased incidence of alveolar histiocytes
Cancer (oral, dermal, inhalation)	Not applicable	Classified as not likely to be a human carcinogen	

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

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.205) for the residues of paraquat in or on a variety of raw agricultural commodities, including the meat, fat, and meat by-products of cattle, goats, hogs, horses and sheep and milk. Tolerances are

established for corn grain, forage and fodder at 0.05 (negligible) to cover residues from the preplant use of paraquat on corn. Risk assessments were conducted by EPA to assess dietary exposures from paraquat 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. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: The acute exposures are based on tolerance level residues and some percent crop treated (PCT) refinement.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment, the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The chronic exposures are based on tolerance level residues and some PCT refinement.

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

The Agency used maximum PCT information as follows: apples 48%; apricots 8%; asparagus 21%; avocados 3%; dry beans 3%, succulent beans 0.6%; bell peppers 40%; berry 14%; blackberry 48%; blueberry 12%; cabbage 4%; carrot 2%; cauliflower 2%; cherries 46%; citrus 13%; cole crops 2%; cucumber (fresh) 11%, cucumber (processed) 10%; eggplant 60%; filbert 14%; table grape 40%, wine grape 28%, other grapes 36%; honeydew melon 6%; leafy vegetables 0.5%; other lettuce 4%; lemon 2%; cantaloupe 7%; melon 5%; nectarine 35%; olives 14%; onion 3%; orange 9%; green pea 0.3%; peach 38%; pear 28%; peppers 36%; pistachio 7%; plum 47%; pome fruit 5%; potato 5%; prune 14%; pumpkins 7%; raisin 21%; raspberry 80%; root and tuber vegetables 0.8%; squash 39%; stone fruit 12%; strawberry 15%; sunflower 2%; sweet corn 2%; tomato (fresh) 34%, tomato (processed) 11%, tomato 25%; almonds 24%; pecan 14%; walnut 29%; other tree nut 13%; other vegetables 21%; and watermelon 4%.

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

2. *Dietary exposure from drinking water*. Paraquat is persistent, but is expected to be mostly inactivated by rapid cation exchange to binding sites on soil (especially clay) particles in the environment. Under most circumstances paraquat is unlikely to infiltrate past the first few centimeters of soil, or to move off-field dissolved in runoff. However, detections were reported in household wells at concentrations ranging up to 1.52 μg/L.

Because of its strong cation-exchange sorption to soils, modeling is not appropriate for paraquat dichloride. It should sorb to suspended sediment, and coagulation and flocculation processes in drinking water treatment plants are likely to remove any paraquat residues present in the raw water. Residues of paraquat in drinking water derived from surface supplies can therefore be assumed to be negligible. For residues in ground water however, EPA is using the value of 1.52 μg/L, for acute and chronic human exposure assessment, as this represents a high-end, but not worst-case value from the available monitoring data.

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). Paraquat 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 paraquat 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, paraquat 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 paraquat has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*. There is no indication of quantitative or qualitative increased susceptibility of rats or mice to *in utero* and/or prenatal/postnatal exposure to rats.

3. *Conclusion*. An FQPA safety factor is necessary for paraquat since there is a data gap for a prenatal developmental study conducted in a non-rodent species. The safety factor was reduced to 3x for paraquat because: (i) There is no indication of quantitative or qualitative increased susceptibility of rats or mice to *in utero* and/or prenatal/postnatal exposure to rats; (ii) EPA determined that a developmental neurotoxicity study is not required; (iii) the dietary (food and drinking water) exposure assessments will not underestimate the potential exposures for infants and children; and (iv) there are no registered residential uses of paraquat. The FQPA safety factor for paraquat is applicable to the females 13–50 years of age population subgroup for acute dietary risk assessment only (there are no residential uses). The safety factor was reduced to 1x for all other exposures and population subgroups.

E. Aggregate Risks and Determination of Safety

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

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

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

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to paraquat will occupy 32% of the aPAD for the U.S. population, 55% of the aPAD for females 13 years and older, 45% of the aPAD for infants, and 76% of the aPAD for children 1 to 6 years of age. In addition, there is potential for acute dietary exposure to paraquat 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 aPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO PARAQUAT

Population Subgroup	aPAD (mg/kg)	%aPAD (Food)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. population	0.0125	32	1.52	300
Females (13 to 50 years of age)	0.0042	55	1.52	57
Children (1 to 6 years of age)	0.0125	76	1.52	30

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to paraquat from food will utilize 6% of the cPAD for the U.S. population, 10% of the cPAD for infants, and 16% of the cPAD for children 1 to 6 years of age. There are no residential uses for paraquat that result in chronic residential exposure. In addition, there is potential for chronic dietary exposure to paraquat 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 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO PARAQUAT

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.0045	6	1.52	150
Females (13 to 50 years of age)	0.0045	4	1.52	130
Children (1 to 6 years of age)	0.0045	16	1.52	38

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

4. *Aggregate cancer risk for U.S. population.* Paraquat has been classified as ''not likely to be carcinogenic in humans'' based on the results of carcinogenicity studies in animals. Therefore, paraquat is not expected to pose a cancer risk to humans.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. Method I of Pesticide Analytical Manual (PAM), Volume II (spectrophotometric), is adequate for plant tolerance enforcement purposes. In addition, Method 1B (spectrophotometric) has also been found to adequately recover paraquat cation residues.

B. International Residue Limits

There are no Codex, Canadian or Mexican MRLs for residues of paraquat on dry peas. There is a Codex MRL for ''vegetable (except as otherwise listed)'' at 0.05 ppm and there is a Canadian MRL on peas at 0.1 ppm. Based on the residue observed in dry peas from the proposed use, the U.S. tolerance cannot be harmonized with the Codex vegetable MRL.

There is a Codex MRL for maize at 0.1 ppm defined as the paraquat cation (generally available as dichloride), a Canadian MRL for corn at 0.1 ppm defined as the 1,1′-dimethyl-4,4′-bipyridinium salt, and a Mexican MRL for maize at 0.05 ppm defined as paraquat. The field corn grain tolerance recommended in this assessment matches the 0.1 ppm Codex maize MRL. Domestic tolerances are defined as the paraquat ion, which is in harmonization with international definitions. There are no Codex, Canadian or Mexican MRLs for paraquat on endive, persimmons, or globe artichokes.

V. Conclusion

Therefore, the tolerances are established for residues of paraquat in or on, dry pea at 0.3 ppm; field and pop corn grain at 0.1 ppm; field corn forage at 3.0 ppm; field and pop corn stover at 10.0 ppm; endive at 0.05 ppm; globe artichoke at 0.05 ppm; and persimmon at 0.05 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–301178 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 20, 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–301178, 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 petitions 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 special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

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 10, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.205 is amended as follows:

i. By alphabetically adding the commodities artichoke, globe; corn, field, forage; corn, field grain; corn, field stover; corn, pop, grain; corn, pop, stover; endive; pea, dry; and persimmon to the table in paragraph (a).

ii. By removing the entries for corn grain, corn fodder, and corn forage from the table in paragraph (a).

iii. By removing the entries for corn flour, corn fodder, corn forage, corn grain and peas (dry) from the table in paragraph (b).

§ 180.205 Paraquat; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
* * * * *	
Artichoke, globe	0.05
* * * * *	
Corn, field, forage	3.0
Corn, field, grain	0.1
Corn, field, stover	10.0
* * * * *	
Corn, pop, grain	0.1
Corn, pop, stover	10.0
* * * * *	
Endive	0.05
* * * * *	
Pea, dry	0.3
* * * * *	
Persimmon ..	0.05
* * * * *	

* * * * *

[FR Doc. 01–23606 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301173; FRL–6801–8]

RIN 2070–AB78

Sulfosate; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of sulfosate (the trimethylsulfonium salt of glyphosate, also known as glyphosate-trimesium) in or on cotton, gin by-products, cotton undelinted seed, dried shelled pea and bean (except soybean) subgroup, edible podded legume vegetable subgroup, fruiting vegetable group, grain sorghum forage, grain sorghum grain, grain sorghum stover, leaves of root and tuber vegetable (except radish) subgroup, pistachio, radish roots, radish tops, succulent shelled pea and bean subgroup, sweet corn forage, sweet corn kernals plus cob with husks removed, sweet corn stover, tuberous vegetable and corm subgroup, and vegetable root (except radish) subgroup. This regulation increases tolerances in wheat bran, wheat grain, wheat hay, wheat shorts, wheat straw, and poultry meat by-products. Zeneca Ag. Products, now Syngenta Crop Protection, requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation is effective September 21, 2001. Objections and requests for hearings, identified by docket control number OPP–301173 must be received by EPA on or before November 20, 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–301173 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Jim 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	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_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–301173. The official record consists of the documents specifically referenced in this action, and other

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

II. Background and Statutory Findings

In the **Federal Register** of April 8, 1999 (64 FR 17171) (FRL–60712–), September 16, 1999 (64 FR 50280) (FRL–6089 –3), and July 13, 2000 (65 FR 43326) (FRL–6592–9), EPA issued a notices 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 a tolerance by Zeneca Ag. Products, now Syngenta Crop Protection, P.O. Box 18300, Greensboro, NC 27419. This notice included a summary of the petition prepared by Zeneca Ag. Products, the registrant. There were no comments received in response to these notices of filing.

The petition announced in the April 8, 1999 notice requested that 40 CFR 180.489 be amended by establishing a tolerance for residues of the herbicide sulfosate, sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1), in or on fruiting vegetables (except cucurbits) group at 0.05 parts per million (ppm); the edible-podded legume vegetables subgroup at 0.5 ppm (of which no more than 0.3 ppm is trimethylsulfonium (TMS)), the succulent shelled pea and bean subgroup at 0.2 ppm (of which no more than 0.1 ppm is TMS); the dried shelled pea and bean (except soybean) subgroup at 6 ppm (of which no more than 1.5 ppm is TMS); in cattle, goat, hog, sheep, and horse kidney at 3.5 ppm; in cattle, goat, hog, sheep, and horse meat by-products, except liver and kidney, at 2.5 ppm; and to increase the tolerance in cattle, goat, hog, sheep, and horse fat to 0.2 ppm; in cattle, goat, hog, sheep, and horse meat to 0.6 ppm; in cattle, goat, hog, sheep, and horse liver to 0.75 ppm; in milk to 1.1 ppm; in poultry liver to 0.1 ppm; in poultry meat by-products to 0.25 ppm; in or on soybean seed to 21 ppm (of which no more than 13 ppm is TMS); in soybean hulls to 45 ppm (of which no more than 25 ppm is TMS); and in aspirated grain fractions to 1,300 ppm (of which no more than 720 ppm is TMS). The above proposed crop group and crop subgroup were changed to reflect regulations under 40 CFR 180.41(c).

The petition announced in the September 16, 1999 notice requested that 40 CFR 180.489 be amended by establishing a tolerance for residues of the herbicide sulfosate in or on wheat grain at 10 ppm) (of which no more than 2.5 ppm is TMS); wheat hay at 1 ppm (of which no more than 0.5 ppm is TMS); wheat straw at 90 ppm (of which no more than 40 ppm is TMS); wheat bran at 30 ppm (of which no more than 6 ppm is TMS); and wheat shorts at 20 ppm (of which no more than 5 ppm is TMS); and to increase the tolerance in poultry meat by-products to 0.5 ppm and in milk to 2 ppm.

The petition announced in the July 13, 2000 notice requested that 40 CFR 180.489 be amended by establishing a tolerance for residues of the herbicide sulfosate in or on cotton gin by-products at 120 ppm of which no more than 35 ppm is TMS; cotton, undelinted seed at 40 ppm (of which no more than 10 ppm is TMS); leaves of root and tuber vegetables group (except radish) at 0.25 ppm (of which no more than 0.2 ppm is TMS); pistachio at 0.05 ppm; potato flakes at 2 ppm (of which no more than 1.5 ppm is TMS); radish roots at 16 ppm (of which no more than 15 ppm is TMS); radish tops at 10 ppm (of which no more than 8 ppm is TMS); root vegetables subgroup (except radish) at 0.15 ppm (of which no more than 0.1 ppm is TMS); sorghum grain at 35 ppm (of which no more than 15 ppm is TMS); sorghum forage at 0.2 ppm (of which no more than 0.1 ppm is TMS); sorghum stover at 140 ppm (of which no more than 60 ppm is TMS); sweet corn forage at 20 ppm (of which no more than 5 ppm is TMS); sweet corn, kernels + cob with husks removed at 0.15 ppm (of which no more than 0.1 ppm is TMS); sweet corn stover at 165 ppm (of which no more than 65 ppm is TMS); tuberous and corm vegetables subgroup at 1 ppm (of which no more than 0.5 ppm is TMS); and to increase the tolerance in poultry meat by-products to 0.5 ppm and in milk to 2 ppm.

EPA has determined that existing tolerances for cattle, goat, hog, sheep, horse, and milk are adequate to account for existing raw agricultural commodities (RACs) and the other proposed RACs listed above based on calculation of the maximum theoretical dietary burden (MTDB); therefore, new tolerances are not being established for cattle, goat, hog, sheep, horse, and milk. The proposed separate tolerance for poultry liver at 0.1 ppm is not needed because it is covered by the tolerance for poultry meat by-products that is being established at 0.5 ppm; therefore, a tolerance is not being established for poultry liver. EPA has determined that a tolerance is not needed for potato flakes because sulfosate does not concentrate in potato flakes; therefore, a tolerance is not being established for potato flakes. EPA has determined that the appropriate tolerance for leaves of root and tuber vegetables group (except radish) is 0.30 ppm instead of the proposed tolerance of 0.25 ppm, and that the appropriate tolerance for sweet corn stover is 170 ppm instead of the proposed tolerance of 165 ppm. Tolerances were previously established for the soybean commodities and aspirated grain fractions in the **Federal Register** notice dated June 11, 1999 (64 FR 31505) (FRL–6086–6).

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 sulfosate on cotton, gin by-products at 120 ppm (of which no more than 35 ppm is TMS), cotton, undelinted seed at 40 ppm (of which no more than 10 ppm is TMS), pea and bean, dried shelled (except soybean), subgroup (6C) at 6.00 ppm (of which no more than 1.5 ppm is TMS), vegetable, legume, edible podded subgroup (6A) at 0.50 ppm (of which no more than 0.3 ppm is TMS), vegetable, fruiting group (8) at 0.05 ppm, sorghum, grain, forage at 0.20 ppm (of which no more than 0.10 ppm is TMS), sorghum, grain, grain at 35 ppm (of which no more than 15 ppm is TMS), sorghum, grain, stover at 140 ppm (of which no more than 60 ppm is TMS), vegetable, leaves of root and tuber (except radish) group (2) at 0.30 ppm (of which no more than 0.20 ppm is TMS), pistachio at 0.05 ppm, radish, roots at 16 ppm (of which no more than 15 ppm is TMS), radish, tops at 10 ppm (of which no more than 8.0 ppm is TMS), pea and bean, succulent shelled subgroup (6B) at 0.20 ppm (of which no more than 0.10 ppm is TMS), corn, sweet, forage at 20 ppm (of which no more than 5.0 ppm is TMS), corn, sweet, kernals plus cob with husks removed at 0.15 ppm (of which no more than 0.10 ppm is TMS), corn, sweet, stover at 170 ppm (of which no more than 65 ppm is TMS), vegetable, tuberous and corm subgroup (1C) at 1.0 ppm (of which no more than 0.50 ppm is TMS), and vegetable, root (except radish) subgroup (1A) at 0.15 ppm (of which no more than 0.10 ppm is TMS). This regulation increases tolerances in wheat, bran at 30 ppm (of which no more than 6.0 ppm is TMS), wheat, grain at 10 ppm (of which no more than 2.5 ppm is TMS), wheat, hay at 1.0 ppm (of which no more than 0.50 ppm is TMS), wheat, shorts at 20 ppm (of which no more than 5.0 ppm is TMS), wheat, straw at 90 ppm (of which no more than 40 ppm is TMS), and poultry meat by-products at 0.05 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 sulfosate is discussed in Unit II.A. of the **Federal Register** document published on September 11, 1998 (63 FR 48597) (FRL–6026–6). Please note that this unit included a typographical error. In the discussion of the feeding carcinogenicity study in mice, ''79'' should have been ''7.9'' in the following phrase: ''In addition, there was increased incidence of white matter degeneration in the lumbar region of the spinal cord (males only) (2, 3, 4, 4, 79% response, controls to high dose).'' The nature of these toxic effects is also 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 - rat	NOAEL = 36 mg/kg/day (males) LOAEL = 88 mg/kg/day (males), based on significant overall decrease in body weight gain of 22%
870.3150	90–Day oral toxicity - dog (gavage)	NOAEL = 10 mg/kg/day LOAEL = 50 mg/kg/day, based on significant earlier onsets and increased incidence of salivation and emesis and hydrocephalus and/or dilated lateral ventricles (brain)
870.3150	90–Day oral toxicity - dog (capsule)	NOAEL = 25 mg/kg/day LOAEL = 50 mg/kg/day, based on salivation in both sexes, clinical signs of neurotoxicity in the females and possible treatment related signs (hydrocephalus) in one male
870.3200	21–Day dermal toxicity - rabbit (technical)	*Systemic* NOAEL = 1,000 mg/kg/day (highest dose tested (HDT)) LOAEL not established
870.3200	21–Day dermal toxicity - rat (formulation)	NOAEL = 250 mg/kg/day LOAEL = 1,000 mg/kg/day, based on sciatic nerve findings

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

Guideline No.	Study Type	Results
870.3700	Prenatal developmental toxicity - rat	*Maternal* NOAEL = 100 mg/kg/day LOAEL = 333 mg/kg/day, based on decreased body weight, feed consumption and body weight gain along with increased incidences of salivation, chromorhinorrhea, and lethargy after dosing *Developmental* NOAEL = 100 mg/kg/day LOAEL = 333 mg/kg/day, based on decreased fetal body weight
870.3700	Prenatal developmental toxicity - rabbit	*Maternal* NOAEL = 40 mg/kg/day LOAEL = 100 mg/kg/day, based on 6 deaths in 17 pregnant does, 4 abortions in the 11 survivors along with decreased body weight, feed consumption and body weight gain *Developmental* NOAEL = 40 mg/kg/day LOAEL = 100 mg/kg/day, based on decreased number of live fetuses/doe for 7 surviving rabbits (5.4 versus 7.4 in controls), 4 rabbits aborted their litters. Having only 7 litters does not give a sufficiently higher number of animals to absolutely conclude that no developmental toxicity is occurring, particularly in light of the massive losses to death and abortions
870.3800	2–Generation reproduction and fertility effects - rat	*Systemic* NOAEL = 150 ppm (6/8 mg/kg/day for males/females) LOAEL = 800 ppm (35/41 mg/kg/day for males/females), based on a decrease in absolute and sometimes relative organ weights in both generations (thymus, heart, kidney and liver) at 800 and 2,000 ppm and a decrease in body weights and body weight gains during the premating period at 2,000 ppm *Reproductive/developmental* NOAEL = 150 ppm (6/8 mg/kg/day for males/females) LOAEL = 800 ppm (35/41 mg/kg/day for males/females), based on decreased litter size in F1a and F2b litters at 2,000 ppm and on decrease in mean pup weights during lactation in second litters at 800 ppm and in all litters at 2,000 ppm
870.4100	Chronic toxicity - dog	NOAEL = 10 mg/kg/day LOAEL = 50 mg/kg/day, based on salivation and emesis, and hydrocephalus and support from shorter term studies also with these findings

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

Guideline No.	Study Type	Results
870.4200	Carcinogenicity - mouse	NOAEL = 1,000 ppm (118/159 mg/kg/day for males/females) LOAEL is 8,000 ppm (991/1,341 mg/kg/day for males/females), based on decreased body weight and food consumption (both sexes); increased incidence of white matter degeneration in lumbar bar region of spinal cord (males only); increased incidence of epithelial hyperplasia of duodenum (females only) There was no evidence of carcinogenicity in this study at doses tested
870.4300	Chronic toxicity/carcinogenicity - rat	NOAEL = > 1,000 ppm (41.8/55.7 mg/kg/day, males/females) HDT LOAEL = > 1,000 ppm (41.8/55.7 mg/kg/day, males/ females) No evidence of carcinogenicity
870.5100	Gene mutation/bacteria Ames *Salmonella typhimurium*	Not mutagenic in TA1535, TA1537, TA1538, TA98, and TA100 tested with and without metabolic activation
870.5100	Gene mutation/bacteria Ames *Salmonella typhimurium*	Not a mutagen up to 40 µl/plate with TA1535, TA1537, TA98, and TA100 strains of *Salmonella typhimurium* in either the standard plate assay or the preincubation assay with and without the metabolic activation
870.5275	Cytogenetics sex link recessive - *drosophila melanoga*	Not mutagenic in SLRL test
870.5300	Gene Mutation/*In vitro* assay in mammalian cells - mouse lymphoma	Mutagenic effect was observed under the standard test procedure with and without the metabolic activation at the concentrations tested (3.5 through 5.0 µl/ml)
870.5300	Gene mutation/*In vitro* assay in mammalian cells - mouse lymphoma	Mutagenic in this assay with and without metabolic activation under the pH unadjusted test condition (pH 5.62–7.07) - through 5 µl/ml. 3/30/97 Addendum: Not a mutagen in this assay with and without metabolic activation under the pH adjusted test condition (pH 7.4) using 5– 10 µl/ml concentrations

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

Guideline No.	Study Type	Results
870.5300	Gene mutation/*In vitro* assay in mammalian cells-mouse lymphoma Cytogenetics/*In vitro* - mouse (A) 870.5375 Chromosomal aberration (B) 870.5900 Sister chromatid exchange	Positive mutagenicity observed at the thymidine locus under S–9 rat liver metabolic activation (A) Chromosomal Aberration Assay: Under the standard test procedure positive clastogenic effect was observed at the concentration of 5 µl/ml under the nonactivation assay and at the concentrations of 3 to 5 µl/ml under the activation assay (B) Sister Chromatid Exchange Assay: Under the standard test procedure, the test compound was a positive inducer of SCE at the concentration of 5 µl/ml under the nonactivation assay and at the concentrations of 3 to 5 µl/ml under the activation assay A and B. Clastogenic in these assays with and without metabolic activation under the pH unadjusted test condition (PH 5.62–7.07) at concentrations of 3 through 5 µl/ml. 3/20/87 Addendum: Not a clastogen in these assays with and without metabolic activation under the pH adjusted test condition (PH 7.4) at concentrations of 4 through 10 µl/ml
870.5375	Cytogenetics/*In vitro* CHO	Sister chromatid exchange not determined. Positive for the induction of chromosomal aberration in CHO cells in the absence (4 mg/ml) and presence (8,10,12 mg/ml) of S9 metabolic activation.
870.5375	Cytogenetics *In vitro* CHO	Increased chromosomal aberrations in activation assay at 6–8 µl/ml. No increase in sister chromatid exchanges with S–9 metaboli activation (1–8 µl/ml).
870.5385	Cytogenetics/rat bone marrow	Not clastogenic in the rat bone marrow cells
870.5395	Cytogenetics/*In vivo* mouse micronucleus assay	Failed to induce significant increase in the number of PCE containing micronuclei
870.5375, 870.5900	Cytogenetics/*In vitro* CHO	Not a clastogen in these assays with and without metabolic activation under the pH adjusted test condition (pH 7.4 to 7.6)
Other	BALB/3T cells transformation assay	Negative responses at 0.313, 0.625, 1.25, 2.50, and 5.0 µl/ml in the BALB/3T cells transformation assay
870.6100	Acute neurotoxicity - hen	NOAEL = 500 mg/kg LOAEL = 5,000 mg/kg based on diarrhea, changes in comb appearance, early decreased food consumption, and a decrease in egg production

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

Guideline No.	Study Type	Results
870.6200	Acute neurotoxicity screening battery - rat	NOAEL = 100 mg/kg LOAEL = 300 mg/kg based on mortality, neurologic signs and decreased body weight and food consumption
870.6200	Subchronic neurotoxicity screening battery - rat	NOAEL= 600 ppm (47.6/54.4 mg/kg/day for males/females) LOAEL = 2,000 ppm (153.2/171 mg/kg/day for males/females) based on decreases in mean body weight, food consumption, food utilization and mean forelimb grip strength values
870.7485	Metabolism and pharmacokinetics	Radiolabelled trimethylsulfonium ion is rapidly excreted unmetabolized in urine and feces; principal sites of localization of ion are adrenals, kidneys, bladder, liver, thyroid and stomach
870.7485	Metabolism and pharmacokinetics	Intravenous (IV) or oral C^{14} sulfosate was rapidly excreted: IV treated male and females eliminated 90% of the administered dose in urine. Absorption of C^{14}-sulfosate was incomplete by the oral route: Most groups eliminate 47–57% of the administered dose in the urine and 36–42% in the feces. Females treated with a high dose eliminated less in the urine (36% of dose) and more in the feces (54% of dose). Negligible $^{14}CO2$ elimination. Tissue C^{14} residues were < 0.32% of administered dose. Carcass C^{14} residues were < 2.2% of administered dose (mostly in bones, 3–7 ppm in low dose rats and 19–32 ppm in high dose rats). Most excreted radioactivity was unchanged anion (carboxymethylamino-methylphosphonate). One fecal metabolite was aminomethyl phosphonic acid. Several minor unidentified metabolites were recovered.

B. Toxicological Endpoints

The toxicological endpoints for sulfosate are discussed in Unit II. B. of the **Federal Register** document published on September 11, 1998 (63 FR 48597).

A summary of the toxicological endpoints for sulfosate used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR SULFOSATE FOR USE IN HUMAN RISK ASSESSMENT[1].

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Endpoint for Risk Assessment	Study and Toxicological Effects
Acute dietary (general population including infants and children)	NOAEL = 100 mg/kg/day UF = 100 Acute RfD = 1 mg/kg/day	FQPA SF = 3X aPAD = aRfD ÷ FQPA SF = 0.33 mg/kg/day	Acute neurotoxicity - rat LOAEL = 300 mg/kg/day based on mortality, decreased body weight and food consumption, and neurotoxicity.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR SULFOSATE FOR USE IN HUMAN RISK ASSESSMENT[1.] —Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and End-point for Risk Assess-ment	Study and Toxicological Effects
Chronic dietary (all pop-ulations)	NOAEL= 25 mg/kg/day UF = 100 Chronic RfD = 0.25 mg/kg/day	FQPA SF = 3X cPAD = cRfD ÷ FQPA SF = 0.083 mg/kg/day	Subchronic toxicity (capsule) - dog Subchronic toxicity (gavage) - dog Chronic toxicity - dog LOAEL = 50 mg/kg/day based on salivation and emesis, clinical signs of neurotoxicity, and hydrocephalus
Cancer (oral, dermal, in-halation)	Cancer classification (Group E)	Risk assessment not required	No evidence of carcinogenicity

*The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.
**UF = uncertainty factor, FQPA SF = FQPA safety factor, NOAEL = no observed adverse effect level, LOAEL = lowest observed adverse effect level, PAD = population adjusted dose (a = acute, c = chronic) RfD = reference dose, LOC = level of concern, MOE = margin of exposure

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.489) for the residues of sulfosate, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from sulfosate 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. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: Tolerance level residues, DEEM default processing factors, and 100% crop treated (CT) information for all commodities. For acute dietary risk estimates, EPA's level of concern is for exposure at greater than 100% of the acute population adjusted dose (aPAD). The acute exposure estimates at the 95th percentile were < 100% of the aPAD for the general U.S. population and all subgroups, with children 1–6 years old as the highest exposure estimate at 55% of the aPAD. The results of the analysis indicate that the acute dietary risk estimates associated with the existing and proposed uses of sulfosate do not exceed EPA's level of concern for the general U.S. population and all population subgroups.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Tolerance level residues for all commodities, DEEM default processing factors, and %CT information for some commodities (oranges, grapefruit, soybeans, corn, peaches, and wheat). This procedure represents an over-estimation of dietary exposure, since tolerance level residue values were used for all commodities. For chronic dietary risk estimates, EPA's level of concern is for exposure at greater than 100% chronic population adjusted dose (cPAD). The chronic exposure estimates were < 100% of the cPAD for the general U.S. population and all subgroups, with children 1–6 years old as the most highly exposed population subgroup at 60% of the cPAD. The results of the analysis indicate that the chronic dietary risk estimates associated with the existing and proposed uses of sulfosate do not exceed EPA's level of concern for the U.S. population and all population subgroups.

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

The Agency used PCT information as follows.

For the acute analysis, tolerance level residues and 100% CT were used. For the chronic analysis, PCT information was used for oranges (1% CT), grapefruit (10% CT), soybeans (1% CT), corn (10% CT), peaches (1% CT), and wheat (1% CT). For corn, peaches, and wheat, which have PCT estimates of zero, a value of 1% CT was used in the analysis. For all crops other than oranges, grapefruit, soybeans, corn, peaches, and wheat, 100% CT was used, and tolerance level residues were used for all crops.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into

account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which sulfosate may be applied in a particular area.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for sulfosate 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 sulfosate.

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

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

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

Based on the GENEEC and SCI-GROW model, EECs of total sulfosate for acute exposures are estimated to be 125.5 ppb for surface water and 0.328 ppb for ground water. The EECs for chronic exposures are estimated to be 27.8 ppb for surface water and 0.328 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).

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

2. *Prenatal and postnatal sensitivity*. Prenatal and postnatal sensitivity is discussed in Unit II.E.1.iv. of the **Federal Register** document published on September 11, 1998 (63 FR 48597).

3. *Conclusion*. With the exception of the requested developmental neurotoxicity study, there is a complete toxicity data base for sulfosate and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The determination of the 3x safety factor for infants and children is discussed in Unit II.E.1.i. of the **Federal Register** document published on September 11, 1998 (63 FR 48597).

E. Aggregate Risks and Determination of Safety

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

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water

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

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to sulfosate will occupy 33% of the aPAD for the U.S. population, up to 18% of the aPAD for females 13 years and older, 50% of the aPAD for all infants (< 1 year old) and 55% of the aPAD for children 1–6 years old. In addition, there is potential for acute dietary exposure to sulfosate 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 aPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO SULFOSATE

Population Sub-group	aPAD (mg/kg)	%aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. population	0.33	3	125.5	0.328	7,900
All infants (< 1–year old)	0.33	50	125.5	0.328	1,700
Children (1–6 years old)	0.33	55	125.5	0.328	1,500
Children (7–12 years old)	0.33	36	125.5	0.328	2,100
Females (13–50 years old)	0.33	18	125.5	0.328	8,200
Males (13–19 years old)	0.33	28	125.5	0.328	8,500
Males (20 + years old)	0.33	18	125.5	0.328	9,600
Seniors (55 + years old)	0.33	15	125.5	0.328	9,900

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to sulfosate from food will utilize 19% of the cPAD for the U.S. population, 47% of the cPAD for all infants (< 1 year old) and 60% of the cPAD for children 1–6 years old. There are no residential uses for sulfosate that result in chronic residential exposure to sulfosate. In addition, there is potential for chronic dietary exposure to sulfosate 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 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO SULFOSATE

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.083	19	27.8	0.328	2,400
All infants (< 1 year old)	0.083	47	27.8	0.328	440
Children (1–6 years old)	0.083	60	27.8	0.328	340
Children (7–12 years old)	0.083	34	27.8	0.328	560
Females (13–50 years old)	0.083	12	27.8	0.328	2,300
Males (13–19 years old)	0.083	21	27.8	0.328	2,300
Males (20+ years old)	0.083	12	27.8	0.328	2,600

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO SULFOSATE—Continued

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
Seniors (55+ years old)	0.083	11	27.8	0.328	2,600

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Analytical enforcement methodology for sulfosate is discussed in Unit III.B. of the **Federal Register** document published on September 11, 1998 (63 FR 48597).

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

B. International Residue Limits

There are no Codex, Canadian or Mexican tolerances or maximum residue limits for residues of sulfosate in the subject commodities. Therefore, a compatibility issue is not relevant to the proposed tolerances.

C. Conditions

EPA is imposing requirements of the following studies as conditions of registration: A developmental neurotoxicity study (DNT) in the rat (OPPTS Guideline No. 870.6300) (previously imposed and in progress) and a 28–day inhalation toxicity study. The DNT study in the rat is required based on the weight-of-the-evidence concerns for neurotoxicity in the mouse oncogenicity study, the subchronic and chronic dog studies, the 21–day dermal toxicity study in rats, and acute and subchronic neurotoxicity studies in the rat. Signs of neurotoxicity due to sulfosate included function observational battery (FOB) effects in the rat neurotoxicity studies, and treatment-related chemical signs of salivation and emesis in the dog. There were also concerns for hydrocephalus in all dog studies (at least one dog/study at the high dose, none in controls) and possible treatment related histopathology in the mouse carcinogenicity and 21–day dermal rat studies. The 28–day inhalation toxicity study is required to provide further characterization of inhalation risk. Due to the potential for inhalation exposure, there is concern for toxicity by the inhalation route. The 28–day inhalation toxicity study would give a dose and endpoint examined via the route of exposure of concern (i.e., route specific study) and thus would avoid using an oral study and route-to-route extrapolation. The protocol for the existing 90–day inhalation toxicity study (OPPTS 870.3465) should be followed with the exposure (treatment) ending after 28 days, instead of 90 days.

V. Conclusion

Therefore, the tolerance is established for residues of sulfosate, sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1), in or on cotton, gin by-products at 120 ppm (of which no more than 35 ppm is TMS), cotton, undelinted seed at 40 ppm (of which no more than 10 ppm is TMS), pea and bean, dried shelled except soybean), subgroup (6C) at 6.00 ppm (of which no more than 1.5 ppm is TMS), vegetable, legume, edible podded subgroup (6A) at 0.50 ppm (of which no more than 0.3 ppm is TMS), vegetable, fruiting group (8) at 0.05 ppm, sorghum, grain, forage at 0.20 ppm (of which no more than 0.10 ppm is TMS), sorghum, grain, grain at 35 ppm (of which no more than 15 ppm is TMS), sorghum, grain, stover at 140 ppm (of which no more than 60 ppm is TMS), vegetable, leaves of root and tuber (except radish) group (2) at 0.30 ppm (of which no more than 0.20 ppm is TMS), pistachio at 0.05 ppm, radish, roots at 16 ppm (of which no more than 15 ppm is TMS), radish, tops at 10 ppm (of which no more than 8.0 ppm is TMS), pea and bean, succulent shelled subgroup (6B) at 0.20 ppm (of which no more than 0.10 ppm is TMS), corn, sweet, forage at 20 ppm (of which no more than 5.0 ppm is TMS), corn, sweet, kernals plus cob with husks removed at 0.15 ppm (of which no more than 0.10 ppm is TMS), corn, sweet, stover at 170 ppm (of which no more than 65 ppm is TMS), vegetable, tuberous and corm subgroup (1C) at 1.0 ppm (of which no more than 0.50 ppm is TMS), and vegetable, root (except radish) subgroup (1A) at 0.15 ppm (of which no more than 0.10 ppm is TMS). This regulation increases tolerances in wheat, bran at 30 ppm (of which no more than 6.0 ppm is TMS), wheat, grain at 10 ppm (of which no more than 2.5 ppm is TMS), wheat, hay at 1.0 ppm (of which no more than 0.50 ppm is TMS), wheat, shorts at 20 ppm (of which no more than 5.0 ppm is TMS), wheat, straw at 90 ppm (of which no more than 40 ppm is TMS), and poultry meat by-products at 0.05 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–301173 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 20, 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–301173, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). 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 12, 2001.

Peter Caulkins,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.489 is amended by revising the introductory text of paragraph (a); revising the entries for poultry, mbyp, wheat bran, wheat grain, and wheat hay; and alphabetically adding commodities to the table in paragraph (a) to read as follows:

§ 180.489 Sulfosate (Sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1)); tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide sulfosate (sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1)) as the sum of the residues of the trimethylsulfonium cation (TSM) and the *N*-(phosphonomethyl glycine anion measured separately in or on the following raw and processed agricultural commodities.

Commodity	Parts per million
* * * *	*
Corn, sweet, forage (of which no more than 5.0 ppm is TMS)	20
Corn, sweet, kernels plus cob with husks removed (of which no more than 0.10 ppm is TMS)	0.15
Corn, sweet, stover (of which no more than 65 ppm is TMS)	170
Cotton, gin by-products (of which no more than 35 ppm is TMS)	120
Cotton, undelinted seed (of which no more than 10 ppm is TMS)	40
* * * *	*
Crop group 2: Leaves of root and tuber vegetables (human food or animal feed (except radish) group (of which no more than 0.20 ppm is TSM)	0.30
Crop group 8: Fruiting vegetables (except cucurbits) group	0.05
Crop subgroup 1–A: Root vegetables (except radish) subgroup (of which no more than 0.10 ppm is TSM)	0.15
Crop subgroup 1–C: Tuberous and corm vegetables subgroup (of which no more than 0.50 ppm is TSM)	1
Crop subgroup 6–A: Edible-podded legume vegetables subgroup (of which no more than 0.3 ppm is TSM)	0.5
Crop subgroup 6–B: Succulent shelled pea and bean subgroup (of which no more than 0.1 ppm is TSM)	0.20
Crop subgroup 6–C: Dried shelled pea and bean (except soybean and animal feeds) subgroup (of which no more than 1.5 ppm is TSM)	6.0
Pistachio	0.05
* * * *	*
Poultry, meat byproduct	0.50
* * * *	*
Radish, roots (of which no more than 15 ppm is TMS)	16
Radish, tops (of which no more than 8.0 ppm is TMS)	10
* * * *	*
Sorghum, grain, forage (of which no more than 0.10 ppm is TMS)	0.20
Sorghum, grain, grain (of which no more than 15 ppm is TMS)	35
Sorghum, grain, stover (of which no more than 60 ppm is TMS)	140
* * * *	*
Wheat, bran (of which no more than 6.0 ppm is TMS)	30
Wheat, grain (of which no more than 2.5 ppm is TMS)	10
* * * *	*
Wheat, hay (of which no more than 0.50 ppm is TMS)	1.0
Wheat, shorts (of which no more than 5.0 ppm is TMS)	20

Commodity	Parts per million
Wheat, straw (of which no more than 40 ppm is TMS)	90

* * * * *

[FR Doc. 01–23605 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–S

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–46 and 102–39

[FPMR Amendment H–208]

RIN 3090–AH23

Replacement of Personal Property Pursuant to the Exchange/Sale Authority

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration is revising the Federal Property Management Regulations (FPMR) by moving coverage on replacement of personal property pursuant to the exchange/sale authority into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

EFFECTIVE DATE: September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Rick Bender, Personal PropertyManagement Policy Division (MTP), 202–501–3448.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule updates, streamlines, and clarifies FPMR part 101–46 and moves the part into the Federal ManagementRegulation (FMR). The rule is written in a plain language question and answer format. In this format, a question and its answer combine to establish a rule. This means the employee and the agency must follow the language contained in both the question and its answer.

Updates include:

1. A revised definition of ''replacement.''

2. A new provision regarding the fixed price sale of exchange/sale property to a State Agency for Surplus Property before conducting an exchange/sale with a non-Government entity.

3. Revised restrictions on types of personal property that are ineligible for exchange/sale, including removal of large weapons, fire control equipment, and guided missiles belonging to the Department of Defense, and furniture belonging to any executive agency from the list of such property.

4. Clarified restrictions on the exchange/sale of combat material.

5. A revised requirement for documentation of exchange/sale transactions.

6. Revised accounting requirements for the proceeds from the sale of personal property under the exchange/sale authority.

7. A new annual reporting requirement for exchange/sale transactions.

B. Executive Order 12866

GSA has determined that this final rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

A regulatory flexibility analysis is not required under the Regulatory Flexibility Act, 5 U.S.C. 601. *et seq.*, because there is no requirement that this final rule be published in the **Federal Register** for notice and comment.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 101–46 and 102–39

Government property management.

For the reasons set forth in the preamble, GSA amends 41 CFR chapters 101 and 102 as follows:

CHAPTER 101—[AMENDED]

1. Part 101–46 is revised to read as follows:

PART 101–46—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

§ 101–46.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on replacement of personal property pursuant to the exchange/sale authority previously contained in this part, see FMR part 39 (41 CFR part 102–39).

CHAPTER 102—[AMENDED]

2. Part 102–39 is added to subchapter B of chapter 102 to read as follows:

PART 102–39—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

Subpart A—General

Sec.
102–39.5 How are the terms ''I'' and ''you'' used in this part?
102–39.10 What does this part cover?
102–39.15 Why should I use the exchange/sale authority?
102–39.20 What definitions apply to this part?
102–39.25 How do I request a deviation from this part?

Subpart B—Exchange/Sale Considerations

102–39.30 When should I not use the exchange/sale authority?
102–39.35 How do I determine whether to do an exchange or a sale?
102–39.40 When should I arrange for a reimbursable transfer of exchange/sale property to a Federal agency or other eligible organization, or sell such property to a State Agency for Surplus Property?
102–39.45 What prohibitions apply to the exchange/sale of personal property?
102–39.50 What conditions apply to the exchange/sale of personal property?
102–39.55 What exceptions apply to the conditions for exchange/sale in § 102–39.50?

Subpart C—Exchange/Sale Methods and Reports

102–39.60 What are the exchange methods?
102–39.65 What are the sales methods?
102–39.70 What are the accounting requirements for the proceeds of sale?
102–39.75 What information am I required to report?

Authority: 40 U.S.C. 486(c).

Subpart A—General

§ 102–39.5 How are the terms ''I'' and ''you'' used in this part?

Use of pronouns ''I'' and ''you'' throughout this part refer to executive agencies.

§ 102–39.10 What does this part cover?

This part covers the exchange/sale authority, and applies to all personal property owned by executive agencies worldwide. For the exchange/sale of aircraft parts and hazardous materials, you must meet the requirements in this part and in parts 101–37 and 101–42 of this title.

§ 102–39.15 Why should I use the exchange/sale authority?

You should use the exchange/sale authority to:

(a) Reduce the cost of replacement personal property. If you have personal property that needs to be replaced, you can exchange or sell that property and apply the exchange allowance or sales proceeds to reduce the cost of similar replacement property. By contrast, if you choose not to replace the property using the exchange/sale authority, you may declare it excess and dispose of it through the normal disposal process. Any sales proceeds from the eventual sale of that property as surplus generally must be forwarded to the miscellaneous receipts account at the United States Treasury and thus would not be available to you.

(b) Avoid costs (*e.g.,* administrative and storage) that may be incurred when declaring the property to be replaced as excess and processing it through the normal disposal process. The normal disposal process may include abandonment or destruction, reutilization by other Federal agencies, donation to eligible non-Federal public or non-profit organizations, or sale to the public. The time required to determine which of these options will apply and to complete the disposal transaction is likely to exceed the time required for an exchange/sale transaction.

§ 102–39.20 What definitions apply to this part?

The following definitions apply to this part:

Acquire means to procure or otherwise obtain personal property, including by lease.

Combat material means arms, ammunition, and implements of war listed in the U.S. munitions list (22 CFR part 121).

Exchange means to replace personal property by trade or trade-in with the supplier of the replacement property.

Exchange/sale means to exchange or sell non-excess, non-surplus personal property and apply the exchange allowance or proceeds of sale in whole or in part payment for the acquisition of similar property.

Executive agency means any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

Federal agency means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his/her direction).

Historic item means property having added value for display purposes because its historical significance is greater than its fair market value for continued use. Items that are commonly available and remain in use for their intended purpose, such as military aircraft still in use by active or reserve units, are not historic items.

Replacement means the process of acquiring property to be used in place of property that is still needed but:

(1) No longer adequately performs the tasks for which it is used; or

(2) Does not meet the agency's need as well as the property to be acquired.

Similar means where the acquired item and replaced item:

(1) Are identical;

(2) Are designed and constructed for the same purpose;

(3) Constitute parts or containers for identical or similar end items; or

(4) Fall within a single Federal Supply Classification (FSC) group of property that is eligible for handling under the exchange/sale authority.

§ 102–39.25 How do I request a deviation from this part?

See §§ 102–2.60 through 102–2.110 of this chapter to request a deviation from the requirements of this part.

Subpart B—Exchange/Sale Considerations

§ 102–39.30 When should I not use the exchange/sale authority?

You should not use the exchange/sale authority if the exchange allowance or estimated sales proceeds for the property will be unreasonably low. You must either abandon or destroy such property in accordance with part 101–45, subpart 101–45.9, of this title, or declare the property excess and follow the regulations in part 102–36 of this chapter, whichever is appropriate. Further, you must not use the exchange/sale authority if the transaction(s) would violate any other applicable statute or regulation.

§ 102–39.35 How do I determine whether to do an exchange or a sale?

You must determine whether an exchange or sale will provide the greater return for the Government. When estimating the return under each method, consider all related administrative and overhead costs.

§ 102–39.40 When should I arrange for a reimbursable transfer of exchange/sale property to a Federal agency or other eligible organization, or sell such property to a State Agency for SurplusProperty?

If you have property to replace which is eligible for exchange/sale, you should first, to the maximum extent practicable, solicit:

(a) Federal agencies known to use or distribute such property. If a Federal agency is interested in acquiring and paying for the property, you should arrange for a reimbursable transfer. Reimbursable transfers may also be conducted with the Senate, the House of Representatives, the Architect of the Capitol and any activities under the Architect's direction, the District of Columbia, and mixed-ownership Government corporations. When conducting a reimbursable transfer, you must:

(1) Do so under terms mutually agreeable to you and the recipient.

(2) Not require reimbursement of an amount greater than the estimated fair market value of the transferred property.

(3) Apply the transfer proceeds in whole or part payment for property acquired to replace the transferred property; and

(b) State Agencies for Surplus Property (SASPs) known to have an interest in acquiring such property. If a SASP is interested in acquiring the property, you should consider selling it to the SASP by negotiated sale at fixed price under the conditions specified at § 101–45.304–12 of this title. The sales proceeds must be applied in whole or part payment for property acquired to replace the transferred property.

§ 102–39.45 What prohibitions apply to the exchange/sale of personal property?

You must not use the exchange/sale authority for:

(a) The following FSC groups of personal property:

10 Weapons.
11 Nuclear ordnance.
12 Fire control equipment.
14 Guided missiles.
15 Aircraft and airframe structural components (except FSC Class 1560 Airframe Structural Components).
42 Firefighting, rescue, and safety equipment.

44 Nuclear reactors (FSC Class 4472 only).
51 Hand tools.
54 Prefabricated structure and scaffolding.
68 Chemicals and chemical products, except medicinal chemicals.
84 Clothing, individual equipment, and insignia.

Note to § 102–39.45(a): The exception to the prohibition is Department of Defense (DOD) property in FSC Groups 10, 12, and 14 (except FSC Class 1005) for which the applicable DOD demilitarization requirements, and any other applicable regulations and statutes are met.

(b) Materials in the National Defense Stockpile (50 U.S.C. 98–98h) or the Defense Production Act inventory (50 U.S.C. App. 2093).

(c) Nuclear Regulatory Commission-controlled materials unless you meet the requirements of § 101–42.1102–4 of this title.

(d) Controlled substances, unless you meet the requirements of § 101–42.1102–3 of this title.

(e) Scrap materials, except in the case of scrap gold for fine gold.

(f) Property that was originally acquired as excess or forfeited property or from another source other than new procurement, unless such property has been in official use by the acquiring agency for at least 1 year. You may exchange or sell forfeited property in official use for less than 1 year if the head of your agency determines that a continuing valid requirement exists, but the specific item in use no longer meets that requirement, and that exchange or sale meets all other requirements of this part.

(g) Property that is dangerous to public health or safety without first rendering such property innocuous or providing for adequate safeguards as part of the exchange/sale.

(h) Combat material without demilitarizing it or obtaining a demilitarization waiver or other necessary clearances from the Department of Defense Demilitarization Office.

(i) Flight Safety Critical Aircraft Parts unless you meet the provisions of § 101–37.610 of this title.

(j) Acquisition of unauthorized replacement property.

(k) Acquisition of replacement property that violates any:

(1) Restriction on procurement of a commodity or commodities;

(2) Replacement policy or standard prescribed by the President, the Congress, or the Administrator of General Services; or

(3) Contractual obligation.

(1) Vessels subject to 40 U.S.C. 484(i).

§ 102–39.50 What conditions apply to the exchange/sale of personal property?

You may use the exchange/sale authority only if you meet all of the following conditions:

(a) The property exchanged or sold is similar to the property acquired;

(b) The property exchanged or sold is not excess or surplus, and you have a continuing need for that type of property;

(c) The number of items acquired must equal the number of items exchanged or sold unless:

(1) The item(s) acquired perform all or substantially all of the tasks for which the item(s) exchanged or sold would otherwise be used; or

(2) The item(s) acquired and the item(s) exchanged or sold meet the test for similarity specified in § 102–39.20 that they are a part(s) or container(s) for identical or similar end items;

(d) The property exchanged or sold was not acquired for the principal purpose of exchange or sale; and

(e) You document at the time of exchange or sale (or at the time of acquiring the replacement property if it precedes the sale) that the exchange allowance or sale proceeds will be applied to the acquisition of replacement property.

§ 102–39.55 What exceptions apply to the conditions for exchange/sale in § 102–39.50?

The exceptions that apply to the conditions for exchange/sale § 102–39.50 are:

(a) You may exchange books and periodicals in your libraries for other books and periodicals, without monetary appraisal or detailed listing or reporting.

(b) In acquiring items for historical preservation or display at Federal museums, you may exchange historic items in the museum property account without regard to the FSC group, provided the exchange transaction is documented and certified by the head of your agency to be in the best interests of the Government and all other provisions of this part are met. The documentation must contain a determination that the item exchanged and the item acquired are historic items.

Subpart C–Exchange/Sale Methods and Reports

§ 102–39.60 What are the exchange methods?

Exchange of property may be accomplished by either of the following methods:

(a) The supplier (e.g., a Government agency, commercial or private organization, or an individual) delivers the replacement property to one of your organizational units and removes the property being replaced from that same organizational unit.

(b) The supplier delivers the replacement property to one of your organizational units and removes the property being replaced from a different organizational unit.

§ 102–39.65 What are the sales methods?

(a) You must use the methods, terms, and conditions of sale, and the forms prescribed in § 101–45.304 of this title in the sale of property being replaced, except for the provisions of § 101–45.304–2(a) of this title regarding negotiated sales. Section 3709, Revised Statutes (41 U.S.C. 5), specifies the following conditions under which property being replaced can be sold by negotiation, subject to obtaining such competition as is feasible:

(1) The reasonable value involved in the contract does not exceed $500; or

(2) Otherwise authorized by law.

(b) You may sell property being replaced by negotiation at fixed prices in accordance with the provisions of § 101–45.304–2(b) of this title.

§ 102–39.70 What are the accounting requirements for the proceeds of sale?

You must account for sales proceeds in accordance with the general finance and accounting rules applicable to you. Except as otherwise directed by law, all proceeds from the sale of personal property under this part will be available during the fiscal year in which the property was sold and for one fiscal year thereafter for obligation for the purchase of replacement property. Any sales proceeds not applied to replacement purchases during this time must be deposited in the United States Treasury as miscellaneous receipts.

§ 102–39.75 What information am I required to report?

(a) You must submit, within 90 calendar days after the close of each fiscal year, a summary report in a format of your choice on the exchange/sale transactions made under this part during the fiscal year (except for transactions involving books and periodicals in your libraries). The report must include:

(1) A list by Federal Supply Classification Group of property sold under this part showing the:

(i) Number of items sold;

(ii) Acquisition cost; and

(iii) Net proceeds.

(2) A list by Federal Supply Classification Group of property exchanged under this part showing the:

(i) Number of items exchanged;

(ii) Acquisition cost; and
(iii) Exchange allowance.
(b) Submit your report electronically or by mail to the General Services Administration, Personal Property ManagementPolicy Division (MTP), 1800 F St. NW., Washington, DC 20405.
(c) Report control number: 1528–GSA–AN.
(d) If you make no transactions under this part during a fiscal year, you must submit a report stating that no transactions occurred.

Dated: September 12, 2001.

Stephen A. Perry,

Administrator of General Services Administration.

[FR Doc. 01–23553 Filed 9–20–01; 8:45 am]

BILLING CODE 6820–24–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 1, 10, 12, 28, 30, 32, 35, 67, 78, 97, 131, 161, 162, 167, 182, 196, 199, and 401

[USCG–2001–10224]

Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes; and Conforming Amendments

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule makes editorial and technical changes throughout Title 46 of the Code of Federal Regulations to update the title before it is recodified on October 1, 2001. It corrects addresses, updates cross-references, makes conforming amendments, and makes other technical corrections. This rule will have no substantive effect on the regulated public.

DATES: This final rule is effective September 30, 2001.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the Docket Management Facility, [USCG–2001–10224], U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC, 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Robert Spears, Project Manager, Standards Evaluation and Development Division (G–MSR–2), Coast Guard, telephone 202–267–1099. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Discussion of the Rule

Each year, title 46 of the Code of Federal Regulations (CFR) is recodified on October 1. This rule makes editorial changes throughout the title, corrects addresses, updates cross-references, and makes other technical and editorial corrections to be included in the recodification. This rule does not change any substantive requirements of existing regulations.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This rule consists only of corrections, editorial changes, and conforming amendments to 46 CFR, chapters I and III. These changes will have no substantive effect on the public so publishing an NPRM and providing an opportunity for public comment is unnecessary. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Editorial changes that involve more than simply correcting erroneous letters or numbers—or a change of address—are discussed individually in the following paragraphs.

Parts 1 and 10

This rule adds the Director of Waterways Management (G–MW), to the Code of Federal Regulations, and it updates the distribution of functions assigned to several offices.

Parts 28, 35, 78, 97, 131, 167, and 196

In these parts, this rule updates information on obtaining nautical charts and publications by inserting references to the National Imagery and Mapping Agency.

Part 30

Since 1973, this section has referenced SOLAS 60. On July 26, 1990, a rulemaking titled ''Replacement of References to SOLAS 60 With SOLAS 74'' (55 FR 30658) was published to amend, among other things, this section and three other similar sections of title 46 (§§ 70.05–10, 90.05–10, and 188.05–10). All four amendatory instructions (# 11, 23, 32, and 68) were supposed to make the same change in the regulatory text of these four sections. They all should have read ''Section * * * is amended by revising paragraphs (a)(2)(i) and (ii) to read as follows:''.

However, amendatory instruction # 11 in that rulemaking erroneously read ''Section 30.01–6 is amended by revising paragraph (a) to read as follows:''. The instruction resulted in the deletion of paragraph (a)(2)(iii). This rule now corrects paragraph (a) by adding back the deleted language.

Part 32

On September 30, 1997, a rulemaking titled ''Harmonization With International Safety Standards'' (62 FR 51188) was published to amend, among other things, subpart 32.53. The Coast Guard determined that applicable SOLAS provisions regarding inert gas systems were equivalent to current Coast Guard regulations in terms of safety and operating requirements. Therefore, the Coast Guard incorporated SOLAS Chapter II–2 Regulation 62, containing the SOLAS requirements for inert gas systems, by reference in subpart 32.53 and removed §§ 32.53–15 through 32.53–85, which duplicate SOLAS requirements. The result was that § 32.53–5 now incorrectly references § 32.53–30, which was removed. This rule removes the incorrect cross-reference.

Parts 161, 162 and 401

This rule makes changes in these parts to reflect changes in the functional responsibilities for sections in these parts.

Part 199

This rule removes and reserves an obsolete paragraph, 46 CFR 199.620(m), and deletes an obsolete reference in a table.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040; February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. As this rule involves internal agency practices and procedures, it will not impose any costs on the public.

Collection of Information

This rule calls for no new collection of information under the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure of $100 million or more in any one year by a State, local, or tribal government, in the aggregate, or by the private sector. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(a) and (b) of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This exclusion is in accordance with paragraphs (34)(a) and (b), concerning regulations that are editorial or procedural and concerning internal agency functions or organization. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 10

Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 12

Reporting and recordkeeping requirements, Seamen.

46 CFR Part 28

Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 32

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 35

Cargo vessels, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 67

Vessels.

46 CFR Part 78

Marine safety, Navigation (water), Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 97

Cargo vessels, Marine safety, Navigation (water), Reporting and recordkeeping requirements.

46 CFR Part 131

Hazardous materials transportation, Marine safety, Navigation (water), Offshore supply vessels, Oil and gas exploration, Operations, Penalties, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 161

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 162

Fire prevention, Marine safety, Oil pollution, Reporting and recordkeeping requirements.

46 CFR Part 167

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

46 CFR Part 182

Marine safety, Passenger vessels.

46 CFR Part 196

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

46 CFR Part 199

Cargo vessels, Marine safety, Oil and gas exploration, Passenger vessels, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR parts 1, 10, 12, 28, 30, 32, 35, 67, 78, 97, 131, 161, 162, 167, 182, 196, 199 and 401 as follows:

PART 1—ORGANIZATION, GENERAL COURSE, AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

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

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 49 CFR 1.45, 1.46; § 1.01–35 also issued under the authority of 44 U.S.C. 3507.

2. In § 1.01–10:

a. In paragraph (b)(1), revise the first sentence to read as follows;

b. In paragraph (b)(1)(ii)(A), remove the phrase ''licensing and documenting of merchant personnel, the issuance of certificates of registry to merchant marine staff officers, and'';

c. In paragraph (b)(1)(ii)(D), remove the words ''oversees the national pilotage program'' and add, in their place, the phrase ''exercises administrative and technical oversight for the Marine Safety Laboratory (MSL)'';

d. Redesignate paragraph (b)(1)(iii) as (b)(1)(iv); and

e. Add a new paragraph (b)(1)(iii) to read as follows:

§ 1.01–10 Organization.

* * * * *

(b) * * *

(1) The Assistant Commandant for Marine Safety and Environmental Protection, under the general direction of the Commandant, directs, supervises, and coordinates the activities of the Standards Directorate, consisting of the Office of Design and Engineering Standards, the Office of Operating and Environmental Standards, and the Office of Standards Evaluation and Development; the Field Activities Directorate, consisting of the Office of Compliance, the Office of Response, and the Office of Investigations and Analysis; the Waterways Management Directorate, consisting of the Great Lakes Pilotage Staff, the Office of Policy and Planning, and the Office of Vessel Traffic Management; and the Resource Management Directorate, consisting of the Office of Planning and Resources, and the Office of Information Resources.

* * *

* * * * *

(iii) The Director of Waterways Management (G–MW), under the general direction and supervision of the Assistant Commandant for Marine Safety and Environmental Protection, is the principle advisor to the Assistant Commandant for Marine Safety and Environmental Protection on waterways management objectives, goals, strategies, and related policy issues; coordinates waterways management issues with other interested Coast Guard offices; represents the Coast Guard with other DOT modal administrations and other federal, state, and international governmental organizations on matters concerning waterways management, DOT's Marine Transportation System (MTS), and port security; in coordination with the Director of Field Activities, resolves appeals on waterways management issues from industry and the public regarding decisions by Captains of the Port; as the Secretary of Transportation's representative, chairs the U.S. Port Security Committee; directs and administers the Interagency Committee on the Marine Transportation System and the Navigation Safety Advisory Council.

* * * * *

PART 10—LICENSING OF MARITIME PERSONNEL

3. The authority citation for part 10 continues to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. Chapter 71; 46 U.S.C. 7502, 7505, and 7701; 49 CFR 1.45 and 1.46. Section 10.107 is also issued under the authority of 44 U.S.C. 3507.

§ 10.112 [Amended]

4. In § 10.112(b), remove the phrase ''Commandant (G–MOC), 2100 Second Street SW., Washington, DC 20593–0001'' and add, in its place, the phrase ''Commanding Officer, U.S. Coast Guard National Maritime Center, 4200 Wilson Boulevard, Suite 630, Arlington, VA 22203–1804''.

§ 10.910 [Amended]

5. In § 10.910, in table 10.910–2, under the ''Examination topics'' column, in the entry for ''Search and Rescue,'' remove the word ''AMVER'' and add, in its place, the word ''Amver''.

PART 12—CERTIFICATION OF SEAMEN

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

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701; 49 CFR 1.46.

§ 12.02–13 [Amended]

7. In § 12.02–13(c), remove ''10.02–5'' and add, in its place, ''10.205(c)''.

PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

8. The authority citation for part 28 continues to read as follows:

Authority: 46 U.S.C. 3316, 4502, 4505, 4506, 6104, 10603; 49 CFR 1.46.

§ 28.225 [Amended]

9. In § 28.225(a)(1), remove the phrase ''Defense Mapping Agency Hydrographic/Topographic Center'' and add, in its place, the words ''the National Imagery and Mapping Agency''.

§ 28.275 [Amended]

10. In § 28.275(a), remove the phrase ''1900 Arch Street, Philadelphia, PA 19103–1498'' and add, in its place, the phrase ''5458 Wagonmaster Drive, Colorado Springs, CO 80917''.

PART 30—GENERAL PROVISIONS

11. The authority citation for part 30 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3307, 3703; 49 U.S.C. 5103, 5106; 49 CFR 1.45, 1.46; Section 30.01–2 also issued under the authority of 44 U.S.C. 3507; Section 30.01–5 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

12. In § 30.01–6, add paragraph (a)(2)(iii) to read as follows:

§ 30.01–6 Application to vessels on an international voyage.

(a) * * *

(2) * * *

(i) (iii) Between the contiguous states of the United States and the states of Hawaii or Alaska or between the states of Hawaii and Alaska.

* * * * *

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

13. The authority citation for part 32 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703, 3719; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; Subpart 32.59 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

14. Revise § 32.53–5 to read as follows:

§ 32.53–5 Operation–T/ALL.

Unless the cargo tanks are gas free, the master of each tankship to which this subpart applies shall ensure that the inert gas system is operated as necessary to maintain an inert atmosphere in the cargo tanks.

PART 35—OPERATIONS

15. The authority citation for part 35 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 35.20–1 [Amended]

16. In § 35.20–1:

a. In paragraph (a), remove the words ''U.S. Navy'' and add, in their place, the words ''National Imagery and Mapping Agency''; and

b. In paragraph (c), remove the phrase ''U.S. Naval Oceanographic Office, the

U.S. Coast and Geodetic Survey'' and add, in its place, the phrase ''National Imagery and Mapping Agency, National Ocean Service,''; and remove the phrase ''U.S. Naval Oceanographic Office, Washington, DC 20390, Branch Oceanographic Offices'' and add, in its place, the words ''National Imagery and Mapping Agency''.

PART 67—DOCUMENTATION OF VESSELS

17. The authority citation for part 67 continues to read as follows:

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2107, 2110; 46 U.S.C. app. 841a, 876; 49 CFR 1.45, 1.46.

§ 67.107 [Amended]

18. In § 67.107(b), remove the words ''Certificate of Measurement'' and add, in their place, the words ''certificate of measurement''.

PART 78—OPERATIONS

19. The authority citation for part 78 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757; 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 78.05–1 [Amended]

20. In § 78.05–1:

a. In paragraph (a), remove the words ''U.S. Navy'' and add, in their place, the words ''National Imagery and Mapping Agency''; and

b. In paragraph (c), remove the phrase ''U.S. Naval Oceanographic Office, the U.S. Coast and Geodetic Survey'' and add, in its place, the phrase ''National Imagery and Mapping Agency, National Ocean Service,''; and remove the phrase ''U.S. Naval Oceanographic Office, Washington, DC 20390, Branch Oceanographic Offices'' and add, in its place, the words ''National Imagery and Mapping Agency''.

§ 78.10–1 [Amended]

21. In § 78.10–1, remove the words ''United States Coast and Geodetic Survey'' and add, in their place, the phrase ''National Imagery and Mapping Agency, National Ocean Service''.

PART 97—OPERATIONS

22. The authority citation for part 97 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757; 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 97.05–1 [Amended]

23. In § 97.05–1:

a. In paragraph (a), remove the words ''U.S. Navy'' and add, in their place, the words ''National Imagery and Mapping Agency''; and

b. In paragraph (c), remove the phrase ''U.S. Naval Oceanographic Office, the U.S. Coast and Geodetic Survey'' and add, in its place, the phrase ''National Imagery and Mapping Agency, National Ocean Service,''; and remove the phrase ''U.S. Naval Oceanographic Office, Washington, DC 20390, Branch Oceanographic Offices'' and add, in its place, the words ''National Imagery and Mapping Agency''.

§ 97.10–5 [Amended]

24. In § 97.10–5, remove the words ''United States Coast and Geodetic Survey'' and add, in their place, the phrase ''National Imagery and Mapping Agency, National Ocean Service''.

PART 131—OPERATIONS

25. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101, 10104; E.O. 12234, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 131.910 [Amended]

26. In § 131.910, remove the words ''U.S. Navy'' and add, in their place, the words ''National Imagery and Mapping Agency''.

PART 161—ELECTRICAL EQUIPMENT

27. The authority citation for part 161 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 161.010–1 [Amended]

28. In § 161.010–1(a), remove the phrase ''U.S. Coast Guard, Office of Design and Engineering Standards (G–MSE), 2100 Second Street SW., Washington, DC 20593–0001'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center, 400 Seventh Street SW., Washington, DC 20590–0001''.

§ 161.010–4 [Amended]

29. In § 161.010–4:

a. In paragraph (a), remove the phrase ''Commandant (G–MSE), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center, 400 Seventh Street SW., Washington, DC 20590–0001''; and

b. In paragraph (b), remove the phrase ''Commandant (G–MSE)'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center''.

PART 162—ENGINEERING EQUIPMENT

30. The authority citation for part 162 continues to read as follows:

Authority: 33 U.S.C. 1321(j), 1903; 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

§ 162.017–3 [Amended]

31. In § 162.017–3:

a. In paragraph (b), remove the phrase ''Commandant (G–MSE)'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center'';

b. In paragraph (c), remove the word ''Commandant'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center''; and

c. In paragraph (o), remove the word ''Commandant'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center''.

§ 162.017–5 [Amended]

32. In the footnote for § 162.017–5(a), remove the word ''Commandant'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center''.

§ 162.017–6 [Amended]

33. In § 162.017–6:

a. In paragraph (a), remove the phrase ''Commandant (G–MSE), U.S. Coast Guard, Washington, DC 20593–0001'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center, 400 Seventh Street SW., Washington, DC 20590–0001''; and

b. In paragraph (c), remove the phrase ''Commandant (G–MSE)'' in both places where it appears in the paragraph and add, in those places, the phrase ''Commanding Officer, USCG Marine Safety Center''.

§ 162.018–6 [Amended]

34. In the footnote for § 162.018–6(a), remove the word ''Commandant'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center''.

§ 162.018–7 [Amended]

35. In § 162.018–7(a), remove the word ''Commandant'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center''.

§ 162.018–8 [Amended]

36. In § 162.018–8:

a. In paragraph (a), remove the phrase ''Commandant (G–MSE), U.S. Coast Guard, Washington, DC 20593–0001'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center, 400 Seventh Street SW., Washington, DC 20590–0001'';

b. In paragraph (b), remove the word ''Commandant'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center,''; and

c. In paragraph (c), remove the word ''Commandant'' in both places where it appears in the paragraph and add, in those places, the phrase ''Commanding Officer, USCG Marine Safety Center''.

§ 162.050–7 [Amended]

37. In § 162.050–7:

a. In paragraph (a), remove the phrase ''Commandant (G–MSE), U.S. Coast Guard, Washington, DC 20593–0001'' and add, in its place, the phrase ''Commanding Officer, U.S. Coast Guard Marine Safety Center, Engineering Division, 400 Seventh Street SW., Washington, DC 20590–0001'';

b. In paragraph (f), remove the phrase ''Commandant (G–MSE)'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center''; and

c. In paragraph (g), remove the phrase ''Commandant (G–MSE)'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center''.

§ 162.050–13 [Amended]

38. In § 162.050–13(b), remove the word ''Commandant'' and add, in its place, the phrase ''Commanding Officer, USCG Marine Safety Center,''.

§ 162.050–15 [Amended]

39. In § 162.050–15:

a. In paragraph (a), remove the phrase ''Commandant (G–MSE), U.S. Coast Guard, Washington, DC 20593–0001'' and add, in its place, the phrase ''Commanding Officer, U.S. Coast Guard Marine Safety Center, Engineering Division, 400 Seventh Street SW., Washington, DC 20590–0001'';

b. In paragraph (e), remove the phrase ''Commandant (G–MSE), U.S. Coast Guard, Washington, DC 20593–0001'' and add, in its place, the phrase ''Commanding Officer, U.S. Coast Guard Marine Safety Center, Engineering Division, 400 Seventh Street SW., Washington, DC 20590–0001''; and

c. In paragraph (h), remove the phrase ''Commandant (G–MSE), U.S. Coast Guard, Washington, DC 20593–0001'' and add, in its place, the phrase ''Commanding Officer, U.S. Coast Guard Marine Safety Center, Engineering Division, 400 Seventh Street SW., Washington, DC 20590–0001''.

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

40. The authority citation for part 167 continues to read as follows:

Authority: 46 U.S.C. 3306, 3307, 6101, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 167.65–45 [Amended]

41. In § 167.65–45:

a. In paragraph (a), remove the words ''U.S. Navy'' and add, in their place, the words ''National Imagery and Mapping Agency''; and

b. In paragraph (c), remove the phrase, ''U.S. Naval Oceanographic Office, the U.S. Coast and Geodetic Survey'' and add, in its place, the phrase ''National Imagery and Mapping Agency, National Ocean Service,''; and remove the phrase ''U.S. Naval Oceanographic Office, Washington, DC 20390, Branch Oceanographic Offices'' and add, in its place, the words ''National Imagery and Mapping Agency''.

PART 182—MACHINERY INSTALLATION

42. The authority citation for part 182 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 182.455 [Amended]

43. In § 182.455(c), remove the phrase ''33 CFR 193'' and add, in its place, the phrase ''33 CFR 183''.

PART 196—OPERATIONS

44. The authority citation for part 196 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2213, 3306, 5115, 6101; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 196.05–1 [Amended]

45. In § 196.05–1:

a. In paragraph (a), remove the words ''U.S. Navy'' and add, in their place, the words ''National Imagery and Mapping Agency''; and

b. In paragraph (c), remove the phrase ''U.S. Naval Oceanographic Office, the U.S. Coast and Geodetic Survey'' and add, in its place, the phrase ''National Imagery and Mapping Agency, National Ocean Service,''; remove the phrase, ''U.S. Naval Oceanographic Office, Washington, DC 20390, Branch Oceanographic Offices'' and add, in its place, the words ''National Imagery and Mapping Agency''.

PART 199—LIFESAVING SYSTEMS FOR CERTAIN INSPECTED VESSELS

46. The authority citation for part 199 continues to read as follows:

Authority: 46 U.S.C. 3306, 3307, 3703; 49 CFR 1.46.

§ 199.620 [Amended]

47. In § 199.620:

a. In table 199.620(a) at the end of paragraph 199.620(a), remove the row starting with the words ''199.510: EPIRB requirement. . . .''; and

b. Revise paragraph (m) to read as follows:

§ 199.620 Alternatives for all vessels in a specified service.

* * * * *

(m) [Reserved]

* * * * *

PART 401—GREAT LAKES PILOTAGE REGULATIONS

48. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; 49 CFR 1.45, 1.46(mmm); 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507.

§ 401.110 [Amended]

49. In § 401.110(a)(9), remove the phrase ''(G–MO)'' and add, in its place, the phrase ''(G–MW)''.

Dated: September 17, 2001.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–23554 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

48 CFR Part 253

[DFARS Case 2001–D004]

Defense Federal Acquisition Regulation Supplement; Reporting Requirements Update; Correction

AGENCY: Department of Defense (DoD).

ACTION: Correction to final rule.

SUMMARY: DoD is issuing a correction to the final rule published at 66 FR 47096–47107 on September 11, 2001, pertaining to contract action reporting requirements for Fiscal Year 2002.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

Telephone (703) 602–0326; facsimile (703) 602–0350.

Correction

In the issue of Tuesday, September 11, 2001, on page 47100, in the first column, section 253.204–70, paragraph (b)(12)(vii) introductory text is corrected to read ''(vii) LINE B12G, RECOVERED MATERIAL CLAUSES. When Line B12F is coded A, B, C, or D, enter one of the following codes. Otherwise, leave Line B12G blank.''.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 01–23688 Filed 9–20–01; 8:45 am]

BILLING CODE 5000–04–M

Proposed Rules

Federal Register
Vol. 66, No. 184
Friday, September 21, 2001

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 927

[Docket No. FV01–927–1 PR]

Winter Pears Grown in Oregon and Washington; The Establishment of a Supplemental Rate of Assessment for the Beurre d'Anjou Variety of Pears and of a Definition for Organically Produced Pears

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would establish a supplemental rate of assessment of $0.03 per standard box of the Beurre d'Anjou variety of pears (d'Anjou pears) handled, excluding organically produced pears, during the 2001–2002 and subsequent fiscal periods under the marketing order regulating the handling of winter pears grown in Oregon and Washington. The marketing order is administered locally by the Winter Pear Control Committee (Committee). To properly implement the supplemental rate of assessment, which would be used for the purpose of funding data collection for Ethoxyquin residue on stored d'Anjou pears, this rule would also establish a definition for organically produced pears. The fiscal period began July 1 and ends June 30. The supplemental rate of assessment would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by October 22, 2001.

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

FOR FURTHER INFORMATION CONTACT: Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 89 and Order No. 927, both as amended (7 CFR part 927), regulating the handling of winter pears grown in Oregon and Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order now in effect, Oregon and Washington winter pear handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the supplemental rate of assessment as proposed herein would be applicable to all assessable d'Anjou pears, excluding organically produced pears, beginning on July 1, 2001, and would continue until amended, suspended, or terminated. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule would establish a supplemental rate of assessment of $0.03 per standard box of d'Anjou pears handled, excluding organically produced pears, for the 2001–2002 and subsequent fiscal periods. The $0.03 supplemental rate of assessment on conventionally produced and handled d'Anjou pears is in addition to the continuing rate of assessment of $0.49 per standard box established at 63 FR 39037 for the 1998–1999 and subsequent fiscal periods, which pertains to all pears handled under the order. This rule would also establish a definition for organically produced pears. The Committee unanimously recommended this rule at its meeting held on June 1, 2001.

Section 927.41 of the order provides authority for the Secretary, upon a recommendation of the Committee, to fix the rate of assessment that handlers shall pay on all pears handled during each fiscal period, and may also fix supplemental rates of assessment on individual varieties or subvarieties to secure sufficient funds to provide for projects authorized under § 927.47. Section 927.47 provides authority for the establishment of production research, or marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of pears.

Authority for the Committee to recommend the establishment of a

definition for organically produced pears is provided in § 927.4, which defines ''pears'' for purposes of this order, and in § 927.31(b), which provides the Committee with the power to recommend administrative rules and regulations to effectuate the terms and provisions of the order.

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

The Committee met on June 1, 2001, and unanimously recommended 2001–2002 expenditures of $8,127,777. The Committee also recommended continuation of the rate of assessment of $0.49 per standard box of winter pears established for the 1998–99 and subsequent fiscal periods. In addition to this continuing, basic rate of assessment, the Committee unanimously recommended the establishment of a supplemental rate of assessment of $0.03 per standard box of d'Anjou pears handled, excluding organically produced pears. Both the basic rate of $0.49 per standard box of winter pears and the supplemental rate of $0.03 per standard box of conventionally produced and handled d'Anjou pears would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Under this proposal, conventionally produced and handled d'Anjou pears (pears that are not organically produced) would be assessed at a total rate of $0.52 per standard box, while all other varieties of winter pears, including organically produced and handled d'Anjou pears, would be assessed at the currently established rate of $0.49 per standard box. The Committee estimates that of the 15.8 million boxes of winter pears projected for utilization during the 2001–02 fiscal period, 12.4 million will be conventionally produced pears of the d'Anjou variety. While the income derived from the basic rate of assessment would continue to fund the Committee's administrative and promotional activities, income derived from the supplemental rate of assessment would be used exclusively to fund the collection of data on Ethoxyquin residue on stored d'Anjou pears. Ethoxyquin is an antioxidant that is registered for use on pears in the control of superficial scald, a physiological disease affecting the appearance of certain varieties of stored pears. The supplemental rate would not be applicable to d'Anjou pears that are organically produced, as Ethoxyquin is not used in their handling and storage.

Since the d'Anjou variety of pear is of major importance to the Oregon and Washington winter pear industry, the Committee has embarked on a research project that would fund the collection of data pertaining to Ethoxyquin residue. Such data could be used to help satisfy requirements of the Environmental Protection Agency pertaining to U.S. pesticide tolerance and registration. In addition, the data collection could be used in conjunction with the Codex Alimentarius system that establishes maximum residue limits used as tolerances in many nations receiving shipments of Oregon and Washington d'Anjou pears.

The major expenditures recommended by the Committee for the 2001–02 year include $6,952,000 for market development projects including paid advertising, $688,000 for research including $372,000 for Ethoxyquin data research (funded by the supplemental rate of assessment), and operational expenses of $474,000, including $241,401 for salaries and employee benefits. Budgeted expenses for these items in 2000–01 were $7,342,500, $330,000, and $412,500 (including $269,658 for salaries and benefits), respectively. Collection of data on the use of Ethoxyquin was not a funded research project during the 2000–01 fiscal period.

Assessment income for the 2001–02 fiscal period is expected to total $8,114,000 based on estimated shipments of 15,800,000 standard boxes at the current rate of $0.49 per standard box. This includes 12,400,000 standard boxes of conventionally produced d'Anjou pears at the proposed supplemental rate of $0.03 per standard box. Income from the additional $0.03 rate of assessment is estimated at $372,000. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve (currently $304,181) would be kept within the maximum permitted by the order of approximately one fiscal period's expenses (§ 927.42).

Although both the basic rate of assessment and the proposed supplemental rate of assessment would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of both. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of either rate of assessment is needed. Further rulemaking would be undertaken as necessary. The Committee's 2001–02 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the Department.

The Committee's recommendation includes the establishment of a definition for organically produced pears. The Committee recommended the establishment of this definition primarily so that it could properly implement the organically produced pear exclusion included with the proposed supplemental rate of assessment. The Committee recommended that the definition be established as follows: ''Organically produced pears'' means pears that have been certified by an organic certification organization currently registered with the Oregon or Washington State Departments of Agriculture, or such certifying organization accredited under the National Organic Program.'' Although the Committee recommended that this definition be established primarily so that it could properly administer the proposed supplemental rate of assessment, the definition could prove useful to both the Committee and the Department in a variety of ways in the administration of the order. With the increasing interest and emphasis being put on organic food production in the United States, the existence of a definition for organically produced pears in this order would provide the northwest pear industry with an important tool.

Initial Regulatory Flexibility Analysis

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

AMS has prepared this initial regulatory flexibility analysis.

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

There are approximately 70 handlers of winter pears who are subject to regulation under the marketing order and approximately 1,700 winter pear producers in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000.

The Committee estimates, based upon handler shipment totals and an average F.O.B price of $14 per standard box, that about 93 percent of winter pear handlers could be considered small businesses under SBA's definition, excluding receipts from other sources. In addition, based on acreage, production, and producer prices reported by the National Agricultural Statistics Service, and the total number of winter pear producers, the average annual producer receipts are approximately $69,635, excluding receipts from other sources. In view of the foregoing, it can be concluded that the majority of producers of winter pears may be classified as small entities.

This rule would establish a supplemental rate of assessment of $0.03 per standard box of d'Anjou pears handled, excluding organically produced pears, for the 2001–2002 and subsequent fiscal periods. The $0.03 supplemental rate of assessment on conventionally produced and handled d'Anjou pears would be in addition to the continuing rate of assessment of $0.49 per standard box of pears handled established at 63 FR 39037 for the 1998–1999 and subsequent fiscal periods. This rule would also establish a definition for organically produced pears. The Committee unanimously recommended this action at its meeting held on June 1, 2001.

The major expenditures recommended by the Committee for the 2001–02 year include $6,952,000 for market development including paid advertising, $688,000 for research including $372,000 for Ethoxyquin data collection, and operational expenses of $474,000, including $241,401 for salaries and employee benefits. Budgeted expenses for these items in 2001–01 were $7,342,500, $330,000, and $412,500 ($269,658 for salaries and benefits), respectively. Ethoxyquin data research was not a budgeted item during the 2000–01 fiscal period.

Assessment income for the 2001–02 fiscal period would total $8,114,000 based on estimated winter pear shipments of 15,800,000 standard boxes at the current rate of $0.49 per standard box, and 12,400,000 standard boxes of conventionally produced d'Anjou pears at the supplemental rate of $0.03 per standard box. The supplemental assessment income, estimated at $372,000, would be used to fund Ethoxyquin data research. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. The operating reserve is within the maximum permitted by the order of approximately one fiscal period's expenses.

The Committee reviewed and unanimously recommended 2001–02 expenditures of $8,127,777. This compares to last year's approved budget of $8,199,694. Prior to arriving at this budget, alternative expenditure and assessment levels were discussed by the Committee. Based upon the relative value of the Ethoxyquin research to the industry, a supplemental rate of assessment was recommended on d'Anjou pears. Ethoxyquin is not used in the handling and storage of organically produced d'Anjou pears, thus they were excluded from the Committee's supplemental assessment recommendation. Therefore, the Committee recommended the establishment of a definition for organically produced pears in the order's rules and regulations.

A review of historical information, as well as preliminary information pertaining to the upcoming fiscal period, indicates that the producer price for the 2001–02 season could range between $5.87 and $10.34 per standard box of winter pears. Therefore, the estimated assessment revenue for the 2001–02 fiscal period, inclusive of revenue from both the basic $0.49 rate and the $0.03 supplemental rate of assessment, as a percentage of total grower revenue could range between 5 and 9 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the winter pear industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 1, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large winter pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

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

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2001–02 fiscal period began on July 1, 2001, and the supplemental rate of assessment should apply to all assessable, non-organic, d'Anjou pears handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses in regard to the Ethoxyquin data collection; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting.

List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 927 is proposed to be amended as follows:

PART 927—WINTER PEARS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 927 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In Subpart—Control Committee Rules and Regulations, under the undesignated center heading ''Definitions'', a new § 927.103 is added as follows:

§ 927.103 Organically produced pears.

Organically produced pears means pears that have been certified by an organic certification organization currently registered with the Oregon or Washington State Departments of Agriculture, or such certifying organization accredited under the National Organic Program.

3. Section 927.236 is revised to read as follows:

§ 927.236 Assessment rate.

On and after July 1, 2001, an assessment rate of $0.49 per standard box of conventionally and organically produced pears and, in addition, a supplemental assessment rate of $0.03 per standard box of Beurre d'Anjou variety pears, excluding organically produced pears, is established for the Winter Pear Control Committee.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23657 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Docket No. FV01–929–3 PR]

Cranberries Grown in the States of Massachusetts, et al.; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established under the cranberry marketing order for the 2001–2002 fiscal year and subsequent fiscal years from $.08 to $.18 per barrel of cranberries handled. Currently, funds derived from assessments are used to cover expenses incurred by the Cranberry Marketing Committee (Committee) in the performance of its duties and functions under the order and to fund an export market development program. The Committee is responsible for local administration of the marketing order which regulates the handling of cranberries grown in the production area. The proposed $.10 increase would be used to fund a domestic market development program. The fiscal year began September 1 and ends August 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by October 9, 2001.

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

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, DC Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, Suite 2A04, Unit 155, 4700 River Road, Riverdale, Maryland 20737, telephone: (301) 734–5243; Fax: (301) 734–5275; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 929, as amended (7 CFR part 929), regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

This rule would increase the assessment rate established for the Committee for the 2001–2002 fiscal period and subsequent fiscal periods for cranberries from $0.08 to $0.18 per barrel of cranberries.

The cranberry marketing order provides that one of the duties of the Committee is to formulate an annual budget of expenses and to recommend a rate of assessment necessary to administer the provisions of the order. The members of the Committee are producers of cranberries. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

Authority to fix the rate of assessment to be paid by each handler and to collect such assessment appears in § 928.41 of the order. In addition, § 929.45 of the order provides that the Committee, with the approval of the Secretary, may

establish or provide for the establishment of production research, marketing research, and market development projects designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of cranberries. The expense of such projects would be paid from funds collected pursuant to § 929.41 (Assessments), or from such other funds as approved by the Secretary.

For the 2000–2001 fiscal period, the Committee recommended, and the Department approved, an assessment rate of $.08 per barrel of cranberries handled that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee voted by mail and recommended 2001–2002 expenditures of $1,206,772 and an assessment rate of $.18 per barrel of cranberries. Six of the eight committee members voted in support of the $.10 per barrel increase. Two members did not return their mail ballots to the Committee. The assessment rate increase was considered by the Committee at an earlier public meeting. The budget for 2001–2002 was recommended to the full Committee by the Executive Committee. The major expenditures recommended by the Committee for the 2001–2002 fiscal period include $846,953 for market development (including $490,000 for domestic market development, $273,953 for export market development, and $83,000 for export market consulting services), $123,952 for administration costs, $129,500 for personnel, $75,000 for Committee meetings, and $31,367 for payroll taxes and benefits. Included in the budget calculations would be about $6,000 interest and $213,953 Market Access Program (MAP) funds from USDA's Foreign Agricultural Service (FAS) for export market development. Budgeted expenses in the Committee's amended 2000–2001 budget were $223,647 for administration costs, $270,407 for export market development, $71,000 for export market consulting services, $119,464 for personnel, and $67,500 for Committee meetings. There was no domestic market development program for the 2000–2001 fiscal period.

The Committee recommended the $.10 per barrel increase to fund a domestic market development program to increase demand for cranberries and cranberry products and thus expand cranberry shipments. Currently, supplies are outpacing demand. The Committee believes that a domestic market development program is needed to increase consumer awareness of the health benefits of cranberries and cranberry products. Currently, the Committee funds an export market development program with MAP money from FAS.

Over the past several years, per capita consumption of cranberries has averaged 1.68 pounds. Per capita consumption peaked in 1994 at 1.80 pounds and began trending downward. In 1998, per capita consumption was 1.67 pounds. Associated with these per capita consumption figures is the fact that total domestic sales also peaked in 1994 at 4,692,507 barrels and declined to 4,506,632 barrels in 1998. However, cranberry production reached an all-time high of 6,389,000 barrels in 1999. This is a 17 percent increase over 1998 production of approximately 5.4 million barrels. Available cranberry supplies continue to out pace demand, resulting in high levels of carryin inventories and low grower prices. Grower returns have fallen 73 percent from 1997 to 2000, dropping from $65.90 to $15–$20 per barrel.

The assessment rate recommended by the Committee was derived by estimating the cost of a viable domestic market development program ($490,000) and then increasing the assessment rate to cover such costs. Cranberry shipments are projected at 4.9 million barrels which would provide $882,000 in assessment income. Income derived from handler assessments, along with interest income, FAS market access funds for export market development, and funds from the Committee's authorized reserve would be adequate to cover budgeted expenses expected to total $1,206,772 in 2001–2002. Funds in the reserve (currently $115,000) would be kept within the approximately one year's operational expenses permitted by the order (§ 929.42(a)).

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

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

Initial Regulatory Flexibility Analysis

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

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

There are approximately 20 handlers of cranberries who are subject to regulation under the order and approximately 1,100 producers of cranberries in the regulated area. Small agricultural service firms, which includes handlers, are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. The majority of cranberry handlers and producers may be classified as small businesses.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2001–2002 and subsequent fiscal periods from $.08 to $.18 per barrel of cranberries. One barrel equals 100 pounds of cranberries.

The Committee discussed the alternative of continuing the existing assessment rate, but concluded that it needed to implement a domestic market development program funded through assessments. The assessment rate recommended by the Committee was derived by determining the cost of a viable domestic market development program ($490,000), and then increasing the assessment rate to cover the additional costs. Cranberry shipments are projected at 4.9 million barrels which would provide $882,000 assessment income. Income derived from handler assessments, along with interest income, FAS market access

program funds, and funds from the Committee's authorized reserve would be adequate to cover budgeted expenses. Funds in the reserve (currently $115,000) would be kept within the approximately one year's operational expenses permitted by the order (section 929.42(a)).

The major expenditures recommended by the Committee for the 2001–2002 fiscal period include $846,953 for market development (including $490,000 for domestic market development, $273,953 for export market development, and $83,000 for export market development consulting services), $123,952 for administration costs, $129,500 for personnel, $75,000 for Committee meetings, and $31,367 for payroll taxes and benefits. Included in the budget calculations would be approximately $6,000 interest and $213,953 MAP funds from FAS for export market development. Budgeted expenses in the Committee's amended 2000–2001 budget were $223,647 for administration costs, $270,407 for export market development, $119,464 for personnel, and $67,500 for Committee meetings. There was no domestic market development program for the 2000–2001 fiscal period.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the cranberry industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Board meetings, all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large cranberry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

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

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because: (1) The 2001–2002 fiscal period began on September 1, 2001, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable cranberries handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 929 is proposed to be amended as follows:

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

1. The authority citation for 7 CFR part 929 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 929.239 is revised to read as follows:

§ 929.239 Assessment rate.

On and after September 1, 2001, an assessment rate of $0.18 per barrel is established for cranberries.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23653 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 931

[Docket No. FV01–931–1 PR]

Fresh Bartlett Pears Grown in Oregon and Washington; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Northwest Fresh Bartlett Pear Marketing Committee (Committee) for the 2001–2002 and subsequent fiscal periods from $0.02 to $0.025 per standard box of fresh Bartlett pears. The Committee locally administers the marketing order which regulates the handling of fresh Bartlett pears grown in Oregon and Washington. Authorization to assess fresh Bartlett pear handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began July 1 and ends June 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by October 22, 2001.

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

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

Small businesses may request information on complying with this

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 141 and Order No. 931 (7 CFR part 931), regulating the handling of fresh Bartlett pears grown in Oregon and Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

This rule would increase the assessment rate established for the Committee for the 2001–2002 and subsequent fiscal periods from $0.02 to $0.025 per standard box of fresh Bartlett pears handled.

The fresh Bartlett pear marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee consists of eight grower members and six handler members, each of whom is familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The budget and assessment rate were discussed at a public meeting and all directly affected persons had an opportunity to participate and provide input.

For the 2000–2001 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate of $0.02 per standard box that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on May 31, 2001, and unanimously recommended 2001–2002 expenditures of $76,477 and an assessment rate of $0.025 per standard box of fresh Bartlett pears handled. In comparison, last year's budgeted expenditures were $81,060. The assessment rate of $0.025 is $0.005 higher than the rate currently in effect. The Committee recommended an increased assessment rate because the current rate of $0.02 would not generate enough income to keep its operating reserve at a reasonable level ($25,666). Without the increase, the operating reserve would drop below $7,000 which is not acceptable to the Committee.

Major expenses recommended by the Committee for the 2001–2002 fiscal period include $39,040 for salaries, $5,675 for office rent, and $3,911 for health insurance. Budgeted expenses for these items in 2000–2001 were $44,468, $4,847, and $3,891, respectively.

The Committee developed the $0.025 assessment rate recommendation by considering the 2001–2002 budget and crop estimate, as well as the relatively small size of the current monetary reserve. Assessment income for the fiscal period should approximate $79,700 based on estimated fresh Bartlett pear shipments of 3,188,000 standard boxes, which would be adequate to cover budgeted expenses. Funds in the reserve (currently $18,443) would be kept within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 931.42).

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

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

Initial Regulatory Flexibility Analysis

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

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

There are approximately 1,600 producers of fresh Bartlett pears in the production area and approximately 54 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on data provided by the National Agricultural Statistics Service for 1999, the most recent year complete data is available, and the current

number of producers, the average annual producer revenue in Washington and Oregon could approximate $23,130 this year, excluding receipts from other sources. Further, based on Committee records and recent F.O.B. prices reported by the Fruit and Vegetable Market News Service for fresh Bartlett pears, over 98 percent of the regulated handlers ship less that $5,000,000 worth of fresh Bartlett pears on an annual basis, excluding receipts from other sources. In view of the foregoing, it can be concluded that the majority of fresh Bartlett pear producers and handlers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2001–2002 and subsequent fiscal periods from $0.02 to $0.025 per standard box of fresh Bartlett pears handled. The Committee met on May 31, 2001, and unanimously recommended 2001–2002 expenditures of $76,477 and an assessment rate of $0.025 per standard box of fresh Bartlett pears handled. In comparison, budgeted expenditures for last year totaled $81,060. The assessment rate of $0.025 is $0.005 more than the rate currently in effect, and was recommended by the Committee because the current rate of $0.02 would not generate enough income for it to adequately administer the program. Its monetary reserve would drop below $7,000 at the current rate of assessment, which was not acceptable to the Committee.

Major expenses recommended by the Committee for the 2001–2002 fiscal period include $39,040 for salaries, $5,675 for office rent, and $3,911 for health insurance. Budgeted expenses for these items in 2000–2001 were $44,468, $4,847, and $3,891, respectively.

The Committee developed the $0.025 assessment rate recommendation by considering the 2001–2002 budget and crop estimate, as well as the relatively small size of its current monetary reserve. Assessment income for the fiscal period should approximate $79,700 based on estimated fresh Bartlett pear shipments of 3,188,000 standard boxes, which would be adequate to cover budgeted expenses. Funds in the reserve (currently $18,443) are expected to increase to $25,666, which would be within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 931.42).

The Committee considered alternative levels of assessment but, considering the current relatively low level of funding in the monetary reserve, determined that increasing the assessment rate to $0.025 per standard box would be appropriate. The Committee believes that an assessment rate of more than $0.025 per standard box would generate income in excess of that needed to adequately administer the program, and if left at the current rate of $0.02, or reduced, would be inadequate to administer the program.

A review of historical information and preliminary information pertaining to the upcoming crop indicates that the producer price for the 2001–2002 marketing season could average about $11.61 per standard box of fresh Bartlett pears handled. Therefore, the Committee's estimated assessment revenue for the 2001–2002 fiscal period as a percentage of total producer revenue should be approximately 0.215 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the order. In addition, the Committee's meeting was widely publicized throughout the fresh Bartlett pear industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 31, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large fresh Bartlett pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

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

A 30-day comment period is provided to allow interested persons the opportunity to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2001–2002 fiscal period began on July 1, 2001, and the order requires that the rate of assessment for each fiscal period apply to all assessable fresh Bartlett pears handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 931

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 931 is proposed to be amended as follows:

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 931 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 931.231 is revised to read as follows:

§ 931.231 Assessment rate.

On and after July 1, 2001, an assessment rate of $0.025 per western standard pear box is established for the Northwest Fresh Bartlett Pear Marketing Committee.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23656 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 852

RIN:1901–AA90

Guidelines for Physicians Panel Determinations on Worker Requests for Assistance in Filing for State Workers' Compensation Benefits

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking; rescheduling of public hearing and extension of comment deadline.

SUMMARY: This document announces a new date for the public hearing originally scheduled for September 24, 2001; and extends the time period for submitting comments regarding a notice

of proposed rulemaking published in the **Federal Register** on September 7, 2001 (66 FR 46742).

DATES: Comments must be received on or before November 8, 2001. DOE is requesting 3 copies of the written comments and prepared statements for the public hearing. Oral views, data, and arguments may be presented at the public hearing in Washington, DC, beginning at 9 a.m. on October 10, 2001. DOE must receive requests to speak at the public hearing and a copy of your statements no later than 4 p.m., October 9, 2001.

ADDRESSES: Please submit written comments, oral statements, and requests to speak at the public hearing to: Loretta Young, Office of Advocacy, EH–8, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

The hearing will begin at 9 a.m., in Room 1E–245 at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington DC. You can find more information concerning public participation in this rulemaking proceeding in Section IV, ''Opportunity for Public Comment,'' of the previously published notice of proposed rulemaking (66 FR 46742).

FOR FURTHER INFORMATION CONTACT: Loretta Young, Office of Advocacy, EH–8, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586–2819; fax: 202–586–6010; e-mail: loretta.young@eh.doe.gov.

Issued in Washington, D.C., on September 18, 2001.

Steven Cary,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 01–23739 Filed 9–20–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–14–AD]

RIN 2120–AA64

Airworthiness Directives; Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, UH–1P, and Southwest Florida Aviation Model SW204, SW204HP, SW205, and SW205A–1 Helicopters, Manufactured by Bell Helicopter Textron, Inc. for the Armed Forces of the United States

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes superseding an existing airworthiness directive (AD) for Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P; and Southwest Florida Aviation SW204, SW204HP, SW205, and SW205A–1 helicopters manufactured by Bell Helicopter Textron, Inc. (BHTI) for the Armed Forces of the United States. That AD currently requires establishing retirement lives for certain main rotor masts, creating a component history card or equivalent record, and identifying and replacing any unairworthy masts. That AD also contains certain requirements regarding the hub spring, conducting inspections based on the retirement index number (RIN), and sending information to the FAA. This action would contain the same requirements but would establish a retirement life for the main rotor trunnion (trunnion) based on monitoring the number of torque events and flight hours rather than flight hours only as currently required. This action would also add a note clarifying that the mast serial number (S/N) is defined by 5 or fewer digits plus various prefixes. This proposal is prompted by the determination that monitoring the number of torque events and flight hours for the trunnion is more accurate than by monitoring flight hours only to establish a retirement life. The actions specified by the proposed AD are intended to prevent failure of a mast or trunnion, separation of the main rotor system, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before November 20, 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–14–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 that Office between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Kohner, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, Fort Worth, Texas 76193–0170, telephone (817) 222–5447, fax (817) 222–5783.

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–14–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–14–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On November 13, 1998, the FAA issued AD 98–24–15 for BHTI Model

204B, 205A, 205A–1, 205B, and 212 helicopters, which established a retirement life for the main rotor mast (mast) and trunnion based on a RIN count. That AD required creating component history cards or equivalent records, converting accumulated factored flight hours to a baseline accumulated RIN count, establishing a system for tracking increases to the accumulated RIN, and establishing a maximum accumulated RIN for certain masts and trunnions. Analysis and reevaluation of previous fatigue testing conducted by the manufacturer of those model helicopters following an accident involving a Model 205A–1 helicopter confirmed that the remaining lives for the mast and trunnion are more accurately assessed by monitoring the number of torque events and flight hours rather than monitoring only flight hours. Since identical trunnions are installed on the surplus military helicopters of similar type design, the FAA has determined that similar procedures and limitations need to be imposed on restricted category helicopters.

AD 98–24–15, Amendment 39–10900, Docket 97–SW–20–AD (63 FR 64612, November 23, 1998), for BHTI Model 204B, 205A, 205A–1, 205B, and 212 helicopters, was superseded by Priority Letter AD 2000–08–52, Docket 2000–SW–20–AD. Priority Letter AD 2000–08–52 was superseded by AD 2000–15–52, Amendment 39–12042, Docket 2000–SW–28–AD (65 FR 77785, December 13, 2000). For similar helicopters in the restricted category, AD 2000–22–51, Amendment 39–12034 (65 FR 77263, December 11, 2000, Docket No. 2000–SW–42–AD), superseded Priority Letter AD 2000–08–53, Docket 2000–SW–08–AD, and previous AD 89–17–03, Amendment 39–6251, Docket 88–ASW–33 (54 FR 31935, August 3, 1989). AD 2000–22–51 required the calculation of the retirement life for the trunnion, part number 204–011–105–001, installed on those restricted category helicopters based on hours time-in-service (TIS) only. This document proposes to require that the service life of the trunnion on those restricted category helicopters be limited to 300,000 RIN or 15,000 hours TIS, whichever occurs first, to prevent failure of a mast or trunnion, separation of the main rotor system, and subsequent loss of control of the helicopter.

We have identified an unsafe condition that is likely to exist or develop on Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P; and Southwest Florida Aviation SW204, SW204HP, SW205, and SW205A–1 helicopters manufactured by BHTI for the Armed Forces of the United States. Therefore, the proposed AD would supersede AD 2000–22–51. The FAA has determined that the retirement life for a trunnion is more accurate if monitored by the number of torque events and flight hours rather than monitoring only flight hours. Therefore, this AD would contain the same requirements as AD 2000–22–51 for the mast but would establish a retirement life for the trunnions based on monitoring the number of torque events and flight hours. This AD would also add a note clarifying that the mast S/N is defined by 5 or fewer digits plus various prefixes.

The FAA estimates that this proposed AD would affect 75 helicopters of U.S. registry. The FAA also estimates that it would take 10 work hours to replace the trunnion, 2 work hours per helicopter to create a new component history card or equivalent record for the trunnions and that the average labor rate is $60 per work hour. Required trunnions would cost approximately $5,300 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $451,500.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–12034 (65 FR 77263, December 11, 2000), and by adding a new airworthiness directive (AD), to read as follows:

Arrow Falcon Exporters, Inc. (previously Utah State University); Firefly Aviation Helicopter Services (previously Erickson Air-Crane Co.); Garlick Helicopters, Inc.; Hawkins and Powers Aviation, Inc.; International Helicopters, Inc.; Robinson Air Crane, Inc.; Smith Helicopters; Southern Helicopter, Inc.; Southwest Florida Aviation; Tamarack Helicopters, Inc. (previously Ranger Helicopter Services, Inc.); U.S. Helicopter, Inc.; Western International Aviation, Inc., and Williams Helicopter Corporation (previously Scott Paper Co.): 2001–SW–14–AD. Supersedes AD 2000–22–51, Amendment 39–12034, Docket No. 2000–SW–42–AD.

Applicability: Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P; and Southwest Florida Aviation SW204, SW204HP, SW205, and SW205A–1 helicopters, manufactured by Bell Helicopter Textron Inc. (BHTI) for the Armed Forces of the United States, with main rotor mast (mast), part number (P/N) 204–011–450–007, –105, or –109, or main rotor trunnion (trunnion), P/N 204–011–105–001, 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.

Note 2: This AD requires using new factors to recalculate the FACTORED flight hours and the accumulated Retirement Index Number (RIN) for masts installed on certain helicopter models. This AD also expands the serial number (S/N) applicability for the one-time special inspection of the mast.

To prevent failure of a mast or trunnion, separation of the main rotor system, and

subsequent loss of control of the helicopter, accomplish the following:

(a) For the mast, P/N 204–011–450–007, –105, or –109:

Note 3: The next higher assembly level for the affected P/N's are the 204–040–366 mast assemblies. Check the helicopter records for the appropriate P/N and assembly level.

(1) Within 10 hours time-in-service (TIS), create a component history card or equivalent record for the mast.

(2) Within 10 hours TIS, determine and record the accumulated RIN and revised hours TIS for the mast as follows:

(i) Review the helicopter maintenance records for the mast. If you do not know the helicopter model installation history or hours TIS of the mast, remove the mast from service, identify the mast as unairworthy, and replace it with an airworthy mast before further flight.

(ii) Calculate the accumulated RIN and the revised hours TIS for the mast in accordance with the instructions in Appendix 1 to this AD. For those hours TIS the mast has been installed on any other helicopter, calculate the RIN for that trunnion in accordance with the requirements for those helicopters.

(iii) Record the accumulated RIN and revised hours TIS for the mast on the component history card or equivalent record. Use the revised hours TIS as the new hours TIS for the mast.

(3) Before further flight after accomplishing the requirements of paragraph (a)(2) of this AD, remove from service any mast that has accumulated 265,000 or more RIN or 15,000 or more revised hours TIS and identify the mast as unairworthy. Replace the mast with an airworthy mast.

(4) Within 25 hours TIS, remove any hub spring installed on any affected helicopter.

Note 4: U.S. Army Modification Work Order (MWO) 55–1520–242–50–1 pertains to the removal of the hub spring and replacement of any required parts. U.S. Army Safety of Flight Message UH–1–00–10 dated July 19, 2000, also pertains to the subject of this AD.

(5) Determine whether a mast with a S/N less than and including 52720, 61433 through 61444, or 61457 through 61465 (regardless of prefix), has *ever* been installed on a helicopter while operated *with* a hub spring.

Note 5: The mast S/N consists of 5 or less numerical digits and may be preceded by one of the following prefixes: NFS, N9, H, AC9, CP, FA, H9, N19, RH9, or NC. There may be other prefixes in addition to those listed. The prefix and S/N may or may not be separated by a dash.

(i) If a mast has *never* been installed on a helicopter while operated *with* a hub spring, before reaching 100,000 RIN, inspect the upper and lower snap ring grooves in the damper clamp splined area for:

(A) A minimum radius of 0.020 inch around the entire circumference (see Figures 1 and 2), using a 100× or higher magnification. If any snap ring groove radius is less than 0.020 inch, identify the mast as unairworthy and replace it with an airworthy mast before exceeding 100,000 RIN.

(B) A burr (see Figures 1 through 3), using a 200× or higher magnification. If a burr is found in any snap ring groove/spline intersection, identify the mast as unairworthy and replace it with an airworthy mast before exceeding 170,000 RIN.

(ii) If a mast has *ever* been installed on a helicopter while operated *with* a hub spring or if you do not know whether a hub spring has ever been installed, before reaching 100,000 RIN or 400 *unfactored* flight hours, whichever occurs first, inspect the upper and lower snap ring grooves in the damper clamp splined area for:

(A) A minimum radius of 0.020 inch around the entire circumference (see Figures 1 and 2), using a 100× or higher magnification. If any snap ring groove radius is less than 0.020 inch, identify the mast as unairworthy and replace it with an airworthy mast before further flight.

(B) A burr (see Figures 1 through 3), using a 200× or higher magnification. If a burr is found in any snap ring groove/spline intersection, identify the mast as unairworthy and replace it with an airworthy mast before further flight.

(6) After accomplishing the requirements of paragraph (a)(2) of this AD, continue to calculate the accumulated RIN for the mast by multiplying all takeoff and external load lifts by the RIN factors defined in columns (D) and (G) of Table 1 of Appendix 1 of this AD.

(7) After accomplishing the requirements of paragraph (a)(2) of this AD, continue to count the hours TIS for the mast. Any hours TIS for the mast while installed on a helicopter operated *with* a hub spring or those hours during which you do not know whether a hub spring was installed must be factored in accordance with the instructions in Appendix 1 of this AD.

(8) This AD establishes a retirement life of 265,000 accumulated RIN or 15,000 hours TIS, whichever occurs first, for mast, P/N 204–011–450–007, –105, and –109.

(9) Within 10 days after completing the inspections required by paragraph (a)(5) of this AD, send the information contained on the AD compliance inspection report sample format contained in Appendix 2 to the Manager, Rotorcraft Certification Office, Federal Aviation Administration, Fort Worth, Texas, 76193–0170, USA. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056.

BILLING CODE 4910–13–P

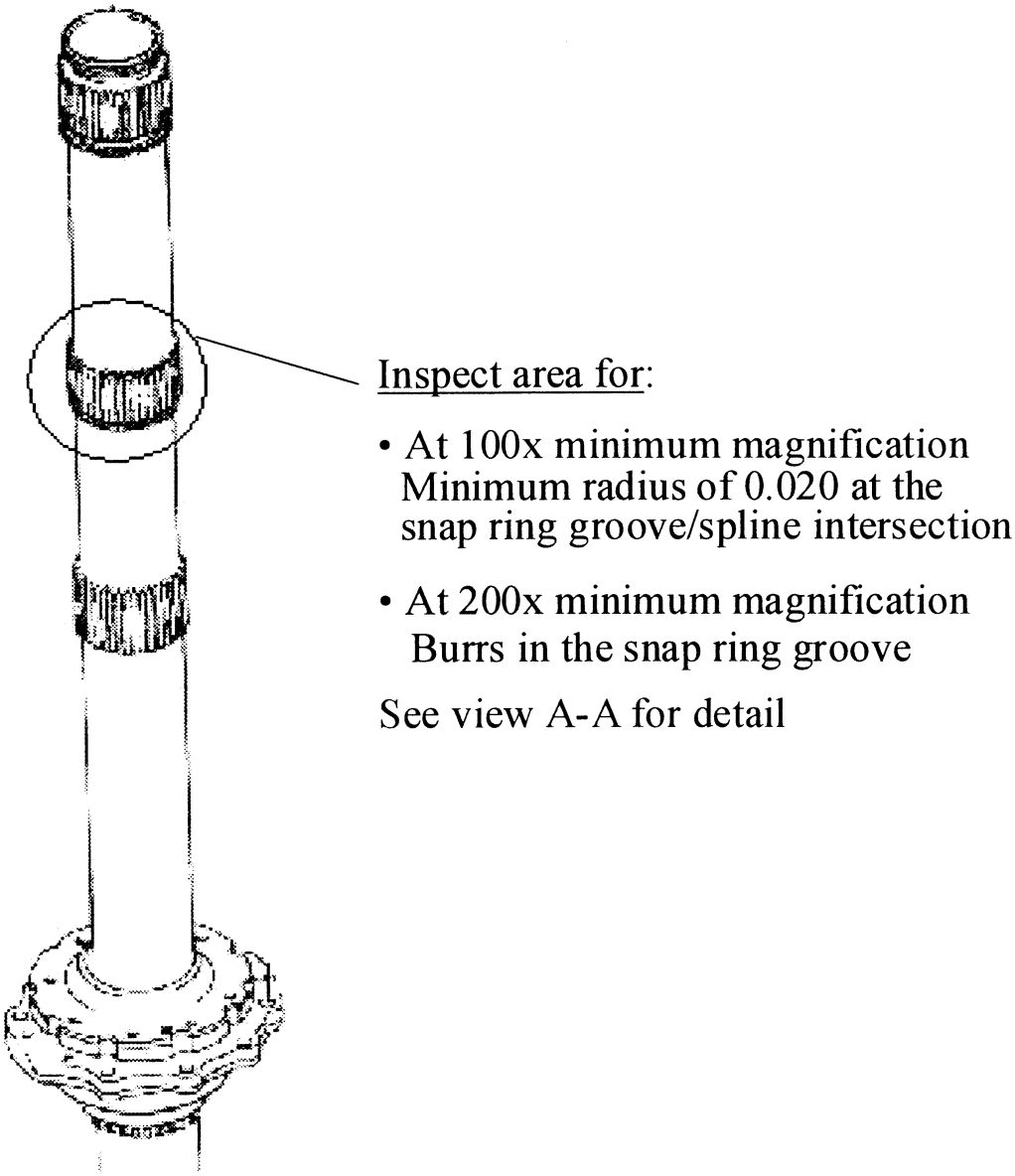


Figure 1

View A

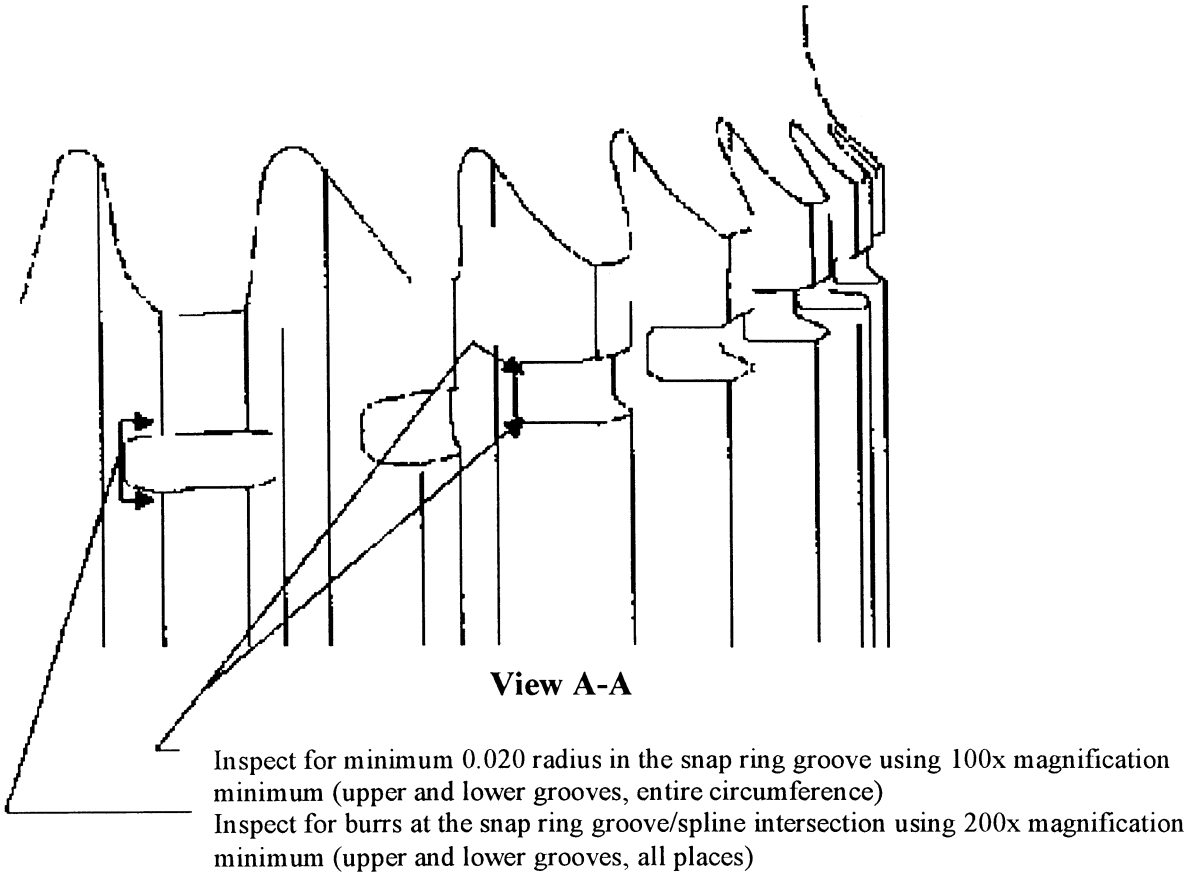
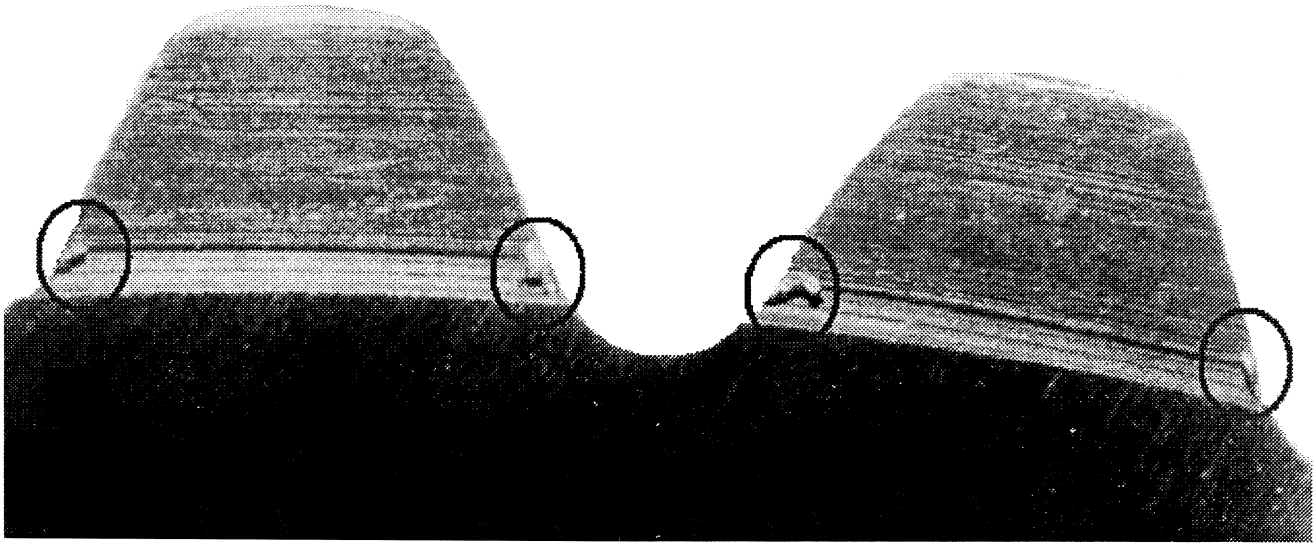


Figure 2
Snap Ring Groove/Spline Intersection



Cutaway View Looking Down from Inside Snap Ring Groove

Typical Burrs at Snap Ring Groove/Spline Intersection
Burrs are to be Inspected at 200x Minimum Magnification

Figure 3
Typical Burrs at Snap Ring Groove

BILLING CODE 4910–13–C

(b) For the trunnion, P/N 204–011–105–001:

(1) Within 10 hours TIS, create a component history card or equivalent record for the trunnion.

(2) Within 10 hours TIS, determine and record the accumulated RIN and revised hours TIS for the trunnion as follows:

(i) Review the helicopter maintenance records for the trunnion. If the helicopter model installation history or hours TIS of the trunnion are unknown, remove the trunnion from service, identify the trunnion as unairworthy, and replace it with an airworthy trunnion before further flight.

(ii) Calculate the accumulated RIN and the revised hours TIS in accordance with the instructions in Appendix 3 to this AD. For those hours TIS the trunnion has been installed on any other helicopter, calculate the RIN for that trunnion in accordance with the requirements for those helicopters.

(iii) Record the accumulated RIN and revised hours TIS for the trunnion on the component history card or equivalent record. Use the revised hours TIS as the new hours TIS for the trunnion.

(3) Before further flight after accomplishing the requirements of paragraph (b)(2) of this AD, remove from service any trunnion that has accumulated 300,000 or more RIN or 15,000 or more revised hours TIS and identify the trunnion as unairworthy. Replace the trunnion with an airworthy trunnion.

(4) After accomplishing the requirements of paragraph (b)(2) of this AD, continue to calculate the accumulated RIN for the trunnion by multiplying all takeoff and external load lifts by the RIN factors defined in columns (D) and (G) of Table 1 of Appendix 3 to this AD.

(5) After accomplishing the requirements of paragraph (b)(2) of this AD, continue to count the hours TIS for the trunnion.

(6) This AD establishes a retirement life of 300,000 accumulated RIN or 15,000 hours TIS, whichever occurs first, for the trunnion, P/N 204–011–105–001.

(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, Rotorcraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Rotorcraft Certification Office.

(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.

Appendix 1—Instructions for Calculating the RIN and Revised Hours TIS

Definitions for the RIN

The overall *fatigue life* of a main rotor mast is a function of the number of cycles of torque, lift, and bending loads applied to it during the various modes of operation. The mast experiences both high cycle fatigue and low cycle fatigue during operation.

The *high cycle fatigue life* of the mast is a function of high frequency but relatively low level cyclic loads, which are primarily induced by rotor rpm. The high cycle fatigue life limit for the mast is defined in terms of hours TIS because rotor rpm is basically a constant value.

The *low cycle fatigue life* of the mast is a function of the number of less frequent but relatively high level cyclic loads experienced primarily during takeoffs and external load lifts. The low cycle fatigue life limit for the mast is expressed in terms of the accumulated RIN.

A *load cycle* is a power cycle caused by a repeating or fluctuating load that alternates from a starting power value, goes to a higher power value, and returns to the starting power value.

The *accumulated RIN* is defined as the total number of load cycles multiplied by a *RIN factor* to account for the difference in torque levels applied to the same mast (since manufactured) when installed in different helicopter models. The level of torque applied to the mast is directly proportional to the transmission output horsepower.

The *unfactored hours TIS* is the time from the moment a helicopter leaves the surface of the earth until it touches it at the next point of landing with no factors applied.

The *FACTORED flight hours* is the *unfactored* hours TIS multiplied by a frequency of event hour factor based on the torque (horsepower) of the helicopter model in which it was installed and the usage of the helicopter.

The *revised hours TIS* is the new hours TIS for the mast as determined by following the instructions in this appendix.

An *external load lift* is defined as a lift where the load is carried, or extends, outside of the aircraft fuselage.

Calculation of RIN and Revised Hours TIS

There are two methods for calculating the accumulated RIN and the revised hours TIS, depending on the available service history information for the mast. In some cases, one method will be used for a portion of the mast service history, and the other method will be used for another portion of the mast service history. Both methods require knowledge of all the helicopter models in which the mast was installed.

Calculation of RIN and Revised Hours TIS When the Exact Number of Takeoffs and External Load Lifts Is Known (Reference Tables 1 and 3)

Table 1 of Appendix 1 is the worksheet for calculating the accumulated mast RIN when the exact number of takeoffs and external load lifts *is known.* Table 3 of Appendix 1 is the worksheet that has the frequency of event hour factors to calculate the FACTORED flight hours for the *unfactored* hours TIS for the mast while installed on a helicopter operated *with* a hub spring or the hub spring installation history *is unknown.*

The RIN factor for each external load lift is twice that specified for each takeoff because two torque events are experienced during a typical external load lift.

Using Table 1, calculate accumulated RIN as follows:

1. Enter the total number of takeoffs for the particular mast model/helicopter model combination in column (C).
2. Multiply the value entered in column (C) by the RIN factor listed in column (D), and enter the result in column (E). This is the total accumulated RIN due to takeoffs.
3. Enter the total number of external load lifts for the particular mast model/helicopter model combination in column (F).
4. Multiply the value entered in column (F) by the RIN factor listed in column (G), and enter the result in column (H). This is the accumulated RIN due to external load lifts.
5. Add the values from column (E) and column (H) and enter the result in column (I). This is the total accumulated RIN to-date for the mast for the particular mast model/helicopter model combination.
6. Add the accumulated RIN subtotals for the various mast model/helicopter combinations in column (I) and enter the result in the space provided. This is the total accumulated RIN for the mast.

Using Table 3, calculate the revised hours TIS as follows:

7. Determine the *unfactored* hours TIS for the mast while installed on a helicopter operated *with* a hub spring or the number of hours TIS for which you do not know whether a hub spring was installed for each of the particular mast model/helicopter model combinations.
8. Determine the frequency of events per hour for each of the particular mast model/helicopter model combinations dividing the combined number of takeoffs and external load lifts by the corresponding *unfactored* hours TIS.
9. Multiply the value for *unfactored* hours TIS for each of the particular mast model/helicopter model combinations by the appropriate value in column (E) of Table 3 for the frequency of event hour factor. These are the total FACTORED flight hours for the particular mast model/helicopter model combinations.
10. Add the FACTORED flight hour subtotals for each of the particular mast model/helicopter model combinations. This is the total FACTORED flight hours for the mast while installed on a helicopter operated *with* a hub spring or when you do not know whether a hub spring was installed.
11. Determine the *unfactored* hours TIS for the mast while installed on a helicopter operated *without* a hub spring.
12. Add to the total FACTORED flight hours for the mast while installed on a helicopter operated *with* a hub spring or those hours during which you do not know whether a hub spring was installed to the *unfactored* hours TIS as determined in step 11. This is the total revised hours TIS for the mast when the exact number of takeoffs and external load lifts *is known.*

Calculation of RIN and Revised Hours TIS When Exact Number of Takeoffs and External Load Lifts Is Unknown (Reference Tables 2, 3, and 4)

Tables 2, 3, and 4 of Appendix 1 are the worksheets for calculating the FACTORED flight hours and accumulated mast RIN when the exact number of takeoffs and external load lifts *is unknown.*

Using Tables 2, 3, and 4, calculate the accumulated mast RIN and revised hours TIS as follows:

1. Enter the *unfactored* hours TIS for the particular mast model/helicopter model combination in column (C) of Tables 2 and 3.
2. Using service history for the mast, select the appropriate frequency of event hour factor from column (E) of Tables 2 and 3 based on the total combined number of takeoffs and external load lifts per hour shown in column (D).
3. Multiply the value for *unfactored* hours TIS entered in column (C) by the appropriate value in column (E) for the frequency of event hour factor as determined in step 2. Enter the result in column (F) of Tables 2 and 3. This is the total FACTORED flight hours for the particular mast model/helicopter model combination.
4. Enter the value for FACTORED flight hours from column (F) of Tables 2 and 3 into column (C) of Table 4.
5. Using Table 4, multiply the value for FACTORED flight hours in column (C) by the appropriate RIN conversion factor listed in column (D), by the appropriate RIN adjustment factor in column (E), and enter the result in column (F). This is the accumulated RIN to-date for the particular mast model/helicopter model combination.
6. Add the accumulated RIN subtotals for the various mast model/helicopter model combinations in column (F) of Table 4 and enter the result in the space provided. This is the total accumulated RIN for the mast.
7. Add the factored flight hour subtotals for the various mast model/helicopter model combinations as determined in steps 1 through 4. This is the total revised hours TIS for the mast when the exact number of takeoffs and external load lifts *is* unknown.

Sample Mast Calculation

Given the following known service history for the mast:

Mast, P/N 204–011–450'007, was first purchased as a United States military surplus part with valid historical records. The mast had accumulated 550 hours military TIS on an Army UH–1H with a hub spring installed.

The mast was first installed on a restricted category UH–1H former military helicopter for 250 hours TIS. The helicopter had a rating of 1100 takeoff horsepower (T.O. hp) at sea level standard day conditions (SLS), and the operation of the helicopter *without* a hub spring cannot be determined. The helicopter was used for fire fighting operations and the exact number of takeoffs and external load lifts is unknown. It is known, however, that the helicopter averaged less than 15 combined takeoffs and external load lifts per hour.

The mast was then removed and subsequently installed on a restricted category UH–1E former military helicopter (1100 T.O. hp SLS rating) *without* a hub spring for 450 hours TIS. It is known that the helicopter was used primarily for aerial surveying for the first 200 hours of operation. The exact number of takeoffs and external load lifts is unknown, but it is known that the helicopter averaged less than 16 takeoffs per hour, with no external load lifts. It was subsequently used for repeated heavy lift operation for the next 250 hours of operation and averaged between 25 and 31 combined takeoffs and external load lifts per hour during this period of time.

The mast was then removed and installed on another restricted category UH–1H former military helicopter (1100 T.O. hp SLS rating) for a total of 150 hours TIS with accurate records indicating that it experienced 100 takeoffs and 2,450 external load lifts. A hub spring was installed on the helicopter for the first 50 hours of operation with a calculated average of 19 combined takeoffs and external load lifts per hour (as determined from aircraft records for the first 50 hours of operation). The hub spring was subsequently removed for the remaining 100 hours TIS.

Calculate the FACTORED flight hours and total accumulated RIN for the mast as follows:

FACTORED Flight Hours and Accumulated RIN While Installed in U.S. Military Model UH–1H

Calculate FACTORED flight hours from Table 3 as follows:

FACTORED Flight Hours
= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (550) × (10)
= 5,500 hours

Then using Table 4, calculate the accumulated RIN as follows:

Accumulated RIN
= (FACTORED flight hours) × (RIN conversion factor) × (RIN adjustment factor)
= (column C) × (column D) × (column E)
= (5,500) × (20) × (1)
= 110,000 RIN

FACTORED Flight Hours and Accumulated RIN While Installed in Restricted Category Model UH–1H

Calculate FACTORED flight hours from Table 3 as follows:

FACTORED Flight Hours
= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (250) × (14)
= 3,500 hours

Then using Table 4, calculate the accumulated RIN as follows:

Accumulated RIN
= (FACTORED flight hours) × (RIN conversion factor) × (RIN adjustment factor)
= (column C) × (column D) × (column E)
= (3,500) × (20) × (1)
= 70,000 RIN

FACTORED Flight Hours and Accumulated RIN While Installed in Restricted Category Model UH–1E

Calculate FACTORED flight hours from Table 2 as follows:

FACTORED Flight Hours (for first 200 hrs.)
= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (200) × (5)
= 1,000 hours

FACTORED Flight Hours (for next 250 hrs.)
= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (250) × (10)
= 2,500 hours

Then using Table 4, calculate the accumulated RIN as follows:

Accumulated RIN
= (FACTORED flight hours) × (RIN conversion factor) × (RIN adjustment factor)
= (column C) × (column D) × (column E)
= (1,000) × (20) × (1) + (2,500) × (20) × (1)
= 20,000 + 50,000
= 70,000 RIN

FACTORED Flight Hours and Accumulated RIN While Installed in Another Restricted Category Model UH–1H

Calculate the accumulated RIN from Table 1 and the given number of takeoffs and external load lifts as follows:

Accumulated RIN
= (number of takeoffs × RIN factor per takeoff) + (number of external load lifts × RIN factor per external load lifts)
= (column C) × (column D) + (column F) × (column G)
= (100) × (3) + (2,450) × (6)
= 15,000 RIN

Calculate the FACTORED flight hours for the mast while installed on a helicopter operated *with* a hub spring or when you do not know whether a hub spring was installed using the frequency of event hour factors from Table 3 as follows:

FACTORED Flight Hours (w/hub spring)
= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (50) × (16)
= 800 hours

Unfactored Hours TIS (w/o hub spring)
= (*unfactored* hours TIS)
= 100 hours

Note that the FACTORED flight hours are not used in the accumulated RIN calculations when the number of takeoffs and external load lifts *is known.*

Calculate the Total Accumulated RIN and Revised Hours TIS as follows

The total accumulated RIN to-date for the mast is the sum of the subtotals from Tables 1 and 4.

Total Accumulated RIN
= 110,000 + 70,000 + 70,000 + 15,000
= 265,000

The total FACTORED flight hours for the mast is the sum of the subtotals from Tables 2 and 3 and the total FACTORED flight hours as determined in the preceding step 12 when the exact number of takeoff and external load lifts *is known.*

Total FACTORED Flight Hours
= 5,500 + 3,500 + 1,000 + 2,500 + 800
= 13,300 hours

The revised hours TIS to-date for the mast is the sum of the total FACTORED flight hours and the additional *unfactored* hours TIS for the mast while installed on a helicopter operated without a hub spring and the exact number of takeoffs and external load lifts *is known.*

Revised Hours TIS
= 5,500 + 3,500 + 1,000 + 2,500 + 800 + 100
= 13,300 + 100
= 13,400 hours

Both the total accumulated RIN and the revised hours TIS need to be determined and checked for exceeding the allowable life limits for the mast. Also, note that the recalculated total accumulated RIN for this sample mast would be 265,000 RIN. Therefore, this mast would be removed from service.

The values for the sample problem are shown in Tables 1–4 for illustration purposes only. The FACTORED flight hours TIS shown in the brackets in Table 3 are calculated for the mast while installed on a helicopter operated *with* a hub spring or when you do not know whether a hub spring was installed and the exact number of takeoffs and external load lifts *is known.* These FACTORED flight hours are not used in the accumulated RIN calculations.

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Mast RIN Calculation Based on Takeoffs and External Load Lifts

Mast A/C Model Installation	Mast P/N 204-011-450	Number Of Takeoffs	RIN Factor Per Takeoff	Total Takeoff RIN	Number of External Load Lifts	RIN Factor Per External Load Lift	Total External Load Lift RIN	Accumulated RIN
(A)	(B)	(C)	(D)	(E) =(C) x (D)	(F)	(G)	(H) =(F) x (G)	(I) =(E) + (H)
Restricted Category TIS (≤700 T.O. hp SLS)	204-011-450-007		0.25			0.5		
	204-011-450-105		0.25			0.5		
	204-011-450-109		0.25			0.5		
Restricted Category TIS (700<T.O. hp SLS ≤1000)	204-011-450-007		1.5			3		
	204-011-450-105		1.5			3		
	204-011-450-109		1.5			3		
Restricted Category TIS (1000<T.O. hp SLS ≤1100)	204-011-450-007	*100*	3	*300*	*2,450*	6	*14,700*	*15,000*
	204-011-450-105		3			6		
	204-011-450-109		3			6		
Restricted Category TIS (1100<T.O. hp SLS ≤1290)	204-011-450-007		6			12		
	204-011-450-105		6			12		
	204-011-450-109		6			12		
Restricted Category TIS (>1290 T.O. hp SLS)	204-011-450-007		Contact FAA*			Contact FAA*		Contact FAA*
	204-011-450-105							
	204-011-450-109							
Total RIN=								*15,000*

*Contact FAA at (817) 222-5447

Appendix 1 - Table 1

Calculation of Mast FACTORED Flight Hours (Without a Hub Spring Installed)

Mast A/C Model Installation	Mast P/N 204-011-450 (without a hub spring installed)	*Unfactored* Hours TIS on Model	Frequency Of Events Per Hour	Frequency of Event Hour Factor	FACTORED Flight Hours On Model
(A)	(B)	(C)	(D)	(E)	(F) = (C) x (E)
Restricted Category TIS (≤700 T.O. hp SLS)	204-011-450-007, –105, or –109		1.0-37.00	1.00	
			37.01-46.00	1.25	
			46.01-55.00	1.50	
			55.01-63.00	1.75	
			Greater than 63.00	Contact FAA*	
			Unknown	1.75	
Restricted Category TIS (700<T.O. hp SLS ≤1000)	204-011-450-007, –105, or –109		1.0-7.00	1.00	
			7.01-13.00	2.00	
			13.01-18.00	3.00	
			18.01-30.00	5.00	
			30.01-41.00	7.00	
			41.01-52.00	9.00	
			52.01-63.00	11.00	
			Greater than 63.00	Contact FAA*	
			Unknown	11.00	
Restricted Category TIS (1000<T.O. hp SLS ≤1100)	204-011-450-007, –105, or –109		1.0-5.00	1.00	
			5.01-7.00	2.00	
			7.01-10.00	3.00	
		200	10.01-16.00	5.00	***1,000***
			16.01-24.00	7.50	
		250	24.01-31.00	10.00	***2,500***
			31.01-46.00	15.00	
			46.01-61.00	20.00	
			Greater than 61.00	Contact FAA*	
			Unknown	20.00	
Restricted Category TIS (1100<T.O. hp SLS ≤1290)	204-011-450-007, –105, or –109		1.0-5.00	2.10	
			5.01-7.00	4.00	
			7.01-10.00	6.00	
			10.01-15.00	9.00	
			15.01-19.00	12.00	
			19.01-25.00	16.00	
			25.01-31.00	20.00	
			31.01-46.00	30.00	
			46.01-60.00	40.00	
			Greater than 60.00	Contact FAA*	
			Unknown	40.00	
Military TIS	204-011-450-007, –105,				
(≤700 T.O. hp SLS)	or –109		All	1.00	
(≤1000 T.O. hp SLS)			All	2.00	
(≤1100 T.O. hp SLS)			All	3.50	
(≤1290 T.O. hp SLS)			All	7.00	
(>1290 T.O. hp SLS)			All	Contact FAA*	

*Contact FAA at (817) 222–5447

Appendix 1 - Table 2

Calculation of Mast FACTORED Flight Hours (With a Hub Spring Installed)

Mast A/C Model Installation	Mast P/N 204-011-450 (*with* a hub spring or for which you do not know whether a hub spring was installed)	*Unfactored* Hours TIS on Model	Frequency Of Events Per Hour	Frequency of Event Hour Factor	FACTORED Flight Hours On Model
(A)	(B)	(C)	(D)	(E)	(F) = (C) x (E)
Restricted Category TIS (≤700 T.O. hp SLS)	204-011-450-007, –105, or –109		1.0-6.00	10.00	
			6.01-12.00	10.25	
			12.01-21.00	10.50	
			21.01-39.00	11.00	
			39.01-63.00	11.75	
			Greater than 63.00	Contact FAA*	
			Unknown	11.75	
Restricted Category TIS (700<T.O. hp SLS ≤1000)	204-011-450-007, –105, or –109		1.0-6.00	10.00	
			6.01-15.00	12.00	
			15.01-26.00	14.00	
			26.01-37.00	16.00	
			37.01-49.00	18.00	
			49.01-63.00	21.00	
			Greater than 63.00	Contact FAA*	
			Unknown	21.00	
Restricted Category TIS (1000<T.O. hp SLS ≤1100)	204-011-450-007, –105, or –109		1.0-6.00	10.00	
			6.01-9.00	12.00	
		250	9.01-15.00	14.00	***3,500***
		<50>	15.01-21.00	16.00	***<800>***
			21.01-33.00	20.00	
			33.01-45.00	24.00	
			45.01-61.00	30.00	
			Greater than 61.00	Contact FAA*	
			Unknown	30.00	
Restricted Category TIS (1100<T.O. hp SLS ≤1290)	204-011-450-007, –105, or –109		1.0-6.00	10.00	
			6.01-11.00	15.00	
			11.01-18.00	20.00	
			18.01-26.00	25.00	
			26.01-33.00	30.00	
			33.01-40.00	35.00	
			40.01-48.00	40.00	
			48.01-60.00	50.00	
			Greater than 60.00	Contact FAA*	
			Unknown	50.00	
Military TIS					
(≤1290 hp T.O. SLS)	204-011-450-007, –105,	***550***	All	10.00	***5,500***
(>1290 hp T.O. SLS)	or –109		All	Contact FAA*	

*Contact FAA at (817) 222–5447

Appendix 1 - Table 3

Mast RIN Calculation Based on Hours TIS

Mast A/C Model Installation	Mast P/N 204-011-450	FACTORED Flight Hours On Model	RIN Conversion Factor	RIN Adjustment Per AD 2000-15-52	Accumulated RIN
(A)	(B)	(C) (From Table 2 of Appendix I)	(D)	(E)	(F) =(C) x (D) x (E)
Restricted Category or Military TIS with (≤1290 T.O. hp SLS)	204-011-450-007	***12,500***	20	1	***250,000***
	204-011-450-105		20	1	
	204-011-450-109		20	1	
Restricted Category or Military TIS with (>1290 T.O. hp SLS)	204-011-450-007	Contact FAA*	Contact FAA*	Contact FAA*	Contact FAA*
	204-011-450-105				
	204-011-450-109				
Total RIN=					***250,000***

*Contact FAA at (817) 222–5447

Appendix 1 - Table 4

Subtotals for the FACTORED Flight Hours and Accumulated RIN
For Table 4 of the Sample Mast Calculation:

FACTORED Flight Hours				Accumulated RIN
5,500	X	20	=	110,000
3,500	X	20	=	70,000
3,500	X	20	=	70,000
12,500				250,000

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Appendix 2—AD Compliance Inspection Report (Sample Format) P/N 204–011–450–007/–105/–109 Main Rotor Mast

Provide the following information and mail or fax it to: Manager, Rotorcraft Certification Office, Federal Aviation Administration, Fort Worth, Texas, 76193–0170, USA; Fax: 817–222–5783.

Aircraft Registration No: _____.
Helicopter Model: _____.
Helicopter S/N: _____.
Mast P/N: _____.
Mast S/N: _____.
Mast RIN: _____.
Mast Total TIS: _____.

Inspection Results

Were any radii during inspection of this mast determined to be less than 0.020 inch? If yes, what was the dimension measured?
Was a burr found in the inspected snap ring grooves?
Were cracks noted during the inspection?
Who performed this inspection?
Provide any other comments?

Appendix 3—Instructions for Calculating Trunnion the RIN and Revised Hours TIS

Definitions for the RIN

The overall *fatigue life* of a main rotor trunnion is a function of the number of cycles of torque, lift, and bending loads applied to it during the various modes of operation. The trunnion experiences both high cycle fatigue and low cycle fatigue during operation.

The *high cycle fatigue life* of the trunnion is a function of high frequency but relatively low level cyclic loads, which are primarily induced by rotor rpm. The high cycle fatigue life limit for the trunnion is defined in terms of hours TIS because rotor rpm is basically a constant value.

The *low cycle fatigue life* of the trunnion is a function of the number of less frequent but relatively high level cyclic loads experienced primarily during takeoffs and external load lifts. The low cycle fatigue life limit for the trunnion is expressed in terms of the accumulated RIN.

A *load cycle* is a power cycle caused by a repeating or fluctuating load that alternates from a starting power value, goes to a higher power value, and returns to the starting power value.

The *accumulated RIN* is defined as the total number of load cycles multiplied by a RIN factor to account for the difference in torque levels applied to the same trunnion (since manufactured) when installed in different helicopter models. The level of torque applied to the trunnion is directly proportional to the transmission output horsepower.

The *unfactored hours TIS* is the time from the moment a helicopter leaves the surface of the earth until it touches it at the next point of landing with no factors applied.

The *FACTORED flight hours* is the *unfactored* hours TIS multiplied by a frequency of event hour factor based on the torque (horsepower) of the helicopter model in which it was installed and the usage of the helicopter.

The *revised hours TIS* is the new hours TIS for the trunnion as determined by following the instructions in this appendix.

An *external load lift* is defined as a lift where the load is carried, or extends, outside of the aircraft fuselage.

Calculation of RIN and Revised Hours TIS

There are two methods for calculating the accumulated RIN and the revised hours TIS, depending on the available service history information for the trunnion. In some cases, one method will be used for a portion of the trunnion service history, and the other method will be used for another portion of the trunnion service history. Both methods require knowledge of all the helicopter models in which the trunnion was installed.

Calculation of RIN and Revised Hours TIS When the Exact Number of Takeoffs and External Load Lifts Is *Known* (Reference Table 1)

Table 1 of Appendix 3 is the worksheet for calculating the accumulated trunnion RIN when the exact number of takeoffs and external load lifts *is known.*

The RIN factor for each external load lift is twice that specified for each takeoff because two torque events are experienced during a typical external load lift.

Using Table 1, calculate the accumulated RIN as follows:

1. Enter the total number of takeoffs for the particular trunnion model/helicopter model combination in column (C).
2. Multiply the value entered in column (C) by the RIN factor listed in column (D), and enter the result in column (E). This is the total accumulated RIN due to takeoffs.
3. Enter the total number of external load lifts for the particular trunnion model/helicopter model combination in column (F).
4. Multiply the value entered in column (F) by the RIN factor listed in column (G), and enter the result in column (H). This is the accumulated RIN due to external load lifts.
5. Add the values from column (E) and column (H) and enter the result in column (I). This is the total accumulated RIN to-date for the trunnion for the particular trunnion model/helicopter model combination.
6. Add the accumulated RIN subtotals for the various trunnion model/helicopter combinations in column (I) and enter the result in the space provided. This is the total accumulated RIN for the trunnion.

Calculation of RIN and Revised Hours TIS When Exact Number of Takeoffs and External Load Lifts Is *Unknown* (Reference Tables 2 and 3)

Tables 2 and 3 of Appendix 3 are the worksheets for calculating the FACTORED flight hours and accumulated trunnion RIN when the exact number of takeoffs and external load lifts *is unknown.*

Using Tables 2 and 3, calculate the accumulated trunnion RIN and revised hours TIS as follows:

1. Enter the *unfactored* hours TIS for the particular trunnion model/helicopter model combination in column (C) of Table 2.
2. Using service history for the trunnion, select the appropriate frequency of event hour factor from column (E) of Table 2 based on the total combined number of takeoffs and external load lifts per hour shown in column (D).
3. Multiply the value for *unfactored* hours TIS entered in column (C) by the appropriate value in column (E) for the frequency of event hour factor as determined in step 2. Enter the result in column (F) of Table 2. This is the total FACTORED flight hours for the particular trunnion model/helicopter model combination.
4. Enter the value for FACTORED flight hours from column (F) of Table 2 into column (C) of Table 3.
5. Using Table 3, multiply the value for FACTORED flight hours in column (C) by the appropriate RIN conversion factor listed in column (D), by the appropriate RIN adjustment factor in column (E), and enter the result in column (F). This is the accumulated RIN to-date for the particular trunnion model/helicopter model combination.
6. Add the accumulated RIN subtotals for the various trunnion model/helicopter model combinations in column (F) of Table 3 and enter the result in the space provided. This is the total accumulated RIN for the trunnion.
7. Add the factored flight hour subtotals for the various trunnion model/helicopter model combinations as determined in steps 1 through 4. This is the total revised hours TIS for the trunnion when the exact number of takeoffs and external load lifts *is unknown.*

Sample Trunnion Calculation

Given the following known service history for the trunnion:

Trunnion, P/N 204–011–105–001, was first purchased as a United States military surplus part with valid historical records. The trunnion had accumulated 550 hours military TIS on an Army UH–1H.

The trunnion was first installed on a restricted category UH–1H former military helicopter (1100 T.O. hp SLS rating) for 450 hours TIS. It is known that the helicopter was used primarily for aerial surveying for the first 200 hours of operation. The exact number of takeoffs and external load lifts is unknown, but it is known that the helicopter averaged less than 16 takeoffs per hour with no external load lifts. It was subsequently used for repeated heavy lift operation for the next 250 hours of operation and averaged between 25 and 31 combined takeoffs and external load lifts per hour during this period of time.

The trunnion was then removed and subsequently installed on a restricted category UH–1E former military helicopter (1100 T.O. hp SLS rating) for a total of 150 hours TIS with accurate records indicating that it experienced 100 takeoffs and 2,450 external load lifts.

Calculate the FACTORED flight hours and total accumulated RIN for the trunnion as follows:

FACTORED Flight Hours and Accumulated RIN While Installed in U.S. Military Model UH–1H:

Calculate FACTORED flight hours from Table 2 as follows:
FACTORED Flight Hours

= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (550) × (1)
= 550 hours

Then using Table 3, calculate the accumulated RIN as follows:

Accumulated RIN
= (FACTORED flight hours) × (RIN conversion factor) × (RIN adjustment factor)
= (column C) × (column D) × (column E)
= (550) × (20) × (1)
= 11,000 RIN

FACTORED Flight Hours and Accumulated RIN While Installed in Restricted Category Model UH–1H

Calculate FACTORED flight hours from Table 2 as follows:

FACTORED Flight Hours (for first 200 hours)
= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (200) × (1)
= 200 hours

FACTORED Flight Hours (for next 250 hours)
= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (250) × (2)
= 500 hours

Then using Table 3, calculate the accumulated RIN as follows:

Accumulated RIN
= (FACTORED flight hours) × (RIN conversion factor) × (RIN adjustment factor)
= (column C) × (column D) × (column E)
= (200) × (20) × (1) + (500) × (20) × (1)
= 4,000 + 10,000
= 14,000 RIN

FACTORED Flight Hours and Accumulated RIN While Installed in Restricted Category Model UH–1E

Calculate the accumulated RIN from Table 1 and the given number of takeoffs and external load lifts as follows:

Accumulated RIN
= (number of takeoffs × RIN factor per takeoff) + (number of external load lifts × RIN factor per external load lifts)
= (column C) × (column D) + (column F) × (column G)
= (100) × (1.5) + (2,450) × (3)
= 7,500 RIN

Calculate the Total Accumulated RIN and Revised Hours TIS as follows

The total accumulated RIN to-date for the trunnion is the sum of the subtotals from Tables 1 and 3.

Total Accumulated RIN
= 11,000 + 14,000 + 7,500
= 32,500

The total FACTORED flight hours for the trunnion is the sum of the subtotals from Table 2.

Total FACTORED Flight Hours
= 550 + 200 + 500
= 1,250 hours

The revised hours TIS to-date for the trunnion is the sum of the total FACTORED flight hours and the additional *unfactored hours* TIS for the trunnion when the exact number of takeoff and external load lifts *is known.*

Revised Hours TIS
= 550 + 200 + 500 + 150
= 1,250 + 150
= 1,400 hours

Both the total accumulated RIN and the revised hours TIS need to be determined and checked for exceeding the allowable life limits for the trunnion.

The values for the sample problem are shown in Tables 1–3 for illustration purposes only.

BILLING CODE 4910–13–P

Trunnion RIN Calculation Based on Takeoffs and External Load Lifts

Trunnion A/C Model Installation	Trunnion P/N 204-011-105	Number Of Takeoffs	RIN Factor Per Takeoff	Total Takeoff RIN	Number of External Load Lifts	RIN Factor Per External Load Lift	Total External Load Lift RIN	Accumulated RIN
(A)	(B)	(C)	(D)	(E) =(C) x (D)	(F)	(G)	(H) =(F) x (G)	(I) =(E) + (H)
Restricted Category TIS (≤700 T.O. hp SLS)	204-011-105-001		0.25			0.5		
Restricted Category TIS (700<T.O. hp SLS ≤1000)	204-011-105-001		1			2		
Restricted Category TIS (1000<T.O. hp SLS ≤1100)	204-011-105-001	100	1.5	150	2,450	3	7,350	7,500
Restricted Category TIS (1100<T.O. hp SLS ≤1290)	204-011-105-001		5			10		
Restricted Category TIS (>1290 T.O. hp SLS)	204-011-105-001		Contact FAA*			Contact FAA*		Contact FAA*
Total RIN=								***7,500***

*Contact FAA at (817) 222-5447

Appendix 3 - Table 1

Calculation of Trunnion FACTORED Flight Hours

Trunnion A/C Model Installation	Trunnion P/N 204-011-105	*Unfactored* Hours TIS on Model	Frequency Of Events Per Hour	Frequency of Event Hour Factor	FACTORED Flight Hours On Model
(A)	(B)	(C)	(D)	(E)	(F) = (C) x (E)
Restricted Category TIS (≤1000 T.O. hp SLS))	204-011-105-001		1.0-40.00	1.00	
			Greater than 40.00	Contact FAA*	
			Unknown	1.00	
Restricted Category TIS (1000<T.O. hp SLS ≤1100)	204-011-105-001	***200***	1.0-20.00	1.00	***200***
		250	20.01-44.00	2.00	***500***
			44.01-69.00	3.00	
			Greater than 69.00	Contact FAA*	
			Unknown	3.00	
Restricted Category TIS (1100<T.O. hp SLS ≤1290)	204-011-105-001		1.0-5.00	1.00	
			5.01-8.00	1.50	
			8.01-12.00	2.00	
			12.01-18.00	3.00	
			18.01-32.00	5.00	
			32.01-48.00	7.00	
			48.01-62.00	9.00	
			Greater than 62.00	Contact FAA*	
			Unknown	9.00	
Military TIS	204-011-105-001				
(≤1100 T.O. hp SLS)		***550***	All	1.00	***550***
(≤1290 T.O. hp SLS)			All	2.00	
(>1290 T.O. hp SLS)			All	Contact FAA*	

*Contact FAA at (817) 222–5447

Appendix 3 - Table 2

Trunnion RIN Calculation Based on Hours TIS

Trunnion A/C Model Installation	Trunnion P/N 204-011-105	FACTORED Flight Hours On Model	RIN Conversion Factor	RIN Adjustment Per AD 2000-15-52	Accumulated RIN
(A)	(B)	(C) (From Table 2 of Appendix I)	(D)	(E)	(F) =(C) x (D) x (E)
Restricted Category or Military TIS with (≤1000 T.O. hp SLS)	204-011-105-001		20	1.0	
Restricted Category or Military TIS with (1000<T.O. hp SLS ≤1100)	204-011-105-001	*1,250*	20	1.0	25,000
Restricted Category or Military TIS with (1100<T.O. hp SLS ≤1290)	204-011-105-001		20	1.0	
Restricted Category or Military TIS with (>1290 T.O. hp SLS)	204-011-105-001	Contact FAA	Contact FAA	Contact FAA	Contact FAA
Total RIN=					*25,000*

Contact FAA at (817) 222–5447

Appendix 3 - Table 3

Subtotals for the FACTORED Flight Hours and Accumulated RIN
For Table 3 of the Sample Trunnion Calculation:

FACTORED Flight Hours				Accumulated RIN
550	X	20	=	11,000
200	X	20	=	4,000
500	X	20	=	10,000
1,250				25,000

Issued in Fort Worth, Texas, on September 12, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–23415 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–C

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 260

[Docket No. 96–5 CARP DSTRA]

Determination of Reasonable Rates and Terms for the Digital Performance of Sound Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Copyright Office is extending the period to file comments to proposed regulations that will govern the RIAA collective when it functions as the designated agent receiving royalty payments and statements of accounts from nonexempt, subscription digital transmission services which make digital transmissions of sound recordings under the provisions of section 114 of the Copyright Act.

DATES: Comments and Notices of Intent to Participate in a Copyright Arbitration Royalty Panel Proceeding are due no later than September 28, 2001.

ADDRESSES: An original and five copies of any comment and Notice of Intent to Participate shall be delivered to: Office of the General Counsel, Copyright Office, James Madison Building, Room LM–403, First and Independence Avenue, SE., Washington, DC; or mailed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024–0977.

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

SUPPLEMENTARY INFORMATION: On July 23, 2001, the Copyright Office published a notice of proposed rulemaking seeking comments on proposed regulations that will govern the RIAA collective when it functions as the designated agent receiving royalty payments and statements of accounts from nonexempt, subscription digital transmission services which make digital transmissions of sound recordings under the provisions of section 114 of the Copyright Act. 66 FR 38226 (July 23, 2001). Comments on the proposed terms and Notices of Intent to Participate in a Copyright Arbitration Royalty Panel Proceeding, the purpose of which would be to adopt terms governing the RIAA collective in its handling of royalty fees collected from the subscription services, were due on August 22, 2001.

On August 22, 2001, The American Federation of Musicians of the United States and Canada (''AFM'') and The American Federation of Television and Radio Artists (''AFTRA'') filed a request for an extension of the filing date for comments until September 19, 2001. The Office granted this request and extended the deadline for filing comments to September 19, 2001, 66 FR 46250 (September 4, 2001).

On September 14, 2001, AFM and AFTRA requested a further extension of the filing date for comments in light of the events of September 11, 2001, and stated that the RIAA joined in the request. The Office is granting this request and is extending the filing date for comments until September 28, 2001. There will be no further extensions of the filing date for comments in this proceeding.

Dated: September 18, 2001.

David O. Carson,

General Counsel.

[FR Doc. 01–23687 Filed 9–20–01; 8:45 am]

BILLING CODE 1410–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0060b; MT–001–0032b; FRL–7055–5]

Approval and Promulgation of Air Quality Implementation Plans for Colorado and Montana: Transportation Conformity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to take direct final action to approve revisions to the Colorado and Montana State Implementation Plans (SIPs) that incorporate consultation procedures for transportation conformity. The conformity rules assure that in air quality nonattainment or maintenance areas, projected emissions from transportation plans and projects stay within the motor vehicle emissions ceiling in the SIP. The transportation conformity SIP revisions enable the States to implement and enforce transportation conformity consultation procedures at the State level per regulations for Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws. Our approval action would streamline the conformity process and allow direct consultation among agencies at the local levels. EPA is taking this action under section 110(k) and 176 of the Clean Air Act (Act).

In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP revisions as a direct final rule without prior proposal because the Agency views these as non controversial revisions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing on or before October 22, 2001.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices: United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466; and, United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

Copies of the State documents relevant to this action are available for public inspection at: Colorado Department of Public Health and Environment, 4300 Cherry Creek Dr. S., Denver, Colorado 80246–1530. Montana Department of Environmental Quality, Planning, Prevention and Assistance

Division, 1520 East 6th Avenue, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Kerri Fiedler, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Telephone number: (303) 312–6493.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

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

Dated: September 5, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 01–23597 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

48 CFR Part 215

[DFARS Case 2000–D018]

Defense Federal Acquisition Regulation Supplement; Changes to Profit Policy

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to make changes to DoD profit policy that would reduce the emphasis on facilities investment, add general and administrative expense to the cost base used in determining profit objectives, increase emphasis on performance risk, and encourage contractor cost efficiency.

DATES: Comments on the proposed rule should be submitted to the address shown below on or before November 20, 2001, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: dfars@acq.osd.mil. Please cite DFARS Case 2000–D018 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Sandra Haberlin, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2000–D018.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Haberlin, (703) 602–0289.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes amendments to the profit policy in DFARS Subpart 215.4. DoD published a proposed rule at 65 FR 45574 on July 24, 2000. That rule proposed to—

- Add general and administrative expense to the cost base used to establish profit objectives;
- Reduce the values assigned to facilities capital employed by 50 percent, with the objective, over time, to eliminate completely facilities investment as a factor in establishing profit objectives on sole-source, negotiated contracts;
- Offset these changes by increasing the values for performance risk by 1 percentage point and decreasing the values for contract type risk by 0.5 percentage point; and
- Add a special factor for cost efficiency to encourage cost reduction efforts.

Twelve sources submitted comments in response to the proposed rule. Due to the complexity of the issues raised in the comments received, DoD published a notice of public meeting at 65 FR 69895 on November 21, 2000. The public meeting was held on December 12, 2000. After considering written comments received in response to the proposed rule, and verbal comments provided during the public meeting, DoD is publishing a revised proposed rule. The major differences between the initial proposed rule and the revised proposed rule are—

- Facilities capital employed. Over a 4-year period, the initial rule eliminated facilities capital employed as a factor in developing profit objectives. The revised rule retains 50 percent of the current values for equipment as an incentive for modernization of equipment.
- Contract type and performance risks. The intention of the proposed profit policy changes is to revise the incentive structure of the policy and not to increase or decrease average profit objectives. Changes to contract type and performance risks in the initial proposed rule were made to offset the addition of general and administrative expense to the cost base and the elimination of facilities capital employed. Since the revised proposed rule restores a portion of facilities capital employed, offsets to performance risk contained in the initial rule have been reduced. Likewise, the revised rule restores the current values for contract type risk, that had been reduced by 0.5 percent in the initial rule.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are below $500,000, are based on adequate price competition, or are for commercial items, and do not require submission of cost or pricing data. Therefore, an initial regulatory flexibility analysis has not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2000–D018.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 215

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR part 215 as follows:

1. The authority citation for 48 CFR part 215 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 215—CONTRACTING BY NEGOTIATION

215.404–4 [Amended]

2. Section 215.404–4 is amended by removing paragraph (c)(2)(C)*(1)(i)* and redesignating paragraphs (c)(2)(C)*(1)(ii)* through *(iv)* as paragraphs (c)(2)(C)*(1)(i)* through *(iii),* respectively.

3. Sections 215.404–71–1 and 215.404–71–2 are revised to read as follows:

215.404–71–1 General.

(a) The weighted guidelines method focuses on four profit factors—

(1) Performance risk;

(2) Contract type risk;

(3) Facilities capital employed; and

(4) Cost efficiency.

(b) The contracting officer assigns values to each profit factor; the value multiplied by the base results in the profit objective for that factor. Except for the cost efficiency special factor, each profit factor has a normal value and a designated range of values. The normal value is representative of average conditions on the prospective contract when compared to all goods and services acquired by DoD. The designated range provides values based on above normal or below normal conditions. In the price negotiation documentation, the contracting officer need not explain assignment of the normal value, but should address conditions that justify assignment of other than the normal value. The cost efficiency special factor has no normal value. The contracting officer must exercise sound business judgment in selecting a value when this special factor is used (see 215.404–71–5).

215.404–71–2 Performance risk.

(a) *Description.* This profit factor addresses the contractor's degree of risk in fulfilling the contract requirements. The factor consists of two parts:

(1) Technical—the technical uncertainties of performance.

(2) Management/cost control—the degree of management effort necessary—

(i) To ensure that contract requirements are met; and

(ii) To reduce and control costs.

(b) *Determination.* The following extract from the DD Form 1547 is annotated to describe the process.

Item	Contractor risk factors	Assigned weighting	Assigned value	Base (Item 20)	Profit objective
21.	Technical	(1)	(2)	N/A	N/A
22.	Management/Cost Control	(1)	(2)	N/A	N/A
23.	Reserved				
24.	Performance Risk (Composite)	N/A	(3)	(4)	(5)

(1) Assign a weight (percentage) to each element according to its input to the total performance risk. The total of the two weights equals 100 percent.

(2) Select a value for each element from the list in paragraph (c) of this subsection using the evaluation criteria in paragraphs (d) and (e) of this subsection.

(3) Compute the composite as shown in the following example:

	Assigned weighting percent	Assigned value percent	Weighted value percent
Technical	60	5.0	3.0
Management/Cost Control	40	4.0	1.6
Composite Value	100		4.6

(4) Insert the amount from Block 20 of the DD Form 1547. Block 20 is total contract costs, excluding facilities capital cost of money.

(5) Multiply (3) by (4).

(c) *Values: Normal and designated ranges.*

	Normal value percent	Designated range percent
Standard	5	3 to 7
Technology Incentive	9	7 to 11

(1) *Standard.* The standard designated range should apply to most contracts.

(2) *Technology incentive.* For the technical factor only, contracting officers may use the technology incentive range for acquisitions that include development, production, or application of innovative new technologies. The technology incentive range does not apply to efforts restricted to studies, analyses, or demonstrations that have a technical report as their primary deliverable.

(d) *Evaluation criteria for technical.*

(1) Review the contract requirements and focus on the critical performance elements in the statement of work or specifications. Factors to consider include—

(i) Technology being applied or developed by the contractor;

(ii) Technical complexity;

(iii) Program maturity;

(iv) Performance specifications and tolerances;

(v) Delivery schedule; and

(vi) Extent of a warranty or guarantee.

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value in those cases where there is a substantial technical risk. Indicators are—

(A) Items are being manufactured using specifications with stringent tolerance limits;

(B) The efforts require highly skilled personnel or require the use of state-of-the-art machinery;

(C) The services and analytical efforts are extremely important to the Government and must be performed to exacting standards;

(D) The contractor's independent development and investment has reduced the Government's risk or cost;

(E) The contractor has accepted an accelerated delivery schedule to meet DoD requirements; or

(F) The contractor has assumed additional risk through warranty provisions.

(ii) Extremely complex, vital efforts to overcome difficult technical obstacles that require personnel with exceptional abilities, experience, and professional credentials may justify a value significantly above normal.

(iii) The following may justify a maximum value—

(A) Development or initial production of a new item, particularly if performance or quality specifications are tight; or

(B) A high degree of development or production concurrency.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value in those cases where the technical risk is low. Indicators are—

(A) Requirements are relatively simple;

(B) Technology is not complex;

(C) Efforts do not require highly skilled personnel;

(D) Efforts are routine;

(E) Programs are mature; or

(F) Acquisition is a follow-on effort or a repetitive type acquisition.

(ii) The contracting officer may assign a value significantly below normal for—

(A) Routine services;

(B) Production of simple items;

(C) Rote entry or routine integration of Government-furnished information; or

(D) Simple operations with Government-furnished property.

(4) *Technology incentive range.*

(i) The contracting officer may assign values within the technology incentive range when contract performance includes the introduction of new, significant technological innovation. Use the technology incentive range only for the most innovative contract efforts. Innovation may be in the form of—

(A) Development or application of new technology that fundamentally changes the characteristics of an existing product or system and that results in increased technical performance, improved reliability, or reduced costs; or

(B) New products or systems that contain significant technological advances over the products or systems they are replacing.

(ii) When selecting a value within the technology incentive range, the contracting officer should consider the relative value of the proposed innovation to the acquisition as a whole. When the innovation represents a minor benefit, the contracting officer should consider using values less than the norm. For innovative efforts that will have a major positive impact on the product or program, the contracting officer may use values above the norm.

(e) *Evaluation criteria for management/cost control.*

(1) The contracting officer should evaluate—

(i) The contractor's management and internal control systems using contracting office information and reviews made by field contract administration offices or other DoD field offices;

(ii) The management involvement expected on the prospective contract action;

(iii) The degree of cost mix as an indication of the types of resources applied and value added by the contractor;

(iv) The contractor's support of Federal socioeconomic programs;

(v) The expected reliability of the contractor's cost estimates (including the contractor's cost estimating system);

(vi) The adequacy of the contractor's management approach to controlling cost and schedule; and

(vii) Any other factors that affect the contractor's ability to meet the cost targets (e.g., foreign currency exchange rates and inflation rates).

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value when there is a high degree of management effort. Indicators of this are—

(A) The contractor's value added is both considerable and reasonably difficult;

(B) The effort involves a high degree of integration or coordination;

(C) The contractor has a good record of past performance;

(D) The contractor has a substantial record of active participation in Federal socioeconomic programs;

(E) The contractor provides fully documented and reliable cost estimates;

(F) The contractor makes appropriate make-or-buy decisions; or

(G) The contractor has a proven record of cost tracking and control.

(ii) The contracting officer may justify a maximum value when the effort—

(A) Requires large scale integration of the most complex nature;

(B) Involves major international activities with significant management coordination (e.g., offsets with foreign vendors); or

(C) Has critically important milestones.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value when the management effort is minimal. Indicators of this are—

(A) The program is mature and many end item deliveries have been made;

(B) The contractor adds minimal value to an item;

(C) The efforts are routine and require minimal supervision;

(D) The contractor provides poor quality, untimely proposals;

(E) The contractor fails to provide an adequate analysis of subcontractor costs;

(F) The contractor does not cooperate in the evaluation and negotiation of the proposal;

(G) The contractor's cost estimating system is marginal;

(H) The contractor has made minimal effort to initiate cost reduction programs;

(I) The contractor's cost proposal is inadequate;

(J) The contractor has a record of cost overruns or another indication of unreliable cost estimates and lack of cost control; or

(K) The contractor has a poor record of past performance.

(ii) The following may justify a value significantly below normal—

(A) Reviews performed by the field contract administration offices disclose unsatisfactory management and internal control systems (*e.g.,* quality assurance, property control, safety, security); or

(B) The effort requires an unusually low degree of management involvement.

4. Section 215.404–71–3 is amended as follows:

a. In paragraph (b), in the table, by removing the heading ''Base (Item 18)'' and adding in its place ''Base (Item 20)''; and

b. By revising paragraph (b)(2) and the introductory text of paragraph (e)(2) to read as follows:

215.404–71–3 Contract type risk and working capital adjustment.

* * * * *

(b) * * *

(2) Insert the amount from Block 20, i.e., the total allowable costs excluding facilities capital cost of money.

* * * * *

(e) * * *

(2) Total costs equal Block 20 (*i.e.,* all allowable costs excluding facilities capital cost of money), reduced as appropriate when—

* * * * *

5. Section 215.404–71–4 is amended as follows:

a. In paragraph (a), in the first sentence, by removing the word ''aggressive'';

b. In paragraph (b)(2)(ii), in the first and last sentences, by removing ''Block 18'' and adding in its place ''Block 20''; and

c. By revising paragraphs (c) and (d) to read as follows:

215.404–71–4 Facilities capital employed.

* * * * *

(c) *Values: Normal and designated ranges.* These are the normal values and ranges. They apply to all situations.

Asset type	Normal value percent	Designated range
Land	0	N/A
Buildings	0	N/A

Asset type	Normal value percent	Designated range
Equipment	17.5	10% to 25%

(d) *Evaluation criteria.*

(1) In evaluating facilities capital employed, the contracting officer—

(i) Should relate the usefulness of the facilities capital to the goods or services being acquired under the prospective contract;

(ii) Should analyze the productivity improvements and other anticipated industrial base enhancing benefits resulting from the facilities capital investment, including—

(A) The economic value of the facilities capital, such as physical age, undepreciated value, idleness, and expected contribution to future defense needs; and

(B) The contractor's level of investment in defense related facilities as compared with the portion of the contractor's total business that is derived from DoD; and

(iii) Should consider any contractual provisions that reduce the contractor's risk of investment recovery, such as termination protection clauses and capital investment indemnification.

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value if the facilities capital investment has direct, identifiable, and exceptional benefits. Indicators are—

(A) New investments in state-of-the-art technology that reduce acquisition cost or yield other tangible benefits such as improved product quality or accelerated deliveries; or

(B) Investments in new equipment for research and development applications.

(ii) The contracting officer may assign a value significantly above normal when there are direct and measurable benefits in efficiency and significantly reduced acquisition costs on the effort being priced. Maximum values apply only to those cases where the benefits of the facilities capital investment are substantially above normal.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value if the facilities capital investment has little benefit to DoD. Indicators are—

(A) Allocations of capital apply predominantly to commercial item lines;

(B) Investments are for such things as furniture and fixtures, home or group level administrative offices, corporate aircraft and hangars, gymnasiums; or

(C) Facilities are old or extensively idle.

(ii) The contracting officer may assign a value significantly below normal when a significant portion of defense manufacturing is done in an environment characterized by outdated, inefficient, and labor-intensive capital equipment.

6. Section 215.404–71–5 is added to read as follows:

215.404–71–5 Cost efficiency factor.

(a) This special factor provides an incentive for contractors to reduce costs. To the extent that the contractor can demonstrate cost reduction efforts that benefit the pending contract, the contracting officer may increase the prenegotiation profit objective by an amount not to exceed 4 percent of total objective cost (Block 20 of the DD Form 1547) to recognize these efforts.

(b) To determine if using this factor is appropriate, the contracting officer must consider criteria, such as the following, to evaluate the benefit the contractor's cost reduction efforts will have on the pending contract:

(1) The contractor's participation in Single Process Initiative improvements;

(2) Actual cost reductions achieved on prior contracts;

(3) Reduction or elimination of excess or idle facilities;

(4) The contractor's cost reduction initiatives (e.g., competition advocacy programs, technical insertion programs, obsolete parts control programs, spare parts pricing reform, value engineering, the use of metrics to drive down key costs);

(5) The contractor's adoption of process improvements to reduce costs;

(6) Subcontractor cost reduction efforts; or

(7) The contractor's effective incorporation of commercial items and processes.

(c) When selecting the percentage to use for this special factor, the contracting officer has maximum flexibility in determining the best way to evaluate the benefit the contractor's cost reduction efforts will have on the pending contract. However, the contracting officer must consider the impact that quantity differences, learning, changes in scope, and economic factors such as inflation and deflation will have on cost reduction.

215.404–72 [Amended]

7. Section 215.404–72 is amended as follows:

a. In paragraph (b)(1)(i), in the first sentence, by removing ''Block 18'' and adding in its place ''Block 20'';

b. By removing paragraph (b)(1)(ii); and

c. By redesignating paragraph (b)(1)(iii) as paragraph (b)(1)(ii).

8. Section 215.404–73 is amended by revising paragraph (b) introductory text and the first sentence of paragraph (b)(2)(i) to read as follows:

215.404–73 Alternate structured approaches.

* * * * *

(b) The contracting officer may design the structure of the alternate, but it must include—

* * * * *

(2) * * *

(i) The contracting officer must reduce the overall prenegotiation profit objective by the amount of facilities capital cost of money. * * *

* * * * *

9. Section 215.404–74 is amended by revising the introductory text and paragraph (c) to read as follows:

215.404–74 Fee requirements for cost-plus-award-fee contracts.

In developing a fee objective for cost-plus-award-fee contracts, the contracting officer must—

* * * * *

(c) Apply the offset policy in 215.404–73(b)(2) for facilities capital cost of money, i.e., reduce the base fee by the amount of facilities capital cost of money; and

* * * * *

[FR Doc. 01–23690 Filed 9–20–01; 8:45 am]

BILLING CODE 5000–04–U

DEPARTMENT OF DEFENSE

48 CFR Part 252

[DFARS Case 2000–D027]

Defense Federal Acquisition Regulation Supplement; Tax Exemptions (Italy)

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update requirements pertaining to tax

exemptions for DoD contracts performed in Italy.

DATES: Comments on the proposed rule should be submitted to the address shown below on or before November 20, 2001, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil.* Please cite DFARS Case 2000–D027 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Susan Schneider, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2000–D027.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

DoD uses the contract clause at DFARS 252.229–7003, Tax Exemptions (Italy), when contract performance will be in Italy. This rule proposes amendments to the clause at DFARS 252.229–7003 to update the information pertaining to tax exemptions that contractors must include on their invoices.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule makes minor changes in invoicing requirements that apply only to DoD contracts performed in Italy. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2000–D027.

C. Paperwork Reduction Act

The rule does not add any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR part 252 as follows:

1. The authority citation for 48 CFR part 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. Section 252.229–7003 is revised to read as follows:

252.229–7003 Tax exemptions (Italy).

As prescribed in 229.402–70(c), use the following clause:

Tax Exemptions (Italy) (XXX 2001)

(a) The Contractor represents that the contract price, including the prices in subcontracts awarded under this contract, does not include taxes from which the United States Government is exempt.

(b) The United States Government is exempt from payment of Imposta Valore Aggiunto (IVA) tax in accordance with Article 72 of the IVA implementing decree on all supplies and services sold to United States Military Commands in Italy.

(1) The Contractor shall include the following information on invoices submitted to the United States Government:

(i) The contract number.

(ii) The IVA tax exemption claimed pursuant to Article 72 of Decree Law 633, dated October 26, 1972.

(iii) The following fiscal code(s): *[Contracting Officer must insert the applicable fiscal code(s) for military activities within Italy: 80028250241 for Army, 80156020630 for Navy, or 91000190933 for Air Force].*

(2)(i) Upon receipt of the invoice, the paying office will include the following certification on one copy of the invoice: ''I certify that this invoice is true and correct and reflects expenditures made in Italy for the Common Defense by the United States Government pursuant to international agreements. The amount to be paid does not include the IVA tax, because this transaction is not subject to the tax in accordance with Article 72 of Decree Law 633, dated October 26, 1972.'' An authorized United States Government official will sign the copy of the invoice containing this certification.

(ii) The paying office will return the certified copy together with payment to the Contractor. The payment will not include the amount of the IVA tax.

(iii) The Contractor shall retain the certified copy to substantiate non-payment of the IVA tax.

(3) The Contractor may address questions regarding the IVA tax to the Ministry of Finance, IVA office, Rome (06) 520741.

(c) In addition to the IVA tax, purchases by the United States Forces in Italy are exempt from the following taxes:

(1) Imposta di Fabbricazione (Production Tax for Petroleum Products).

(2) Imposta di Consumo (Consumption Tax for Electrical Power).

(3) Dazi Doganali (Customs Duties).

(4) Tassa di Sbarco e d'Imbarco sulle Merci Transportate per Via Aerea e per Via Maritima (Port Fees).

(5) Tassa de Circolazione sui Veicoli (Vehicle Circulation Tax).

(6) Imposta di Registro (Registration Tax).

(7) Imposta di Bollo (Stamp Tax). (End of clause)

[FR Doc. 01–23689 Filed 9–20–01; 8:45 am]

BILLING CODE 5000–04–U

Notices

Federal Register

Vol. 66, No. 184

Friday, September 21, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: October 17, 2001 (9:00 a.m. to 5:00 p.m.)

Location: Marriott at Metro Center, 775 12th Street, NW., Washington, DC.

This meeting will feature discussion of USAID's strategies for conflict prevention, procurement reform, and HIV/AIDS. Participants will have an opportunity to ask questions of the speakers and to discuss the issues in more depth in small groups.

The meeting is free and open to the public. Persons wishing to attend the meeting can fax or e-mail their name to Noreen O'Meara, 202–216–3041, *nomeara@usaid.gov.*

Dated: September 14, 2001.

Noreen O'Meara,

Executive Director, Advisory Committee on Voluntary Foreign Aid (ACVFA).

[FR Doc. 01–23663 Filed 9–20–01; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TM–01–07]

Notice of Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) is announcing a forthcoming meeting of the National Organic Standards Board (NOSB).

DATES: The meeting dates are: October 15, 2001, 8:00 a.m. to 5:00 p.m.; October 16, 2001, 8:30 a.m. to 5:30 p.m.; and, October 17, 2001, 8:00 a.m. to 3:30 p.m. Requests from individuals and organizations wishing to make an oral presentation at the meeting are due by the close of business on October 5, 2001.

ADDRESSES: The meeting will take place at the U.S. Department of Agriculture, Rear of the South Building Cafeteria, 1400 Independence Ave., S.W., Washington, D.C. 20250-0200. Requests for copies of the NOSB meeting agenda and requests to make an oral presentation at the meeting may be sent to Katherine Benham at USDA–AMS–TMD–NOP, 1400 Independence Avenue, SW., Room 2945–So., Ag Stop 0268, Washington, DC 20250–0200. Requests to make an oral presentation at the meeting may also be sent electronically to *Katherine Benham at katherine.benham@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Richard Mathews, Program Manager, National Organic Program, (202) 720–3252.

SUPPLEMENTARY INFORMATION: Section 2119 (7 U.S.C. 6518) of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. Section 6501 *et seq.*) requires the establishment of the NOSB. The purpose of the NOSB is to make recommendations about whether a substance should be allowed or prohibited in organic production or handling, to assist in the development of standards for substances to be used in organic production and to advise the Secretary on other aspects of the implementation of OFPA. The NOSB met for the first time in Washington, DC, in March 1992, and currently has five committees working on various aspects of the organic program. The committees are: Accreditation, Crops, Livestock, Materials, and Processing.

In August of 1994, the NOSB provided its initial recommendations for the National Organic Program (NOP) to the Secretary of Agriculture. Since that time, the NOSB has submitted 30 addenda to its recommendations and reviewed more than 196 substances for inclusion on the National List of Allowed and Prohibited Substances. The last meeting of the NOSB was held on June 6–7, 2001, in La Crosse, Wisconsin.

The Department of Agriculture (USDA) published its final National Organic Program regulation in the **Federal Register** on December 21, 2000 (65 FR 80548). The rule became effective April 21, 2001.

The principal purposes of the meeting are to provide an opportunity for the NOSB to: receive an update from the USDA/NOP; receive various committee reports; hear a presentation from the Environmental Protection Agency (EPA) on inert ingredients and pesticide product labeling; hear a presentation from the Foreign Agricultural Service, USDA, on trade issues; receive updates from the Aquatic Task Force Working Group and the Task Force on Outreach to Producers; review materials to determine if they should be included on the National List of Approved and Prohibited Substances; and conduct the annual election of Chairperson and Vice-Chairperson.

The Livestock Committee will present for NOSB consideration its recommendations on ''access to pasture,'' antibiotics in vaccines and semen, apiculture, and aquatic species. This committee will also discuss Pet Food labeling. The Materials Committee will explain the materials petition process and timelines, and the decision process for reviewing/approving a material for possible inclusion on the National List of Allowed and Prohibited Substances. The Materials Committee will report on new petitions received for the review of materials and the Technical Advisory Panel review process. Finally, the Materials Committee will present 13 materials for possible inclusion on the National List of Allowed and Prohibited Substances. The Processing Committee will discuss guidelines for determining what processing technologies are appropriate for organic handling, such as ion exchange and activated carbon filtration. The Crops Committee will present for NOSB consideration its recommendations for Mushroom and Greenhouse production standards. The Crops Committee will also discuss the status of its work on composting; compost tea and vermiculture; and heated, pathogen free manure products. Further, the Crops Committee will discuss recommendations for certification of transitional operations and the labeling of transitional products. The Accreditation Committee

will present for NOSB consideration its recommendation on principles of organic production and handling. The Accreditation Committee will present for NOSB consideration its recommendations regarding exemptions of small producers, exclusion of handlers, and certification of private label products. The Accreditation Committee will also report on continued certifying agent outreach and provide an analysis of the NOP Frequently Asked Questions web page.

Materials to be reviewed at the meeting by the NOSB are as follows: for Crop Production: Monocalcium Phosphate, Calcium Chloride, Copper Sulfate; for Livestock Production: DL-Methionine (including, DL-Methionine Hydroxy Analog and Hydroxy Analog Calcium); for Processing: Ammonium Hydroxide, Cyclohexlamine, Diethylaminoethanol, Morpholine, Octadecylamine, Postassium Hydroxide, Sodium Phosphates, Cellulose, and Glycerol Monooleate.

For further information see http://www.ams.usda.gov/nop. Copies of the NOSB meeting agenda can be requested from Ms. Katherine Benham by telephone at (202) 720-3252; or by accessing the NOP website at *http://www.ams.usda.gov/nop.*

The meeting is open to the public. The NOSB has scheduled time for public input on Monday, October 15, 2001, from 8:00 a.m. until 10:00 a.m.; and Wednesday, October 17, from 8:00 a.m. until 10:00 a.m., at the USDA, rear of the South Building Main Cafeteria. Individuals and organizations wishing to make an oral presentation at the meeting may forward their request by facsimile to Ms. Katherine Benham at (202) 690–3924. While persons wishing to make a presentation may sign up at the door, advance registration will ensure that a person has the opportunity to speak during the allotted time period and will help the NOSB to better manage the meeting and to accomplish its agenda. Individuals or organizations will be given approximately 5 minutes to present their views. All persons making an oral presentation are requested to provide their comments in writing. Written submissions may contain information other than that presented at the oral presentation. Written comments may be submitted to Ms. Benham at the above address prior to or after the meeting. Written comments may also be submitted at the meeting.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23649 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–078–1]

User Fees; Agricultural Quarantine and Inspection Services and Import- and Export-Related Veterinary Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to user fees charged for agricultural quarantine and inspection services we provide in connection with commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States, and to import- and export-related services that we provide for animals, animal products, birds, germ plasm, organisms, and vectors. The purpose of this notice is to remind the public of the user fees for fiscal year 2002 (October 1, 2001, throughSeptember 30, 2002).

FOR FURTHER INFORMATION CONTACT: For information concerning AQI program operations, contact Mr. Colonel Locklear, Senior Staff Officer, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236; (301) 734–8372.

For information concerning VS program operations, contact Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1236; (301) 734–8364.

For information concerning user fee development, contact Ms. Donna Ford, User Fees Section Head, FSSB, FMD, MRP–BS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232; (301) 734–8351.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 354.3 (referred to below as the regulations) contain provisions for the collection of user fees for agricultural quarantine and inspection (AQI) services provided by the Animal and Plant Health Inspection Service (APHIS). These services include, among other things, inspecting commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States from points outside the United States. (The Customs territory of the United States is defined in the regulations as the 50 States, the District of Columbia, and Puerto Rico.)

These user fees are authorized by 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a). This statute, known as the Farm Bill, was amended by 504 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127, 110 Stat. 888) on April 4, 1996.

On July 24, 1997, we published in the **Federal Register** (62 FR 39747–39755, Docket No. 96–038–3) a final rule that amended the regulations by adjusting our user fees for servicing commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States from points outside the United States and by setting user fees for these services for fiscal years 1997 through 2002 and beyond. Additionally, on November 16, 1999, we published in the **Federal Register** (64 FR 62089–62096, Docket No. 98–073–2) another final rule that amended the regulations by updating some of the user fees. When we established the user fees for fiscal years 1997 through 2002 and beyond, we stated that, prior to the beginning of the fiscal year, we would publish a notice to remind the public of the user fees for that fiscal year. This document provides notice to the public of the user fees for fiscal year 2002 (October 1, 2001, through September 30, 2002).

Agricultural Quarantine and Inspection Services

We inspect commercial vessels of 100 net tons or more.[1] As specified in § 354.3(b)(1), our user fee for inspecting commercial vessels will be $480.50 during fiscal year 2002.

We inspect commercial trucks[2] entering the Customs territory of the United States. Commercial trucks may pay the APHIS user fee each time they enter the Customs territory of the United

[1] Those commercial vessels subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(b)(2).

[2] Those commercial trucks subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(c)(2).

States from Mexico [3] or purchase a prepaid APHIS permit for a calendar year. Since commercial trucks are also subject to Customs user fees, our regulations provide that commercial trucks must prepay the APHIS user fee if they are prepaying the Customs user fee. In that case, the required APHIS user fee is 20 times the user fee for each arrival and is valid for an unlimited number of entries during the calendar year (see § 354.3(c)(3)(i) of the regulations). The truck owner or operator, upon payment of the APHIS and the Customs user fees, receives a decal to place on the truck windshield. This is a joint decal, indicating that both the Customs and APHIS user fees for the truck have been paid for that calendar year. As specified in § 354.3(c)(1), our user fee for inspecting commercial trucks will be $4.75 for individual arrivals and, as specified in § 354.3(c)(3)(i), $95 for a calendar year 2002 decal.

We inspect commercial railroad cars[4] entering the Customs territory of the United States. These user fees may be paid per inspection or prepaid. Prepaid user fees cover 1 calendar year's worth of AQI inspections. As specified in § 354.3(d)(1), the user fee for this service will be $7.00 per loaded commercial railroad car for each arrival or, if user fees are prepaid, $140 (20 times the individual arrival fee) for each loaded railcar during fiscal year 2002.

We also inspect international commercial aircraft[5] arriving at ports in the Customs territory of the United States. As specified in § 354.3(e)(1), the user fee will be $65.25 during fiscal year 2002.

We also inspect international airline passengers [6] arriving at ports in the Customs territory of the United States. As specified in § 354.3(f)(1), the international airline passenger user fee will be $3.10 during fiscal year 2002.

In addition to the user fees described above, APHIS also charges user fees for import- and export-related veterinary services. The regulations in 9 CFR part 130 list user fees for import- and export-related services provided by APHIS for animals, animal products, birds, germ plasm, organisms, and vectors.

These user fees are authorized by 2509(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (21 U.S.C. 136a). APHIS is authorized to establish and collect fees that will cover the cost of providing import- and export-related services for animals, animal products, birds, germ plasm, organisms, and vectors.

On August 28, 2000, we published in the **Federal Register** (62 FR 51997–52010, Docket No. 97–058–2) a final rule that amended the regulations in 9 CFR part 130 by adjusting our user fees for import- and export-related services that we provide for animals, animal products, birds, germ plasm, organisms, and vectors and by setting user fees for these services for fiscal years 2001 through 2004 and beyond. Additionally, on August 1, 2001, we published in the **Federal Register** (66 FR 39628–39632, Docket No. 99–060–2) another final rule that amended the regulations by updating some of the user fees. When we established the user fees for fiscal years 2001 through 2004 and beyond, we stated that, prior to the beginning of the fiscal year, we would publish a notice to remind the public of the user fees for that fiscal year. This document provides notice to the public of the user fees for fiscal year 2002 (October 1, 2001, through September 30, 2002).

Import- and Export-Related Veterinary Services

We provide standard and nonstandard housing, care, feed, and handling for individual animals and certain birds [7] quarantined in APHIS-owned or -operated animal quarantine facilities, including APHIS Animal Import Centers. As specified in § 130.2(a), the daily user fee for each animal or bird quarantined in APHIS-owned or -operated animal quarantine facilities receiving standard housing, care, feed, and handling for fiscal year 2002 will be as follows:

Animal or bird	User Fee—Oct. 1, 2001–Sept. 30, 2002
Birds (excluding ratites and pet birds imported in accordance with 9 CFR part 93):	
0–250 grams	$1.50
251–1,000 grams	5.25
Over 1,000 grams	13.00
Domestic or zoo animals (except equines, birds, and poultry):	
Bison, bulls, camels, cattle, or zoo animals	97.00
All others, including, but not limited to, alpacas, llamas, goats, sheep, and swine	26.00
Equines (including zoo equines, but excluding miniature horses):	
1st through 3rd day (fee per day)	257.00
4th through 7th day (fee per day)	186.00
8th and subsequent days (fee per day)	158.00
Miniature horses	58.00
Poultry (including zoo poultry):	
Doves, pigeons, quail	3.25
Chickens, ducks, grouse, guinea fowl, partridge, pea fowl, pheasants	6.00
Large poultry and large waterfowl, including, but not limited to game cocks, geese, swans, and turkeys	14.00
Ratites:	
Chicks (less than 3 months old)	9.00
Juveniles (3 months through 10 months old)	13.00
Adults (11 months old and older)	26.00

[3] Section 354.3(c)(2)(i) of the regulations states that commercial trucks entering the Customs territory of the United States from Canada are exempt from paying an APHIS user fee.

[4] Those commercial railroad cares subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(d)(2).

[5] Those commercial aircraft subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(e)(2).

[6] Those international airline passengers subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(f)(2).

[7] Those animals and birds subject to quarantine are specified in 9 CFR, chapter I, subchapter D of the regulations.

Certain conditions or traits, such as pregnancy or aggression, may necessitate special requirements for certain birds or poultry. Birds and poultry receiving nonstandard housing, care, feed, or handling to meet special requirements may receive those services while quarantined in an APHIS-owned or -operated quarantine facility at the request of an importer or as required by an APHIS representative. As specified in § 130.2(b), the daily user fee for each bird or poultry receiving nonstandard housing, care, or handling while quarantined in an APHIS-owned or -operated animal quarantine facility for fiscal year 2002 is $5.25 for birds weighing 250 grams or less, and doves, pigeons, and quail; $13.00 for birds weighing 251–1,000 grams and poultry such as chickens, ducks, grouse, guinea fowl, partridge, pea fowl, and pheasants; and $24.00 for birds over 1,000 grams and large poultry and large waterfowl, including, but not limited to game cocks, geese, swans, and turkeys. As specified in § 130.2(c), importers of animals or birds that require a diet other than standard feed must either provide feed or pay APHIS for feed on an actual cost basis, including the cost of delivery to the APHIS-owned or -operated Animal Import Center or quarantine facility.

We accept requests from importers to exclusively occupy a space at an APHIS Animal Import Center. As specified in § 130.3(a)(1), the monthly user fee for exclusive use of space at APHIS Animal Import Center in Newburgh, NY, for fiscal year 2002 is $56,054 to occupy a space 5,396 square feet in size, $92,484 for a space 8,903 square feet in size, and $9,401 for a space 905 square feet in size. The fees listed in § 130.3(a)(1) cover all costs of quarantine [8] except feed. The importer either provides the feed or pays for it on an actual cost basis, including the cost of delivery.

We process applications for permits to import and transport certain animal products, organisms, vectors, and germ plasm.[9] As specified in § 130.4, the user fees for processing import permit applications for certain animals and animal products during fiscal year 2002 will be as follows:

Service	Unit	User fee—Oct. 1, 2001–Sept. 30, 2002
Import compliance assistance:		
Simple (2 hours or less)	Per release	$66.00
Complicated (more than 2 hours)	Per release	169.00
Processing an application for a permit to import live animals, animal products or byproducts, organisms, vectors, or germ plasm (embryos or semen) or to transport organisms or vectors [1]:		
Initial permit	Per application	94.00
Amended permit	Per amended application	47.00
Renewed permit [2]	Per application	61.00
Processing an application for a permit to import fetal bovine serum when facility inspection is required.	Per application	322.00

[1] Using Veterinary Services Form 16–3 ''Application for Permit to Import or Transport Controlled Material or Organisms or Vectors,'' or Form 17–129, ''Application for Import or In Transit Permit (Animals, Animal Semen, Animal Embryos, Birds, Poultry, or Hatching Eggs).''
[2] Permits to import germ plasm and live animals are not renewable.

We inspect live animals presented for importation into or entry into the United States through a land border port along the United States-Mexico border. As specified in § 130.6(a), the user fees for inspection of live animals at land border ports along the United States-Mexico border for fiscal year 2002 will be as listed in the following table:

Type of live animal	Per head user fee			
	Oct. 1, 2000–Sept. 30, 2001	Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning Oct. 1, 2003
Any ruminants (including breeder ruminants) not covered below	$8.25	$8.50	$8.75	$9.00
Feeder	2.25	2.25	2.50	2.50
Horses, other than slaughter	41.00	42.00	43.00	44.00
In-bond or in-transit	5.25	5.50	5.50	5.75
Slaughter	3.50	3.50	3.75	3.75

We also inspect live animals presented for importation into or entry into the United States through a land border port along the United States-Canada border. As specified in § 130.7(a), user fees for import or entry services for live animals at land border ports along the United States-Canada border for fiscal year 2002 will be as follows:

Type of live animal	Unit	User Fee—Oct. 1, 2001–Sept. 30, 2002
Animals being imported into the United States:		
Breeding animals (grade animals, except horses):		
Sheep and goats	Per head	$0.50
Swine	Per head	0.75
All others	Per head	3.25
Feeder animals:		
Cattle (not including calves)	Per head	1.50

[8] Section 130.3(a)(2) and 130.3(c) specifies that additional user fees will be charged to importers for occupancy of space for more than 30 days or nonstandard handling or care of animals or birds.

[9] Those animal products,organisms, vectors, and germ plasm that require permits for importation into the United States are specified in 9 CFR, chapter I, subchapter D of the regulations.

Type of live animal	Unit	User Fee—Oct. 1, 2001–Sept. 30, 2002
Sheep and calves	Per head	0.50
Swine	Per head	0.25
Horses (including registered horses), other than slaughter and in-transit	Per head	27.00
Poultry (including eggs), imported for any purpose	Per load	47.00
Registered animals (except horses)	Per head	5.50
Slaughter animals (except poultry)	Per load	24.00
Animals transiting [1] the United States:		
Cattle	Per head	1.50
Sheep and goats	Per head	0.25
Swine	Per head	0.25
Horses and all other animals	Per head	6.50

[1] The user fee in this section will be charged for in-transit authorizations at the port where the authorization services are performed. For additional services provided by APHIS, at any port, the hourly user fee rate in § 130.30 will apply.

We provide a variety of other services related to the importation into or exportation from the United States of animals, animal products, birds, germ plasm, organisms, and vectors. As specified in § 130.8(a), user fees for those import- or export-related services during fiscal year 2002 are as follows:

Service	Unit	User Fee—Oct. 1, 2001–Sept. 30, 2002
Germ plasm being exported: [1]		
Embryo: Up to 5 donor pairs	Per certificate	$79.00
Each additional group of donor pairs, up to 5 pairs per group, on the same certificate	Per group of donor pairs	35.00
Semen	Per certificate	48.00
Release from export agricultural hold:		
Simple (2 hours or less)	Per release	66.00
Complicated (more than 2 hours)	Per release	169.00

[1] This user fee includes a single inspection and resealing of the container at the APHIS employee's regular tour of duty station or at a limited port. For each subsequent inspection and resealing required, the hourly user fee in § 130.30 will apply.

We inspect lots of pet birds [10] of United States origin returning to the United States. As specified in § 130.10(a), user fees for the inspection of pet birds of U.S. origin returning to the United States, except pet birds of U.S. origin returning to Canada, during fiscal year 2002 are $102.00 per lot of birds which have been out of the United States for 60 days or less, and $243.00 per lot of pet birds which have been out of the United States for more than 60 days.

We also provide housing, care, feed, and handling for pet birds quarantined in APHIS-owned or -supervised quarantine facilities. The daily user fee to quarantine pet birds applies per isolette and varies based on the number of pet birds determined by an APHIS representative to be appropriate per isolette. All the birds quarantined in one isolette are covered by one fee, which is assessed daily for the duration of the quarantine. As specified in § 130.10(b), the daily user fee for each pet bird quarantined in an APHIS-owned or supervised quarantine facility for fiscal year 2002 is $8.75 for one pet bird quarantined in one isolette, $11.00 for two pet birds quarantined in one isolette, $13.00 for three pet birds quarantined in one isolette, $15.00 for four pet birds quarantined in one isolette, and $17.00 for five pet birds quarantined in one isolette.

We inspect and approve various import and export facilities and establishments.[11] As specified in § 130.11, the user fees for inspecting and approving import and export facilities and establishments during fiscal year 2002 will be as listed in the following table:

Service	Unit	User Fee—Oct. 1, 2001–Sept. 30, 2002
Embryo collection center inspection and approval (all inspections required during the year for facility approval).	Per year	$358.00
Inspection for approval of biosecurity level three laboratories (all inspections related to approving the laboratory for handling one defined set of organisms or vectors).	Per inspection	977.00
Inspection for approval of pet food manufacturing, rendering, blending, or digest facilities:		
Initial approval	For all inspections required during the year.	404.75
Renewal	For all inspections required during the year.	289.00
Inspection for approval of pet food spraying and drying facilities:		
Initial approval	For all inspections required during the year.	275.00

[10] Provisions for the importation of pet birds into the United Sates are specified in 9 CFR chapter I, subschpater D of the regulations.

[11] Requirements for the inspection and approval of various quarantine facilities are specified in 9 CFR, chapter I, subchapter D of the regulations.

Service	Unit	User Fee—Oct. 1, 2001–Sept. 30, 2002
Renewal	For all inspections required during the year.	162.00
Inspection for approval of slaughter establishment:		
Initial approval (all inspections)	Per year	352.00
Renewal (all inspections)	Per year	305.00
Inspection of approved establishments, warehouses, and facilities under 9 CFR parts 94 through 96:		
Approval (compliance agreement) (all inspections for first year of 3-year approval)	Per year	375.00
Renewed approval (all inspections for second and third years of 3-year approval)	Per year	217.00

We endorse export health certificates for animals, birds, or animal products.[12] As specified in § 130.20(a), the user fees for each export health certificate endorsed for each type of animal, bird, or animal product, regardless of the number of animals, birds, or animal products covered by the certificate, will be $30.00 for animal and nonanimal products, $28.00 for hatching eggs, $28.00 for poultry, including slaughter poultry, $33.00 for slaughter animals (except poultry) moving to Canada or Mexico, and $22.00 for other endorsements or certifications during fiscal year 2002.

We also endorse export health certificates for animals, birds, or animal products that require verification of tests or vaccinations. The user fees for these certificates apply to each export health certificate endorsed for animals and birds, depending on the number of animals or birds covered by the certificate and the number of tests or vaccinations required. As specified in § 130.20(b), the user fees for each export health certificate endorsed for animals and birds for fiscal year 2002 is as follows:

Number of tests or vaccinations and number of animals or birds on the certificate	User fee			
	Oct. 1, 2000–Sept. 30, 2001	Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning Oct. 1, 2003
1–2 tests or vaccinations				
Nonslaughter horses to Canada:				
First animal	$35.00	$36.00	$37.00	$38.00
Each additional animal	4.00	4.00	4.25	4.25
Other animals or birds:				
First animal	70.00	72.00	74.00	76.00
Each additional animal	4.00	4.00	4.25	4.25
3–6 tests or vaccinations				
First animal	86.00	88.00	91.00	94.00
Each additional animal	6.75	7.00	7.00	7.25
7 or more tests or vaccinations				
First animal	100.00	103.00	106.00	109.00
Each additional animal	8.00	8.25	8.25	8.50

We provide certain import- or export-related veterinary services at hourly rates[13] that may be performed during and outside of regularly established hours of service. As specified in § 130.30(a), the user fees for import- or export-related hourly veterinary services performed during regularly established hours of service, except those services covered by flat rate user fees, will be $80.00 per hour or $20.00 per quarter hour for each APHIS employee for fiscal year 2002. The minimum per service fee for import- or export-related veterinary services is $24.00 during fiscal year 2002.

We also provide certain import- or export-related veterinary services at hourly rates outside of an APHIS employee's normal tour of duty. As specified in § 130.30(b), user fees for hourly veterinary services provided at any time outside an employee's normal tour of dutyMonday through Saturday and on holidays will be $92.00 per hour or $23.00 per quarter hour for each APHIS employee during fiscal year 2002. User fees for hourly veterinary services provided on a Sunday will be of $104.00 per hour or $26.00 per quarter hour for each APHIS employee during fiscal year 2002.

Done in Washington, DC, this 14th day of September 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–23658 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Changes in Price Support Differentials for Flue-Cured Tobacco

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

[12] Those animals, birds, or animal products that require export health certificates are specified in 9 CFR, chapter I, subchapter D of the regulations.

[13] Section 130.30(a)(1) through (a)(13) lists import- or export-related veterinary services that are calculated at hourly rates for each APHIS employee required to perform the service.

SUMMARY: The Commodity Credit Corporation (CCC) is announcing a change in price support differentials for flue-cured tobacco beginning with the 2002 crop. The change in differentials is being implemented because of concern relating to marketability of flue-cured tobacco cured in barns with direct heat sources; for such tobacco, CCC will provide a price support rate that is one-half the normal price support rate for tobacco that has been cured in a barn with an indirect heat source. In order that tobacco can be duly valued for price support purposes, farmers will be required to certify whether their barns have an indirect heat source.

EFFECTIVE DATE: This change is effective immediately September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Deputy Director, Tobacco and Peanuts Division, United States Department of Agriculture (USDA), 1400 Independence Avenue, SW, STOP 0514, Washington, DC 20250–0514, telephone 202–720–0156 or FAX 202–418–4270.

SUPPLEMENTARY INFORMATION: Quotas for tobacco production are administered under the Agricultural Adjustment Act of 1938, 7 USC 128 *et seq.* (1938 Act) Where quotas for a kind of tobacco have been approved by producers of that kind of tobacco, price support is made available for that tobacco under the terms and conditions of Section 106 the Agricultural Act of 1949, 7 USC 1421, *et seq.* (1949 Act). Flue-cured tobacco is one of the kinds of tobacco for which quotas have been approved. Regulations governing price support and quotas for tobacco are found at 7 CFR parts 723 and 1464.

Price support is made available through non-recourse loans to farmers through a designated producer-member association, which in the case of flue-cured tobacco is the Flue-Cured Tobacco Stabilization Corporation (Stabilization). As such, the loans do not have to be repaid, but rather the tobacco is placed in Stabilization's inventory and Stabilization then attempts to sell the tobacco for the highest price. Losses on inventory tobacco are covered by assessments levied under the No Net Cost Tobacco Program Act of 1982, against all producers (and buyers) of flue-cured tobacco, irrespective of, in the case of producers, whether the individual producer placed any tobacco under a price support loan.

The average loan rate for the tobacco is set for each crop year under a formula which is set out in section 106 of the 1949 Act, but, in making those loans, variations for location and other factors are made in the loan amount which is available for an individual lot of tobacco. Such variations in the price support level are known as ''differentials''. They are provided for explicitly in section 403 of the 1949 Act, which is found at 7 U.S.C. 1423. That section was suspended for commodities other than tobacco for the 1996–2000 crops by section 171 of the Agricultural Market Transition Act, Public Law 104–127, but remains in force for tobacco. Under the provisions of section 403 of the 1949 Act, the Secretary of Agriculture may (and the Secretary has done so consistently for many years) make appropriate adjustments in the support price for differences in grade, type, quality, location and other factors. The adjustments must, insofar as practicable, be made in such manner that the average support price for the commodity will, on the basis of the anticipated incidence of such factors, be equal to the national average level of support determined in accordance with Section 106 of the 1949 Act. Using this authority, differentials are established each crop year for quota tobacco, by kind.

A notice of proposed change in price support differentials for flue-cured tobacco and an invitation to comment was published in the **Federal Register** on December 12, 2000, (65 FR 77555). A number of both positive and negative responses were received. Those favoring the proposal were concerned about the following: the need to maintain the high integrity of U.S. tobacco; the need to be competitive with world markets, as the tobacco of competitors of U.S.-grown flue-cured tobacco is grown in indirect heated barns; the need to prevent a large increase in loan inventories of questionable value which would create a burden on CCC; and, the need to prevent a large increase in No-Net Cost assessments due to increased inventories. Also, the largest customers of US flue-cured have stated they are planning to begin acquiring tobacco with low specific nitrosamines. Those responding negatively to the proposal argued the following: there is no need for a change because they do not believe there is a problem, that it is only a marketing ploy; they need more time to convert their barns, and cannot get the barns converted for 2001; there is not enough scientific evidence to support the barn conversion; and, they cannot afford the cost of conversion on such short notice due to economic stress. After careful consideration of these responses, it was decided to make the proposed change, but to delay implementation of this change until the 2002 flue-cured marketing year; proceeding in this manner will address market and consumer concerns regarding the integrity of U.S.-grown flue-cured tobacco, while giving producers the time they need to convert to indirect-heated barns.

Beginning with the 2002 crop year, this notice changes the flue-cured tobacco price support differentials to provide for differing valuations of tobacco based on the heat source of the barn in which the tobacco is cured. The price support differentials for 2002 crop year tobacco that is cured in a barn with a direct heat source and marketed in calendar year 2002 and beyond will be set at one-half of the normal price support for flue-cured tobacco.

Setting the differential at half the normal price reflects that there may still be some market value associated with tobacco this is not cured in a barn with an indirect heat source and while it is difficult to determine what the lowered price might actually bin the market, it was determined that setting the price at the 50% level was a fair compromise which will be reassessed for future market years as changes in the marketing of tobacco become better understood and apparent. This is, on further consideration, setting a zero or near zero price for the tobacco appears too drastic at this time. As for the delay in the crop year implementation of the change in the differentials, it appears at this time that the association does not object to the delay, and that there has been general understanding in the industry that material changes in buying habits, as they involve this issue, have been modified accordingly. For these reasons, it appears that the revised disposition of this issue, is fair resolution for all concerned in this program which is a ''no net cost program'' in which all costs, other than the normal administrative costs associated with all support programs subject to producer assessments. As for the actual determination of the differentials, while this notice indicates the determination made with respect to the issues at hand at this time, final determinations for all differentials are made at the time that the body of differentials is announced for the crop year (that is, all the grade loan rates and premiums and discounts).

The plan with respect to the heat source issue would be that, beginning with 2002 crop, producers will have to certify whether their tobacco has or has not been produced in improved barns, i.e., whether or not the tobacco was cured by an indirect heat source. For these purposes, an improved barn will be any barn which has been retrofitted under the association's program or

which otherwise have been built with, or improved to include, the technology that produces the market-preferred tobacco. The certification program will be administered by Stabilization. County FSA offices will be requested to cooperate by marking the producer's marketing card (MQ–76) with the notation ''NO CERTIFICATION'' for any farm failing to provide a certification to Stabilization. Individual lots of tobacco will be stamped ''NO CERTIFICATION'' at the auction warehouse. All tobacco with a ''NO CERTIFICATION'' designation will receive the lower price support loan value. Further announcements will be made as needed to implement this change. It is expected that several announcements would be made by press release or other less formal means of communications. To repeat: this value will not be based on either a positive or negative determination regarding indirect heating but a market value determination as part of the government's function of setting price support differentials. It should also be understood that if the market value of the tobacco is indeed reduced but no change was made in the differentials, not only would there be loan losses but also, because of those losses, if would be necessary to increase tobacco assessments to cover such losses, as required by the 1949 Act. Such assessments could be considerable.

Signed at Washington, DC., on September 17, 2001.

James R. Little,

Acting Administrator Farm Service Agency and, Acting Executive Vice President Commodity Credit Corporation.

[FR Doc. 01–23659 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–05–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

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

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a commodity and services 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 22, 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.

Additions

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice for each commodity or service will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

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

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

2. The action will result in authorizing small entities to furnish the commodity and services to the Government.

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

Commodity

Cabinet, Fitting Kit
4730–01–112–3240
NPA: Opportunity Center Easter Seal Rehabilitation Facility, Anniston, Alabama
Government Agency: Defense Supply Center Columbus

Services

Administrative Services

U.S. Customs Service Academy, Glynco, Georgia
NPA: CCAR Services, Inc., Green Cove Springs, Florida
Government Agency: U.S. Customs Service

Grounds Maintenance

U.S. Coast Guard, Training Center—Two Rocks, Petaluma, California
NPA: North Bay Rehabilitation Services, Inc., Rohnert Park, California
Government Agency: U.S. Coast Guard

Janitorial/Custodial

Willow Grove Air Reserve Station, Willow Grove, Pennsylvania
NPA: The Chimes, Inc., Baltimore, Maryland
Government Agency: Willow Grove Air Reserve Station

Janitorial/Custodial

Whidbey Island Naval Air Station, Buildings 65, 117 and 2679, Oak Harbor, Washington
NPA: New Leaf, Inc., Oak Harbor, Washington
Government Agency: Whidbey Island Naval Air Station

Laundry Service

R.E. Bush Naval Hospital, Twentynine Palms, CA
NPA: Job Options, Inc., San Diego, California
Government Agency: U.S. Naval Hospital

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 commodity and services to the Government.

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

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

Commodities

Tablecloth, Disposable
7210–01–395–7912A
7210–01–395–7912B
7210–01–395–7914A
7210–01–395–7914B
7210–01–395–7915A
7210–01–395–7915B
7210–01–395–7916A
7210–01–395–7916B
7210–01–395–7917A
7210–01–395–7917B

7210–01–395–9192A
7210–01–395–9192B
Short-Run, Printing
7690–00–NSH–0024
7690–00–NSH–0025

Sheryl D. Kennerly,
Director, Information Management.
[FR Doc. 01–23664 Filed 9–20–01; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition

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

ACTION: Addition to the Procurement List.

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

EFFECTIVE DATE: October 22, 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 13, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 FR 36741) of proposed addition to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity listed below is 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 commodity to the Government.

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

3. The action will result in authorizing small entities to furnish the commodity 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 commodity proposed for addition to the Procurement List.

Accordingly, the following commodity is added to the Procurement List:

Commodity

Mop, Flat, w/Scrubber
M.R. 1045

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. 01–23665 Filed 9–20–01; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Waquoit Bay National Estuarine Research Reserve: Notice of Approval and Availability on Revised Management Plan

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Approval and Availability of the Final Revised Management Plan for the Waquiot Bay National Eustraine Research Reserve.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division (ERD), Office of Ocean and Coastal Resource Management, has approved the revised management plan for the Waquoit Bay National Estuarine Research Reserve (WBNERR). The WBNERR was designated in 1989 and has been operating under a management plan approved in 1989. Pursuant to section 921.33(c) of the National Estuarine Research System implementing regulations, a state must revise its management plan at least every five years, or more often if necessary.

The revisions to the WBNERR management plan include:

- The renovation of the headquarters site and its structures to provide a support base for the administrative, research and education activities of the Reserve;
- The significant increase in staff and the concomitant increase in activities undertaken under the auspices of the Reserve;
- The proposed acquisition boundary which describes the Reserve's plans to expand its boundary. It also describes lands that may be acquired for incorporation into the Reserve boundary. The approval of this management plan officially incorporates the Quashent River parcel and the Great Flat Pond into the Reserve boundary. The proposed acquisition boundary describes the Reserve's plans to pursue for acquisition approximately 1,250 acres of unprotected areas in the Waquoit Bay watershed that coincides with the Mashpee National Wildlife Refuge's acquisition boundary.
- The incorporation of the Massachusetts Department of Environmental Management's Guidelines for Operations and Land Stewardship (GOALS);
- The exhibits at the visitor center, which significantly increases visitation to the Reserve; and
- Modifications to the Reserve's advisory committee structure that reflect the maturation of the Reserve and its needs at this stage of operations.

The revised management plan demonstrates continued strong support from the Massachusetts Department of Environmental Management (DEM) and NOAA for research, monitoring and education programs. A long-term research plan focuses on understanding the structure and function of key habitats, such as the Reserve's five major marsh systems. A comparative ecology approach provides the basis for research project design and priority setting. Collaborative studies with Federal, state, and institutional researchers are encouraged. An associated long-term monitoring program will characterize the environmental quality and the occurrence and abundance of living resources. Monitoring is designed to determine baseline status and trends in habitat quality and the health of important resource species.

FOR FURTHER INFORMATION CONTACT: Doris Grimm, OCRM, Esturarine Reserves Division, 1305 East-West Highway, 11th Floor (N/ORM5), Silver Spring, Maryland 20910, (301) 713–3155, Extension 107.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone management) Research Reserves.

Dated: September 17, 2001.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 01–23675 Filed 9–20–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091701F]

Mid-Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Comprehensive Management Committee will hold a public meeting.

DATES: The meeting will be held on Thursday, October 4, 2001, from 10 a.m. until 5 p.m.

ADDRESSES: This meeting will be held at the Marriott BWI Hotel, 1743 West Nursery Road, Baltimore, MD 21240; telephone: 410–859–8300.

Council address: Mid-Atlantic Fishery Management Council, Room 2115, 300 S. New Street, Dover, DE 19904.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to receive an orientation from NMFS Northeast Regional Office's Grants Office officials regarding: the technical review of proposals received in response to the Council's quota set-aside Request for Proposal (RFP); the review process to be used to rate accepted proposals; and the schedule of events regarding the rating phase, up to the award of quota set-asides. Initial individual reviews of applications will be conducted for demonstration and other purposes, as appropriate.

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council Office (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: September 17, 2001.

Richard W. Surdi,

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

[FR Doc. 01–23681 Filed 9–20–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082701F]

Marine Mammals; File No. 881–1443–04

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that The Alaska SeaLife Center, P.O. Box 1329, Seward, Alaska 99664 (Dr. Shannon Atkinson, Principal Investigator), has requested an amendment to scientific research Permit No. 881–1443–04.

DATES: Written or telefaxed comments must be received on or before October 22, 2001.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; phone (907)586-7221; fax (907)586–7249.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 881-1443, issued on March 27, 1998 (59 FR 14905), is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 881–1443–04 authorizes the permit holder to maintain Steller sea lions (Eumetopias jubatus) and harbor seals (*Phoca vitulina*) for purposes of scientific research, which includes studies on nutritional and reproductive physiology, metabolic development, and clinical health. Incidental to research activities, animals are on public display as part of an education program.

The permit holder requests authorization to modify existing research protocols as well as add new research projects. Modifications to existing protocols include: (1) increasing frequency of blubber biopsies taken from Steller sea lions from 3 to 6 times per year for fatty acid and organochlorine testing; (2) increasing mass of blubber biopsies taken from harbor seals from 50 to 500 mg for organochlorine testing; (3) collecting saliva from Steller sea lions and harbor seals for deuterium, steroid, and hormone analyses; (4) analyzing vaginal and preputial swabs for cell cytology in Steller sea lions and harbor seals; and (5) administering stable isotopes to Steller sea lions for nutritional studies.

New projects proposed include: (1) hormone stimulation studies and collection of feces for assessment of stress or well-being in relation to diet in Steller sea lions; (2) bioenergetic studies of Steller sea lions involving determination of metabolic rates using flow respirometry and metabolic chambers, and dietary marker administration and dry holding for collection of urine and feces; (3)

collection of skin and mucosal swabs from harbor seals and Steller sea lions for development of cell lines and microbiological analyses; (4) administration of deuterium labeled vitamin E and a vitamin A analog and increased frequency of blood sampling to determine metabolic requirements of these vitamins; and (5) photographic studies to determine pelage pattern consistency of harbor seals.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

September 18, 2001.

Eugene T. Nitta,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–23680 Filed 9–20–01; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Notice of Meeting

AGENCY: U.S. Consumer Product Safety Commission.

Time and Date: Thursday, September 20, 2001 2:00 p.m.

Location: Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

Status: Closed to the Public—Pursuant to 5 U.S.C. 552b(f)(1) and 16 CFR 1013.4(b)(3)(7)(9) and (10) and submitted to the **Federal Register** pursuant to 5 U.S.C. 552b(e)(3).

Matter to be Considered:

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

FOR FURTHER INFORMATION CONTACT: Todd A. Stevenson, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: September 13, 2001.

Todd A. Stevenson,

Acting Secretary.

[FR Doc. 01–23558 Filed 9–20–01; 8:45 am]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission.

Time and Date: Friday, September 21, 2001, 10 a.m.

Location: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

Status: Open to the Public.

Matter To Be Considered:

Mattresses/Bedding

The staff will brief the Commission and the Commission will consider options addressing open flame ignition of mattresses/bedding and issues related to Petitions FP 00–1 through FP 00–4, submitted by Whitney A. Davis, Director of Children's Coalition for Fire-Safe Mattresses, requesting various actions concerning mattress flammability.

For a recorded message containing the latest agenda information, call (301) 504–0709.

FOR FURTHER INFORMATION CONTACT: Todd A. Stevenson, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: September 17, 2001.

Todd A. Stevenson,

Acting Secretary.

[FR Doc. 01–23559 Filed 9–20–01; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0136]

Federal Acquisition Regulation; Proposed Collection; Commercial Item Acquisitions

AGENCIES: Department of Defense (DOD), General ServicesAdministration (GSA), and National Aeronautics and SpaceAdministration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0136).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning the clauses and provisions required for use in commercial item acquisitions.

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 November 20, 2001.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Acquisition Policy Division, GSA (202) 501–4764.

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, 1800 F Street, NW, Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Federal Acquisition Streamlining Act of 1994 included Title VIII, entitled Commercial Items. The title made numerous additions and revisions to both the civilian agency and Armed Service acquisition statutes to encourage and facilitate the acquisition of commercial items and services by Federal Government agencies.

To implement these changes, DoD, NASA, and GSA amended the Federal Acquisition Regulation (FAR) to include several streamlined and simplified clauses and provisions to be used in place of existing clauses and provisions. They were designed to simplify solicitations and contracts for commercial items.

Information is used by Federal agencies to facilitate the acquisition of commercial items and services.

B. Annual Reporting Burden

Respondents: 118,000.
Responses Per Respondent: 12.1.
Total Responses: 1,427,800.
Hours Per Response: .312.
Total Burden Hours: 445,450.

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. 9000–0136 regarding Commercial Item Acquisitions in all correspondence.

Dated: September 14, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–23540 Filed 9–20–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Panel To Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction. Notice of this meeting is required under the Federal Advisory Committee Act. (Pub. L. 92–463).

DATES: September 24, 2001.

ADDRESSES: RAND, 1200 South Hayes Street, Arlington, VA 22202–5050. Mail written presentations and requests to register to attend the open public session to: Nancy Rizor, RAND, 1200 South Hayes Street, Arlington, VA 22202–5050.

FOR FURTHER INFORMATION CONTACT: RAND provides information about this Panel on its web site at *http://www.rand.org/organization/nsrd/terrpanel.* RAND can also be reached at (703) 413–1100, extension 5321.

SUPPLEMENTARY INFORMATION:

Proposed Schedule and Agenda

Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction will meet from 9 a.m. until 4 p.m. on September 24, 2001. Time will be allocated for public comments by individuals or organizations. Public comment presentations will be limited to two minutes each and must be provided in writing prior to the meeting. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Dated: September 18, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–23720 Filed 9–20–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Federal Advisory Committee for the End-to-End Review of the U.S. Nuclear Command and Control System

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of forthcoming meetings of the Federal Advisory Committee for the End-to-End Review of the U.S. Nuclear Command and Control System (NCCS). The purpose of these meetings is to conduct a comprehensive and independent review of the NCCS positive measures to assure authorized use of nuclear weapons when directed by the President while assuring against unauthorized or inadvertent use. This meeting will be closed to the public.

DATES: October 3, 2001.

ADDRESSES: Room 3C912, Pentagon, Washington, DC.

FOR FUTHER INFORMATION CONTACT: Mr. William L. Jones, U.S. Nuclear Command and Control System Support Staff (NSS), Skyline 3, 5201 Leesburg Pike, Suite 500, Falls Church, Virginia 22041, (703) 681–8681.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–23768 Filed 9–20–01; 8:45 am]

BILLING CODE 5001–05–U

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: Extension of comment period.

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 announced that comments must be received by September 24, 2001. We have received several requests to extend the comment period, which ends September 24, 2001. To ensure ample opportunity to review the proposed NWPs and to provide meaningful comments, we are extending the comment period 15 days to October 9, 2001.

DATES: Comments must be received by October 9, 2001.

ADDRESSES: Send comments to HQUSACE, ATTN: CECW–OR, 441 ''G'' Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Rich White at (202) 761–4599 or access the U.S. Army Corps of Engineers Regulatory Home Page at: *http//:www.usace.army.mil/inet/functions/cw/cecwo/reg/.*

SUPPLEMENTARY INFORMATION: The Nationwide Permits (NWPs) expire on February 11, 2002, except the NWPs issued in 2000 which expire on June 7, 2005. We are extending the comment period to allow additional time to submit comments on the NWPs, due to the recent tragic events in New York and Washington. This extension would reduce an already tight schedule to develop the final NWPs. Therefore, we have determined that it is necessary to return to the 60 day time period for the states to complete their decisions on issuance of 401 water quality certifications pursuant to the Clean Water Act, and their decisions to agree or disagree with our decisions regarding compliance with the state Coastal Zone Management Plans pursuant to the Coastal Zone Management Act. This time period is from the date of the publication of the final NWPs until the date the NWPs become effective. Historically, this time period has been 60 days, except for the 401/CZM decision processes for the 2000 replacement NWPs, when we provided a 90-day time period. Due to the major changes involved in the 2000 replacement NWPs, we believed that the extra time was warranted in that instance. We had hoped to continue with the 90 day time period; however, the development of the proposed modifications to the NWPs took longer than expected. Further, the current proposal has very few changes to the existing NWPs; therefore, the states should be able to accomplish their review in a 60-day time period. For these reasons, along with the extension

of the comment period, we need to return to the standard 60 day time period for the states' decision on the currently proposed NWPs. For those states that are unable to complete their 401/CZM decisions by the effective date of the NWPs, they may issue 401 certification or agree with our CZM position on an interim basis followed by a final decision in a reasonable period of time. This process was initiated in 1991 and may be used again by the states, if necessary.

In the August 9, 2001, issue of the **Federal Register** (66 FR 42070) the Corps also announced that a public hearing for the proposed NWPs 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 to September 26, 2001. Updated information regarding the public hearing was published in the September 18, 2001, **Federal Register**.

Dated: September 19, 2001.

Lawrence A. Lang,

Deputy, Operations Division, Directorate of Civil Works.

[FR Doc. 01–23757 Filed 9–20–01; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 20, 2001.

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. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 17, 2001.

John Tressler,

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

Office of Educational Research and Improvement

Type of Review: Revision.

Title: Common Core of Data (CCD) Surveys.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden

Responses: 284.

Burden Hours: 11,004.

Abstract: The CCD surveys collect data annually from state education agencies about student enrollments, graduation, education staff, school and agency characteristics, and revenues and expenditures for public elementary and secondary education.

Requests for copies of the proposed information collection request may be accessed from http://edicsweb.ed.gov, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_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. 01–23550 Filed 9–20–01; 8:45 am]

BILLING CODE 4000–01–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 22, 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, NW., Room 10202, New Executive Office Building, Washington, DC 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 17, 2001.

John Tressler,

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

Office of Bilingual Education and Minority Language Affairs

Type of Review: New.

Title: Descriptive Study of Services to Limited English Proficient (LEP) Students.

Frequency: One time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden

Responses: 30,564.

Burden Hours: 13,554.

Abstract: The study will provide data on the number and characteristics of LEP students, including LEP students with disabilities, and the instructional services they receive in public schools across the U.S. The findings will be used by federal, state, and local policy makers to inform decision-making concerning programs for LEP students and LEP students with disabilities. Data will be collected from public school district administrators and school staff.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_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 Sheila Carey at (202) 708–6287 or via her internet address Sheila.Carey@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. 01–23551 Filed 9–20–01; 8:45 am]

BILLING CODE 4000–01–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 22, 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, NW., Room 10202, New Executive Office Building, Washington, DC 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 17, 2001.

John Tressler,

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

Office of Intergovernmental and Interagency Affairs

Type of Review: Extension.

Title: Sign-on Form for Partnership for Family Involvement in Education.

Frequency: One time.

Affected Public: Not-for-profit institutions; Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden

Responses: 800.

Burden Hours: 67.

Abstract: The Partnership for Family Involvement in Education (PFIE) offers a vehicle for schools, community organizations, employers, and faith organizations to commit to promoting children's learning through development of family-school partnerships.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_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 Jacqueline Montague at (202) 708–5359 or via her internet address Jackie.Montague@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. 01–23549 Filed 9–20–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–528–000]

Garden Banks Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

September 17, 2001.

Take notice that on August 31, 2001, Garden Banks Gas Pipeline, LLC (Garden Banks) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed below, to become effective October 1, 2001.

Third Revised Sheet No. 306
First Revised Sheet No. 309
First Revised Sheet No. 318
First Revised Sheet No. 319

As more fully set forth in Garden Banks' filing, its purpose is to update the Form of NGL Bank Agreement in Garden Banks' tariff, to reflect the current fee structure, and to provide that the monthly allocations account for the phase changes attributable to both retrograde condensate and any condensate injected into Garden Banks' system.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–23544 Filed 9–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–22–002]

North Baja Pipeline LLC; Notice of Amendment

September 17, 2001.

Take notice that on September 6, 2001, North Baja Pipeline, LLC (North Baja) filed in Docket No. CP00–68–001, an amendment to its initial application filed in Docket No. CP00–68–000, requesting authority to modify pipe wall thickness and compressor horsepower, all as more fully set forth in the application. North Baja is not proposing any change to the initial system design or capacity. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance).

Any questions regarding this application should be directed to Mr. John A. Roscher, Director, Rates and Regulatory Affairs, North Baja Pipeline LLC, 1400 SW Fifth Avenue, Suite 900, Portland, Oregon 97201, at (503) 833–4254.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before October 9, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, 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.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–23542 Filed 9–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–475–000]

Trunkline Gas Company; Notice of Technical Conference

September 17, 2001.

On August 15, 2000, Trunkline Gas Company (Trunkline) filed in Docket No. RP00–475–000 to comply with Order No. 637.

Take notice that the technical conference to discuss the various issues raised by Trunkline's filing that was scheduled for September 19, 2001, is canceled. The technical conference is rescheduled to be held on Wednesday, October 3, 2001, at 10 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission,

888 First Street, NE., Washington, DC 20426. Persons protesting any aspects of Trunkline's filing should be prepared to defend their positions as well as discuss alternatives.

The issues to be discussed will include but are not limited to
Segmentation
Flexible Point Rights
Discount Provisions
Imbalance Services
Penalties
Operational Flow Orders

The above schedule may be changed as circumstances warrant.

David P. Boergers,

Secretary.

[FR Doc. 01–23543 Filed 9–20–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6622–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa*.

Weekly receipt of Environmental Impact Statements.

Filed September 10, 2001 Through September 14, 2001.

Pursuant to 40 CFR 1506.9.

EIS No. 010348, Draft EIS, BLM, NV, Nevada Test and Training Range Resource Management Plan, (formerly known as the Nellis Air Force Range (NAFR), Implementation, Clark, Nye and Lincoln Counties, NV, Comment Period Ends: December 20, 2001, Contact: Jeffy G. Steinmetz (702) 647–5097.

EIS No. 010349, Draft EIS, NOA, MI, Indiana Lake Michigan Coastal Program Document, Federal Approval and Implementation, Coastal Zone Management, Lake, Porter and LaPorte Counties, MI, Comment Period Ends: November 05, 2001, Contact: Diana Olinger (301) 713–3155.

EIS No. 010350, Draft EIS, NOA, Dolphin and Wahoo Fishery Management Plan, Establishing Fishery Management Units, Stock Status Determination and Harvesting Restrictions, Initial Regulatory Flexibility Analysis, South Atlantic, Caribbean, and Gulf of Mexico, Comment Period Ends: November 05, 2001, Contact: Joseph E. Powers (727) 570–5301. This document is available on the Internet at: DEQ: http://www.deq.state.mt.us/eis.asp and KNF: http://www.fs.fed.us/r1/kootenai.

EIS No. 010351, Draft EIS, FHW, IL, Lake County Transportation Improvement Project, To Identify a System of Strategic Roadway, Rail, and Bus Improvements, Transportation Management Strategies, Lake County, IN, Comment Period Ends: November 05, 2001, Contact: Norman R. Stoner (217) 492–4640.

EIS No. 010352, Final EIS, BLM, NM, San Felipe Pueblo Land Exchange, Involves Exchanges Federal Lands to Private Lands, Acquisition, Sandoval and Santa Fe Cos. NM, Wait Period Ends: October 22, 2001, Contact: Debby Lucero (505) 761–8787.

Amended Notices

EIS No. 010319, Draft EIS, DOE, AZ, Umatilla Generating Project, Construction and Operation, Gas-Fired Combined Cycle Electric Power Generation Plant, Nominal Generation Capacity of 550 megawatts (MW) Connection to the Regional Grid at McNary Substation, Umatilla County, AZ, Due: October 15, 2001, Contact: Inez Graetzer (503) 230–3786. Published FR 08–24–01 Correction to the State Coded from OR to AZ.

EIS No. 010327, Final EIS, FHW, NB, Antelope Valley Study, Implementation of Stormwater Management, Transportation Improvements and Community Revitalization, Major Investment Study, City of Lincoln, Lancaster County, NB, Due: October 01, 2001, Contact: Edward Kosola (402) 437–3973. Published FR–08–31–01—Correction to Documents status from Draft to Final which changes the comment period from 45 to 30 wait period.

Dated: September 18, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–23641 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6621–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (97 FR 27647).

Draft EISs

ERP No. D–FHW–D40313–MD Rating EC2, MD–210 (Indian Head Highway) Multi-Modal Study, MD–210 Improvements between I–95/I–495 (Capitol Beltway) and MD–228 Funding and US COE Section 404 Permit Issuance, Prince George's County, MD.

Summary: EPA is concerned with the potential impacts to streams, Chesapeake Bay Critical areas, historic resources, residential, business/commercial, and church/school properties. EPA has also requested additional information regarding the environmental justice evaluation. In general, EPA supports the concept of improving the functioning of an existing transportation facility through the addition of grade-separated interchanges, overpasses, and High Occupancy Vehicle (HOV) lanes.

ERP No. D–FHW–E40786–FL Rating EC2, I–4 Corridor Improvements, Upgrading the Safety and Mobility of the existing I–4, from west of FL–528 (Bee Line Expressway) interchange in Orange County to east of FL–472 interchange in Volusia County, Funding, COE Section 10 and 404 Permits, NPDES Permit, Orange, Seminole, and Volusia Counties, FL.

Summary: EPA is concerned that mobility will not be improved unless the project is integrated better with plans for mass transit and, accordingly, requested additional information. The assessment of cumulative impacts and mitigation both require additional analysis. EPA is also concerned about potential impacts to ground water resources from proposed storm water ponds.

ERP No. D–FHW–E40787–AL Rating EC2, Memphis to Atlanta Corridor Study (DPS–A002(002), Proposal to Build Highway from the Mississippi/Alabama State Line to Interstate 65, Funding and COE Section 404 Permit, Colbert, Franklin, Lauderdale, Lawrence, Limestone and Morgan Counties, AL.

Summary: EPA expressed concern for and additional information regarding: wetlands mitigation; secondary and cumulative impacts to aquatic resources; noise; and impacts to minority and low-income individuals.

ERP No. D–FHW–E40788–AL Rating EO2, Memphis to Atlanta Corridor, To Construct from I65 in North Central Alabama Eastward to the Georgia State

Line, COE Section 404, US Coast Guard and NPDES Permits, Limestone, Morgan, Madison, Jackson, Marshall, Dekalb and Cherokee Counties, AL.

Summary: EPA expressed objections to alternatives 3 and 4 because of extensive potential impacts to wetlands and numerous stream crossings. EPA expressed concerns for the other four alternatives and requested additional information regarding wetlands; stream crossings; and secondary and cumulative impacts.

ERP No. D–FHW–H40172–MO Rating LO, U.S. Route 67 Corridor Project, Improvements from South of Fredericktown to the South of Neelyville, Madison, Wayne and Butler Counties, MO.

Summary: EPA lacks objections to the project as described and only offered comments to assist the lead agency in enhancing the final EIS.

ERP No. D–NRC–E06021–FL Rating EC2, Generic EIS—License Renewal of Nuclear Power Plants, Supplement 5 Turkey Point Units 3 and 4 (NUREG–1437), Operating License Renewal, Biscayne Bay, Miami-Dade County, FL.

Summary: EPA has environmental concerns about the project, and more information is needed to fully assess the impacts. In particular, clarification of impacts from cooling ponds, and information on compliance with 40 CFR part 112 warrant further discussion in the Final GSEIS.

ERP No. DA–NOA–E91007–00 Rating LO, South Atlantic Region Shrimp Fishery Management Plan, Amendment 5, Additional Information concerning Rock Shrimp in the Exclusive Economic Zone (EEZ), NC, SC, FL and GA.

Summary: EPA had no objections to proposed Amendment 5. EPA believes that the amendment will benefit the rock shrimp fishery and generally agrees with the proposed management actions and/or an action option. EPA requested that the NMFS/South Atlantic Fisheries Management Council ensure that the managed fishery yield (OY/MSY) be optimal from an ecological aspect.

ERP No. DS–FHW–E40780–NC Rating EC2, US–1 Transportation Improvements, Updated Information, From Sandhill Road (NC 1971) to just North of Fox Road (NC 1606) to Marston Road (NC 1001) Associated with this Extension, Funding, and COE Section 404 Permit, City of Rockingham, Richmond County, NC.

Summary: Analysis of the NC–177 Alternative addresses EPA's earlier concerns. Additional work is needed to define the location and configuration of interchanges in order to minimize wetland impacts.

Final EISs

ERP No. F–BPA–L08054–OR, Condon Wind Project, To Execute One or More Power Purchase and Transmission Services Agreements To Acquire and Transmit up to the Full Electrical Output, NPDES Permits and Right-of-Way Permit for Public Land, Gilliam County, OR.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–D40268–VA, VA–37 Highway Transportation Improvement, Construction from VA–37/I–81/US–11 (south) to VA–37/US–11 (north), Funding and COE Section 404 Permit, City of Winchester, Frederick County, VA.

Summary: While many of EPA's comments on an earlier draft were incorporated, EPA continues to express concerns regarding potential secondary and cumulative impacts from the preferred alternative to the natural and cultural environment including two National Register Historic Districts and one Civil War battlefield.

ERP No. F–FHW–F40384–MI, Boardman River Crossing Mobility Study, Improve the East-West Mobility across the Boardman River, COE Permit, Traverse City and Grand Traverse County, MI.

Summary: EPA concurs with the selected alternative provided that all feasible mitigation measures are implemented. EPA retains concerns regarding storm water, habitat, and wetlands.

ERP No. F–FHW–F40391–IL, Illinois Route 3 (FAP–14) Relocation, Improved Transportation from Sauget to Venice, Funding, NPDES Permit and COE Section 404 Permit, Madison and St. Clair Counties, IL.

Summary: EPA's concerns at the draft stage have been adequately addressed in the Final EIS.

ERP No. F–FHW–F40463–IN, IN–145 New Road Construction, Funding, IN–37 and the existing I–64 Interchange near St. Croix in Perry County to the east junction of IN–64 and IN–145 in Crawford County, IN.

Summary: EPA retains its environmental objections because the FEIS: (1) does not present adequate substantiation for the stated Purpose and Need, (2) does not provide a full and equal evaluation of Alternative 4, (3) does not provide adequate mitigation for the loss of 61.21 acres of forested upland habitat, and (4) lacks a wetland mitigation plan.

ERP No. F–FHW–K40230–CA, CA–58 Transportation Corridor, Route Adoption and Purchases Right-of-Way Acquisition Project, between CA–99 in the Bakerfield Metropolitan Area and Interstate 5 in Kern County, Funding and COE Section 404 Permit, Kern County, CA.

Summary: EPA's review found that, while the majority of the issues raised earlier by EPA were addressed in the FEIS, EPA has continuing concerns regarding the indirect impacts and cumulative impacts analyses. EPA recommended that EPA, FHWA, and Caltrans work closely together on the development of these analyses for Tier II of the project.

ERP No. F–FTA–K40209–CA, Mid-Coast Corridor Mass Transit Improvement Project, Funding, San Diego County, CA.

Summary: EPA's review found that the document adequately addresses the issues raised in our previous comment letter.

ERP No. F–TVA–E65057–00, Guntersville Reservoir Land Management Plan, Implementation, Proposal to Update a 1983 Land Allocation Plan, Jackson and Marshall Counties, AL and Marion County, TN.

Summary: EPA is concerned that some of the proposed development projects allowed by TVA's proposed Blended Alternative (B3) could impact Guntersville Reservoir and would result in less conservation areas.

Dated: September 18, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–23642 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

(ER–FRL–6621–8)

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or www.epa.gov/ocea/ofa.

Weekly receipt of Environmental Impact Statements

Filed September 3, 2001 Through September 7, 2001

Pursuant to 40 CFR 1506.9.

Because of our nation's tragedy, the Environmental Protection Agency Notice of Availability of Environmental Impact Statements for the week of September 3 through September 7, 2001, which should have appeared in the **Federal Register** on September 14, 2001, is being published in the September 21, 2001 **Federal Register**. All Comment and Wait Periods for EISs filed during the week of September 3 through

September 7 are calculated from 09/14/2001, unless otherwise indicated.

EIS No. 010337, FINAL EIS, AFS, ID, Spruce Moose and Moose Lake Right-of-Way Analysis Area, Implementation, Timber Harvesting, Road Construction, Reforestation and Watershed Restoration, Clearwater National Forest, Lochsa Ranger District, Idaho County, ID , Wait Period Ends: October 09, 2001, Contact: Cynthia A. Lane (208) 926–4275. This FEIS should have appeared in the **Federal Register** on 09/07/2001. The 30-Day Wait Period is Calculated from 09/07/2001.

EIS No. 010338, FINAL EIS, FHW, TX, Tyler Loop 49 West, Construction from the TX–155 Highway to I–20 Highway, Funding, NPDES and COE Section 404 Permits, Smith County, TX , Wait Period Ends: October 15, 2001, Contact: Paul Clutts (512) 536–5968.

EIS No. 010339, FINAL EIS, AFS, MT, Asarco Rock Creek Copper and Silver Mining Construction and Operation Project, Plan of Operations Approval, Special Use Permit(s), Road Use Permit, Mineral Material Permit, Timber Sale Contract and COE Section 404 Permit Issuance, Kootenai National Forest, Sanders County, MT, Wait Period Ends: October 15, 2001, Contact: John McKay (406) 293–6211. This document is available on the Internet at: DEQ: http://www.deq.state.mt.us/eis.asp and KNF: http://www.fs.fed.us/r1/kootenai.

EIS No. 010340, FINAL EIS, NPS, OK, Washita Battlefield National Historic Site, General Management Plan, Implementation, Roger Mill County, OK, Wait Period Ends: October 15, 2001, Contact: Sarah Craighead (580) 497–2742.

EIS No. 010341, DRAFT EIS, AFS, OR, Shore 'Nuf Timber Sale, a proposal for Harvesting Timber on the Detroit Ranger District, Willamette National Forest, Linn and Marion Counties, OR, Comment Period Ends: October 29, 2001, Contact: Jim Romero (503) 854–4212.

EIS No. 010342, FINAL EIS, BLM, NV, Reno Clay Plant Project, Construct and Operate an Open-Pit Clay Mine and Ore Processing Facility, Plan-of-Operations, Oil-Dri Corporation of Nevada, Hungry Valley, Washoe County, NV, Wait Period Ends: October 15, 2001, Contact: Terri Knutson (775) 885–6156. This document is available on the Internet at: *www.nv.blm.gov/carson.*

EIS No. 010343, Final Supplemental, FHW, IL, FAP Route 340 Transportation Project, Construction from I–55 to I–80, Funding, US Coast Guard Permit and COE Section 404 Permit, Cook, Dupage and Will Counties, IL, Wait Period Ends: October 15, 2001, Contact: Norman R. Stoner (217) 492–4640.

EIS No. 010344, Final EIS, AFS, AK, Woodpecker Project Area, Timber Harvesting, Dispered Recreation Opportunities and Watershed Improvements, Implementation, Tongass National Forest, Petersburg Ranger District, Mitkof Islands, Petersburg, AK, Wait Period Ends: October 15, 2001, Contact: Cynthia Sever (907) 772–3871. This document is available on the Internet at: *www.fs.fed.us/r10/Tongass.*

EIS No. 010345, Final Supplemental, COE, NC, Manteo (Shallowbay) Bay Project, Enlarging andDeepening Basin at Wanchese, Dare County, NC,Wait Period Ends: October 22, 2001, Contact:Glenda Ashford (404) 562–5222.

EIS No. 010346, Draft Supplemental, COE, CA, American River Watershed Long-Term Study, UpdatedInformation, To Provide Flood Damage Reduction and Ecosystem Restoration, between Folsom Dam and the Sacramento River, Sacramento, Placer andSutter Counties, CA, Comment Period Ends: October 29, 2001,Contact: Veronica Petrovsky (916) 557–7245.

*EIS No. 010347, Draft EIS, COE, Programmatic EIS*Nationwide Permits Procedures Review and Examination,US Army Corps of Engineers Section 10 and 404 Permit Issuance,Comment Period Ends: October 29, 2001,Contact: Dr. Bob Brumbaugh (703) 428–7069.

Dated: September 18, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–23643 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7062–7]

Notice of Request for Proposals for Projects To Be Funded From the FY 02 Wetland ProgramDevelopment Cooperative Agreement Allocation

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA Region 6 is soliciting proposals from State agencies, local governments, and Tribes interested in applying for Federal assistance for the State/Tribal/Local Government Wetlands Protection Development Grant Program under the Clean Water Act section 104(b)(3), 33 U.S.C. 1254(b)(3) in the states of Arkansas, Louisiana, New Mexico, Oklahoma and Texas. EPA Region 6 estimates $1.2 million will be awarded to eligible applicants through assistance agreements. The State, Tribe or local government must provide a 25 percent (25%) match of the total costs of the project. 15 percent (15%) of the funding allocation will be targeted to support local and tribal initiatives.

DATES: EPA Region 6 will consider all proposals post marked by November 30, 2001. Proposals received after the due date will not be considered for funding, (no exceptions will be made). Once the proposal is approved for further funding consideration, applicants will be notified to submit a formal application.

ADDRESSES: Send proposals along with the cover sheet included in this notice to: Sondra McDonald (6WQ–AT), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Sondra McDonald by telephone at 214–665–7187 or by E-mail at *Mcdonald.sondra@epa.gov.* This solicitation notice can also be found at the Assistance Program Branch, State/Tribal Programs Section web site: *www.epa.gov/earth1r6/6wq/at/sttribal.htm.* Or please refer to the National guidelines for the Wetlands Program Development Grants which are published in the September 5, 2001 **Federal Register** or can be viewed at the following web site: *http://www.epa.gov/owow/wetlands/initiative/#financial.*

SUPPLEMENTARY INFORMATION:

What Is the Purpose of This Request for Proposals?

The purpose of Wetland Development Grants is to assist States, Tribes, and LocalGovernments with developing new wetland programs or refining existing wetland programs, andNOT for operational support of wetland programs. Reviewers will pay special attention to the project's longevity and self-sustaining ability. Additional points may be given to implementation projects that actually demonstrate protection, restoration or enhancement of wetlands. If a proposal does not meet EPA Headquarters or Region 6 priorities, the proposal will not be ranked. The following types of projects will be considered for funding:

Project Implementation

• *Clean Water Action Plan (CWAP):* Projects relating to meeting wetland goals set forth within the plan, namely a net increase of 100,000 acres per year by the year 2005.

Preference will be given to projects that seek to develop self-sustaining, naturally functioning wetland systems. (web page: www.cleanwater.gov)

• *Watershed Projects:*

a. Wetland components of established watershed plans

b. Coastal wetland protection/restoration especially within estuaries areas

• Targeted (but not limited) Wetland Types: projects relating to the protection/restoration of riparian areas, sea grasses, and bottomland hardwoods.

• *Stream Management:*

a. Alternatives to traditional engineering (i.e., such as development of natural stream patterned profiles instead of trapezoidal channels; use of vegetated natural materials for bank stabilization instead of harder structures like rip rap or concrete)

b. Utilizing alternative techniques such as applied fluvial geomorphology

c. Stream management education to include such activities as training and planning in urban/suburban areas

d. Formation of stream team (interagency workgroups designed to evaluate stream modification projects during planning phase) to work with local planning officials to protect/restore streams and wetlands by the use of demonstration projects

• *Continued Development and Implementation of Wetland Protection Programs:* Specifically projects that seek to develop and/or implement statewide/tribal-nationwide programs to assess and monitor overall wetland health and for programs that protect or restore wetlands with the active involvement of local communities. Also, State/Tribal development of wetland assessment/monitoring tools to be utilized in a formal program to assess and monitor overall wetland health

Education/Outreach

Recognizing the importance of public education in wetland protection and management,Region 6 has sought to help S/T/LG improve the public's access to, and education about wetland information. WPDG projects can be used to develop outreach programs, and can also be used to create innovative educational tools for the public. The production of outreach materials alone is not eligible for funding.

a. Programs which are designed to increase awareness and the importance of wetlands to local governments, general public, landowners, and private sector through the use of partnerships, training and/or seminars.

b. Programs which promote wetland education in schools, universities, and youth organizations.

c. Examples of past outreach/education projects funded through the WPDG include:

—conducting outreach and education efforts aimed at improving public understanding of wetland protection and regulatory efforts

—development of outreach programs to inform owners of potential wetland restoration sites of governmental assistance programs

—creating public education programs which promote wetland informatin for American Wetlands month

—creating programs for use of the internet and other technologies for educating the public about wetlands

Partnership Restoration Projects

a. Projects must involve diverse partnerships of ideally five organizations (private sector government, or non-government), that contribute funding, land, technical assistance workforce support, and/or other in-kind services.

b. Projects may be a discrete part of a larger restoration effort.

c. Preference will be given to projects that are part of a larger watershed or community stewardship effort; include specific provisions for long-term management and projection; and demonstrate the value of innovative, collaborative approaches to restoring the nation's waters.

d. Projects must include a strong on-the-ground wetland or riparian component, and should also include education, outreach and community stewardship.

e. Projects must demonstrate measurable ecological, educational, social and/or economic benefits resulting from the completion of the project.

f. Projects that are part of a mitigation requirement are NOT eligible for funding.

Schedule of Activites

September 7, 2001—Target Date for Region 6 to distribute grant solicitation notice.

August 20, 2001—October 1, 2001—Region 6 staff has set-aside this time to assist applicants in preparing more competitive proposals. Contact Donna Mullins 214–665–7576.

November 30, 2001—Proposals must be POSTMARKED by this date, or they will not be accepted. Certified mail is recommended, and keep documentation.

December 10, 2001—January 28, 2002—Review Committee evaluates proposals.

February 8, 2002—Letters are sent requesting formal applications from selected proposals.

March 15, 2002—Formal applications must be POSTMARKED by this date, or they will not be accepted. Certified mail is recommended and keep documentation.

March–July 2002—Awarding of grants and Congressional notification to recipients.

Proposal Format and Contents

A proposal is different from a work plan. To help clarify what constitutes a good proposal, below are the basics your proposal should include. In addition, Region 6 staff has set-aside August 20, 2001 through October 1, 2001 to assist applicants in preparing a more competitive proposal. Please contact Ms. Donna Mullins at 214–665–7576 to arrange for a pre-proposal meeting/review. If you are unsure of any section or criteria, please call Region 6 BEFORE you submit your package. Keep in mind this is a competitive process, and adherence to the proposal guidelines is part of the selection criteria. As a front cover for the proposal, please use the form below. The cover does not count as a page. The proposal should contain the following information, with a maximum of five (5) one sided pages:

1. Title;

2. Introduction with brief background, goals, and objectives;

3. Overview of project, listing each task and deliverable. Give specific information concerning the task, explaining how it will be accomplished, how it relates to the overall project, and how the progress will be monitored;

4. A site map (this will not count as one of the five pages);

5. Any use of contractors must be included and explained. Guidance precludes greater than a 50% pass through to contractors, and specifies significant involvement of grant recipient.

6. Proposed costs, broken down by task, including contractor's costs by task;

7. Identify measures of success, including clear milestones with expected dates. Include the number of wetland acres affected by project;

8. Include a public participation element (40 CFR part 25) in the proposal which reflects how public participation will be provided, encouraged, and assisted. Include a full description of its interagency and public participation

process. This process should go beyond the input stage and include information and methods of sharing throughout the project period;

9. There should be concrete demonstration of coordination/partnership among various agencies. This can be accomplished in various ways, including a written agreement with agencies outlining responsibilities and commitment to the project; and,

10. Region 6 requires a 25% match of the total project cost. The proposal needs to show the Federal assistance amount you are requesting from EPA, 25% minimum agency match, and the total amount for the project. Use the following formula: requested EPA amount divided by 75% equals the total amount for the project. Subtract the EPA amount from the total, and that is the minimum, required match. Your match may exceed 25%. (*Example:* EPA amount $50,000; project total is $66,667; required 25% match is $16,667).

11. Explain if your agency has a Quality Management Plan (QMP) approved by the EPA WaterQuality Protection Division. It must be updated and approved at the beginning of each Fiscal Year. If the project involves sampling or data collection, a Quality Assurance Project Plan (QAPP) will be required, and the QMP must be approved before money can be awarded.

BILLING CODE 6560–50–P

Use this form as a cover for your proposal

FY 2002 Proposal Cover Sheet for Federal Assistance with Wetlands Protection, State/Tribal/Local Government Agencies ***Please be certain you are a State/Tribal/Local Govt Agency. If you are unsure, research Code of Federal Regulations, Part 40, §31.3 and call before you submit your proposal.**		For EPA Region 6 use only Postmark Date: Proposal Number:
Applicant's Legal Name and Address		Name, Telephone No., Fax No., and E-Mail Address (if available) of Contact Person for the Proposal (name): (phone): (fax): (e-mail):
Title of Proposal		Which one, or more, of the Regional priorities does this project fulfill? If none, is there justification for project?
Estimated Funding Requested:		
a. Federal (what you request from EPA)	$	Type of Applicant: Circle one. A. State Agency B. Local Govt Agency (includes county, municipal, township, Interstate, Intermunicipal, special district) C. Indian Tribe
b. Applicant	$	
c. State	$	
d. Local	$	
e. Other	$	
f. Program Income	$	
g. TOTAL (match must be 25% of this total for project)	$	

BILLING CODE 6560–50–CP

How the Proposals Are Reviewed and Ranked

The Selection Committee reviews each proposal with the following criteria in mind. Each area has a numerical value, with an opportunity for a narrative response. The points of each reviewer for each proposal are totaled, comments are added, then each proposal is given an average. The Committee meets to discuss each proposal and review the results of scoring. The proposals with the highest ranking, up to the estimated amount of funding, are selected. Upon approval of management, formal applications are then requested from the selected applicants.

Proposal Evaluation Criteria

- 1. Does the project meet one or more of the Regional priorities? If not, has the applicant justified the need for the project?
- 2. Does the project have transferability to other State/Tribes/Local governments?
- 3. Did applicant follow proposal guidelines? Did it address all components?
- 4. What is the applicant's past performance, if applicable?
- 5. Is the budget reasonable and appropriate?
- 6. What are the potential environmental results? Does it result in physical, natural restoration? Are the environmental results immediate or long term? How many acres of wetlands are enhanced, restored, created?
- 7. What is the outreach/educational value of the project?
- 8. What is the likelihood of success? Can the project be realistically accomplished?
- 9. Does the project have durable and sustainable characteristics; in other words, will it outlive the project period?
- 10. Is the project part of an approved State Wetlands Conservation Plan?

Jayne Fontenot,

Acting Director, Water Quality Protection Division.

[FR Doc. 01–23600 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34239; FRL–6804–5]

Technical Briefing on Background, Methods, and Data Proposed for Use in the Organophosphate Pesticide Cumulative Exposure Assessment for Drinking Water; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing a public technical briefing for October 3, 2001, to further the public discussion on the methods and data proposed for use in the organophosphate pesticide cumulative exposure assessment for drinking water. The briefing will update stakeholders on the probabilistic method proposed for use in the drinking water assessment, the methods for estimating exposures to be used in the probabilistic assessment, and the data required by those methods. The Agency will provide preliminary data on usage and use patterns for stakeholder review.

DATES: The technical briefing will be held on Wednesday, October 3, 2001, from 9 a.m. to 5 p.m. On Thursday, October 4, 2001, from 9 a.m. to noon, EPA and USDA will hold a public meeting of the CARAT Workgroup on Cumulative Risk Assessment/Public Participation Process to discuss issues and questions regarding drinking water as a follow-up to the technical briefing.

ADDRESSES: Both the technical briefing and the follow-up meeting will be held at the National Rural Electric Cooperative Association Conference Center, 4301 Wilson Boulevard, Arlington, VA (across from the Ballston Metro Stop).

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Terria Northern, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7093; fax number: (703) 308–8005; e-mail address: northern.terria&epa.gov.

For technical information contact: Laura Parsons, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5776; fax number: (703) 308–8005; e-mail address: parsons.laura&epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are concerned about implementation of the Food Quality Protection Act (FQPA). Passed in 1996, this law strengthens the nation's system for regulating pesticides on food. Participants may include environmental/public interest and consumer groups; industry and trade associations; pesticide user and grower groups; Federal, State, and local governments; food processors; academia; general public; etc. Since others may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about the cumulative process, go directly to the Home Page for the Office of Pesticides at http://www.epa.gov/pesticides/cumulative.

2. *In person*. The Agency has established an administrative record for this meeting under docket control number OPP–34239. The administrative record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to the cumulative risk assessment of organophosphate pesticides. This administrative 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 administrative record, which includes printed, paper versions of any electronic comments that may be 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 Do I Participate in this Meeting?

This meeting is open to the public. Outside statements by observers are welcome. Oral statements will be limited to 3 to 5 minutes, and it is preferred that only one person per organization present the statement. Any person who wishes to file a written statement may do so before or after the meeting. These statements will become part of the permanent record and will be available for public inspection at the address listed in Unit II.

List of Subjects

Environmental protection, Agriculture, Chemicals, Drinking water, Organophosphate pesticides, Pesticides and pests.

Dated: September 10, 2001.

James Jones,

Director, Office of Pesticide Programs.

[FR Doc. 01–23481 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7062–3]

Good Neighbor Environmental Board Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The next meeting of the Good Neighbor Environmental Board, a federal advisory committee that reports to the President and Congress on environmental and infrastructure projects along the U.S. border with Mexico, will take place in Laredo, Texas, on October 10–11, 2001. It is open to the public.

DATES: On October 10, the meeting will begin at 8:30 a.m. and end at 5:30 p.m. On October 11, it will begin at 8 a.m. and end by 5 p.m.

ADDRESSES: The meeting site will be La Posada Hotel, 1000 Zaragoza St., Laredo, Texas. For directions to the site, call (956) 722–1701.

FOR FURTHER INFORMATION CONTACT: Elaine M. Koerner, Designated Federal Officer for the Good Neighbor Environmental Board, Office of Cooperative Environmental Management, Office of the Administrator, USEPA, MC1601A, 1200 Pennsylvania Ave, NW, Washington, DC 20004, (202) 564–1484, *koerner.elaine@epa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda: On October 10, guest speakers from the government, private sector, and public sectors will address two topics as they relate to the U.S.-Mexico border region: rural issues and transportation issues. At 3:15 p.m. that afternoon, there will be a public comment session. During this session, attendees will be encouraged to speak briefly about their own concerns and priorities for their communities as well as the wider border region. Afterwards, Board members will report out on developments taking place within their organizations and networks. The first day of the meeting will end at 5:30 p.m.

On the morning of October 11, the Board will hold a business meeting, which will end at noon. Following lunch, the Board will meet with representatives from a Mexican counterpart advisory group. This discussion will end by 5 p.m., when the meeting will close.

Public Attendance: The public is welcome to attend all portions of the meeting. Members of the public who plan to file written statements and/or make brief (suggested 5-minute limit) oral statements at the public comment session on the afternoon of October 10 are encouraged to contact the Designated Federal Officer for the Board prior to the meeting.

Background: The Good Neighbor Environmental Board meets three times each calendar year at different locations along the U.S.-Mexico border. It was created by the Enterprise for the Americans Initiative Act of 1992. An Executive Order delegates implementing authority to the Administrator of EPA. The Board is responsible for providing advice to the President and the Congress on environmental and infrastructure issues and needs within the States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border. The statute calls for the Board to have representatives from U.S. Government agencies; the governments of the States of Arizona, California, New Mexico and Texas; and private organizations with expertise on environmental and infrastructure problems along the southwest border. The U.S. Environmental Protection Agency gives notice of this meeting of the Good Neighbor Environmental Board pursuant to the Federal Advisory Committee Act (Public Law 92–463).

Elaine M. Koerner,

Designated Federal Officer.

[FR Doc. 01–23603 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7062–4]

Long Term 2 Enhanced Surface Water Treatment Rule Data System Development Stakeholder Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA), Office of Ground Water and Drinking Water is holding a public meeting on October 17, 2001, at the Old Town Holiday Inn Select, 480 King Street, Alexandria, VA, 22314, for the purpose of information exchange with stakeholders on issues related to data that would potentially be collected under a future Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR). As part of this meeting, EPA plans to discuss with stakeholders approaches for electronically collecting and maintaining source water monitoring data during implementation of the LT2ESWTR.

DATES: The meeting will be held on Wednesday, October 17, 2001 from 8:30 a.m. until 5:30 p.m.

ADDRESSES: Old Town Holiday Inn Select, 480 King Street, Alexandria, VA, 22314.

FOR FURTHER INFORMATION CONTACT: For more information on the location and times of these meetings or to request an agenda for this meeting please contact Crystal Rodgers of EPA's Office of Ground Water and Drinking Water at (202) 260–0676 or by e-mail at *rodgers.crystal@epa.gov.*

Dated: September 17, 2001.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 01–23601 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7062–2]

National and Governmental Advisory Committees to the U.S. Representative to the Commission for Environmental Cooperation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Public Law 92–463), the U.S. Environmental Protection Agency (EPA) gives notice of a meeting of the National Advisory Committee (NAC) and Governmental Advisory Committee (GAC) to the U.S. Representative to the North American Commission for Environmental Cooperation (CEC).

The National and Governmental Advisory Committees advise the Administrator of the EPA in her capacity as the U.S. Representative to the Council of the North American Commission on Environmental Cooperation. The Committees are authorized under Articles 17 and 18 of the North American Agreement on Environmental Cooperation (NAAEC), North American Free Trade Agreement Implementation Act, Public Law 103–182 and as directed by Executive Order 12915, entitled ''Federal Implementation of the North American Agreement on Environmental Cooperation.'' The Committees are responsible for providing advice to the U.S. Representative on a wide range of strategic, scientific, technological, regulatory and economic issues related to implementation and further elaboration of the NAAEC. The National Advisory Committee consists of 12 representatives of environmental groups and non-profit entities, business and industry, and educational institutions. The Governmental Advisory Committee consists of 12 representatives from state, local and tribal governments.

The Committees are meeting to discuss the proposed 2002–2004 Program Plan and Budget for the North American Commission for Environmental Cooperation.

DATES: The Committees will meet on Thursday, October 4, 2001 from 9:00 a.m. to 5:00 p.m., and on Friday, October 5, 2001 from 8:30 a.m. to 3:00 p.m.

ADDRESSES: The meeting will be held at the Radisson Barcelo Hotel, 2121 P Street, NW., Washington, DC. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Joyce, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, at (202) 564–9802.

Dated: September 12, 2001.

Mark N. Joyce,

Designated Federal Officer.

[FR Doc. 01–23602 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PF–1043; FRL–6798–3]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1043, must be received on or before October 22, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1043 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Driss Benmhend, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9525; e-mail address: benmhend.driss@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 Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–1043. 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 Highway, Arlington, VA, from 8:30 a.m. to 4 p.m.,

Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1043 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 Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1043. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 7, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summary of Petition

The petitioner's summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Platte Chemical Company Petition Summary

PP 1F6338

EPA has received a pesticide petition [PP 1F6338] from Platte Chemical Company, 419 18th Street, Greely, CO 80632, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180, to establish an exemption from the requirement of a tolerance for the biochemical pesticide 2,6-diisopropylnaphthalene (2,6-DIPN) in or on raw agricultural commodities.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Platte Chemical Company has submitted the following summary of information, data, and arguments in support of their pesticide petition. This summary was prepared by Platte Chemical Company and EPA has not fully evaluated the merits of the pesticide petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

In the **Federal Register** of September 22, 1999 (64 FR 51245) (FRL–6381–7), EPA issued a rule 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 (FQPA) (Public Law 104-170) establishing a temporary exemption from the requirement of a tolerance for residues of 2,6-DIPN. This request for temporary exemption from the requirement of a tolerance was associated with an experimental use permit (EUP) (EUP No. 34704 EUP–13). At this time, Platte Chemical Company is seeking a full registration of 2,6-DIPN as a potato sprout inhibitor and is petitioning for a tolerance exemption.

A. Product Name and Proposed Use Practices

2,6-Diisopropylnaphthalene (2,6-DIPN) will be applied at a rate of 1 pound active ingredient per 600 cwt (1 cut weight equals approximately 100 pounds) of potatoes. All applications to

potatoes will be made indoors in potato storage facilities.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* 2,6-Diisopropylnaphthalene (2,6-DIPN), CAS Number 24157–81–1.

2. *Magnitude of residue at the time of harvest and method used to determine the residue*—i. *2,6-DIPN magnitude of residues in/on potatoes, post harvest storage.* Platte conducted studies to determine 2,6-DIPN residues in whole potatoes and peels at various times, up to 180 days, following one to three treatments at the maximum application rate. A liquid chromatograph (HPLC) method was used to measure residues of 2,6-DIPN. Potatoes were treated using a small chamber system that attempted to reproduce a commercial operation on a small-scale. Use of the small chamber system produces worst-case residue values compared to a full-scale commercial operation characterized by use conditions and practices that would tend to reduce residues to a greater extent than the chamber system. When treated once during storage at a rate of 1.2 pounds active ingredient per 600 cwt. of potatoes, and sampled 30 days after treatment (DAT), residues for whole potatoes were 0.22 ppm, 0.28 ppm, and 0.41 ppm (average 0.30 ppm). Under these same conditions, residues in/on the peel were 1.01 ppm, 2.59 ppm, and 2.77 ppm (average 2.12 ppm).

ii. *2,6-DIPN magnitude of residues in/on processing potatoes.* A magnitude of the residue study was conducted to determine the effect of processing (i.e., baking, boiling, and frying) on whole red and russet potatoes. Use of the small chamber system produces worst-case residue values compared to a full-scale commercial operation characterized by use conditions and practices that would tend to reduce residues to a greater extent than the chamber system. Potatoes were treated with a thermal fog of 2,6-DIPN, in accordance with standard agronomic practices. Two application scenarios were studied: One 20 ppm active ingredient application and three applications of 20 ppm active ingredient (at 2–hour intervals), totaling 60 ppm active ingredient. A liquid chromatograph (HPLC) method was used to analyze residues of 2,6-DIPN in/on the potatoes at 0 and 72 hours post-treatment.

2,6-DIPN residues for washed whole potatoes were as follows: Whole potatoes treated once (20 ppm) at 0 DAT had residues of 0.17 ppm, 0.26 ppm, 0.27 ppm, 0.15 ppm, 0.21 ppm, and 0.14 ppm. Potatoes treated once (20 ppm) at 3 DAT had residues of 0.14 ppm, 0.08 ppm, 0.18 ppm, 0.09 ppm, 0.25 ppm, and 0.14 ppm. Potatoes treated three times (60 ppm) at 0 DAT had residues of 0.97 ppm, 1.14 ppm, 0.59 ppm, 1.70 ppm, 2.10 ppm, and 1.44 ppm. Potatoes treated three times (60 ppm) at 3 DAT had residues of 0.58 ppm, 0.72 ppm, 0.75 ppm, 1.13 ppm, 0.57 ppm, and 0.48 ppm.

For whole potatoes (3 DAT) baked in aluminum foil, 2,6-DIPN residues were as follows: Potatoes treated once (20 ppm) had residues of 0.08 ppm, 0.08 ppm, and <0.02 ppm. Potatoes treated three times (60 ppm) had residues of 0.50 ppm, 0.07 ppm, and 0.24 ppm.

For whole potatoes (3 DAT) baked without aluminum foil, 2,6-DIPN residues were as follows: Potatoes treated once (20 ppm) had residues of 0.32 ppm, 0.26 ppm, and 0.13 ppm. Potatoes treated three times (60 ppm) had residues of 0.73 ppm, <0.02 ppm, and 0.46 ppm.

For potatoes (3 DAT) french fried, 2,6-DIPN residues were as follows: Potatoes treated once (20 ppm) had residues of 0.07 ppm, 0.04 ppm, and 0.03 ppm. Potatoes treated three times (60 ppm) had residues of 0.11 ppm, 0.06 ppm, and 0.11 ppm.

iii. *2,6-DIPN Determination of residues in/on whole potatoes and potato fractions (flesh and peel).* A study was conducted to determine the residues in/on whole potatoes and the potato fractions (flesh and peel). Use of the small chamber system produces worst-case residue values compared to a full-scale commercial operation characterized by use conditions and practices that would tend to reduce residues to a greater extent than the chamber system. A liquid chromatograph (HPLC) method was used to analyze residues of 2,6-DIPN.

2,6-DIPN residues for whole potatoes were as follows: Whole potatoes treated once (20 ppm) at 0 DAT had residues of 0.12 ppm, 0.16 ppm, and 0.11 ppm. Potato peels treated once (20 ppm) at 0 DAT had residues of 1.76 ppm, 1.56 ppm, and 1.46 ppm. Potato flesh samples treated once (20 ppm) at 0 DAT had no detectable residues above the limit of quantification (LOQ) of 0.02 ppm. Peeled potato samples from 0, 30, and 90 DAT were analyzed for residues; however, no residues above the LOQ of 0.02 ppm were detected.

iv. Platte Chemical conducted research on 2,6-DIPN applied to potatoes in storage sheds under an Experimental Use Permit (EUP) during the 1999–2000 use season. This report is a brief summary of the residue data that were collected as part of this research.

2,6-DIPN (Amplify® Sprout Inhibitor; Amplify®) was applied to potatoes in commercial sheds using commercial application equipment at 14 locations during the 1999–2000 use season. The application rates and the days post-treatment (number of days that the potatoes were held prior to release from the shed) varied. The application rates ranged from 11 ppm to 20 ppm, while the days post-treatment ranged from 0 to 215 days. Of the 14 locations examined under the EUP, only one location studied potatoes released 30 days post-treatment. The 30–day holding period is the requirement on the label for the section 3 registration of Amplify®. However, 30 days is quite short for a holding period and would likely only be used if growing conditions were unusual, such as a particularly wet growing season. Hence, most locations studied under the EUP used longer holding periods.

The potatoes at the one location that examined the 30–day holding period were treated at 11.0 ppm. These residue data have been adjusted so that they were on the basis as the application rate used in the magnitude of the residue study. The average residue in whole potatoes as tested under the EUP were 0.032 ppm (at 11 ppm) and 0.058 ppm (adjusted to 20 ppm).

v. *Summary.* Residues on whole potatoes, especially peeled potatoes, are expected to be quite low. Further, residues are expected to decline from the time potatoes are removed from storage to the time of consumption. In addition, processing studies demonstrate that washing and cooking substantially reduce residues. Results from peeling studies show that quantifiable residues are not expected in the potato flesh. Because of the relatively low residues observed and the impact of processing, dietary exposure to 2,6-DIPN is expected to be minimal.

3. *Analytical method.* An analytical method for residues is not applicable, as this petition proposes an exemption from the requirement of a tolerance for 2,6-DIPN based on the submitted residue data.

C. Mammalian Toxicological Profile

1. *Acute toxicity.* Technical 2,6-DIPN exhibits low acute toxicity and is classified as toxicity category IV. The rat oral LD_{50} is greater than 5,000 milligrams/kilograms (mg/kg) (toxicity category IV), the rabbit dermal LD_{50} is greater than 5,000 mg/kg (toxicity category IV), and the rat inhalation LC_{50} is greater than 2.60 mg/L (maximum attainable concentration) (toxicity category IV). In addition, 2,6-DIPN is not a skin sensitizer in guinea pigs, shows slight dermal irritation with reversal at 48 hours in rabbits (toxicity

category IV), and minimal ocular irritation (either redness, discharge or both) clearing by 48 hours (toxicity category IV) in rabbits. The end use formulation is the same as the technical formulation, it contains no intentionally added inert ingredients.

2. *Genotoxicity*. Short-term assays for genotoxicity consisting of a bacterial reverse mutation assay (Ames test), an *in vivo/in vitro* unscheduled DNA synthesis in rat primary hepatocytes at two time points, and an *in vivo* mouse micronucleus assay were conducted with 2,6-DIPN and were negative. A mouse lymphoma study conducted with 2,6-DIPN was weakly positive in the absence of metabolic activation and equivocal in the presence of metabolic activation, in both cases at concentrations showing marked cytotoxicity. Based on a weight of evidence evaluation of mutagenicity data for 2,6-DIPN there is not any concern for genotoxicity of 2,6-DIPN.

3. *90–Day subchronic toxicity study in rats*. 2,6-DIPN was administered in the diet to rats (10 animals/sex/group) at doses of 0, 750, 1,500, or 3,000 ppm (or approximately 0, 53.9, 104, and 208 mg/kg/day for males and 0, 61.8, 121, and 245 mg/kg/day for females) for 13 weeks. The no observed adverse effect level (NOAEL) for this study was 1,500 ppm (104 and 121 mg/kg/day for males and females, respectively) in male and female rats and was based on decreased body weight gains and food consumption, and adrenal and kidney toxicity at the lowest observed adverse effect level (LOAEL) of 3,000 ppm (208 and 245 mg/kg/day for males and females, respectively).

4. *Developmental toxicity in rats*. 2,6-DIPN was administered by gavage to pregnant rats at doses of 0, 50, 150, and 500 mg/kg/day from days 6–19 of gestation. The maternal toxicity NOAEL was 50 mg/kg/day based on decreased body weight and feed consumption at the maternal LOAEL of 150 mg/kg/day. The NOAEL for prenatal developmental toxicity was 150 mg/kg/day based on decreased fetal body weight and a possible treatment–related cartilage anomaly at the developmental LOAEL of 500 mg/kg/day. There is no evidence of teratogenicity or of increased fetal susceptibility to 2,6-DIPN.

5. *Metabolism*. The metabolism of 2,6-DIPN and di-isopropylnaphthalenes have been investigated, and several references to this work have been found in the published literature. In one study, rats were given a single dose or a daily oral dose for 1 month of 0.1 g/kg bwt. Tissues were evaluated from animals sacrificed 0, 2, 4, 24, and 48 hours following the single dose, and 2, 4, 24 hours, and 7 and 30 days following the repeated dose administration. DIPNs were found predominantly in body fat and subcutaneous fat 2 hours after the dose, with amounts increasing to 24 hours after the dose, and only slightly dropping at 48 hours. Significant distribution of DIPNs to liver, heart, kidney, and brain were seen at 2 hours; material in these compartments was eliminated by 48 hours following the single dose. Following repeated doses, the amount of DIPNs distributed in tissues 2 hours after the last dose was lower than or equivalent to that seen following a single dose. The amount in body and subcutaneous fat 2 hours following the last dose, although approximately two-fold higher than that seen following a single dose, diminished markedly by 30 days post-exposure. The half-life in fat was approximately 7 days. Thus, DIPNs showed a relatively low potential for persistent bioaccumulation.

Another study investigated the urinary metabolites of 2,6-DIPN following a single oral dose. Approximately 23% of the dose was excreted in the urine by 24 hours post-dosing.

6. *Other tests*. Naphthalene is associated with pulmonary necrosis (following intraperitoneal administration) and carcinogenesis in mice. A study has been reported in the public literature that compared the potential of napthalene, 2-methylnapthalene, 2-isopropylnaphthalene, and 2,6-DIPN to produce pulmonary damage in mice. The study's data suggest that 2,6-DIPN is very unlikely to share either the pulmonary toxicity or the carcinogenicity potential characteristic of napthalene.

No data have been found in the literature that would indicate 2,6-DIPN has any adverse effect on mammalian endocrine or immune systems. No incidents of hypersensitivity or any other adverse effects have been observed in individuals handling the material.

D. Aggregate Exposure

1. *Dietary exposure*—i. *Food*—a. *Acute dietary exposure*. Exposure to chemicals that have the potential to elicit a toxic response after a relatively short period of exposure (acute toxicant) is calculated using a distribution of exposure estimated from the entire consumption data base. The exposure algorithm uses the basic relationship, that exposure is the product of the amount of food consumed and the magnitude of the residue in/on that food.

Residues that are observed in/on crops are found to occur as a distribution. Likewise, food consumption patterns are best described by a consumption distribution. The most realistic calculation of acute dietary exposure, therefore, is to multiply the distribution of residues and the distribution of consumption using the Monte Carlo approach.

For the acute analysis presented here, the Monte Carlo approach was used to estimate dietary exposure from potential residues of 2,6-DIPN in all potatoes. In the Monte Carlo model, the distribution of the residue data for whole raw unwashed potatoes (0.22 ppm to 0.41 ppm) was used in conjunction with individual consumption data for each food. The residue distribution was multiplied by the processing factors (PF) determined from 2,6-DIPN processing studies on baked (PF = 0.10), boiled (PF = 0.078), fried (PF = 0.032), and washed potatoes (PF = 0.15). In addition, it was assumed that 100% of the potatoes consumed would be treated with 2,6-DIPN at the proposed label use rate. That is, no adjustments were made for the percentage of all potatoes that would be stored and treated with 2,6-DIPN, nor potatoes intended for fresh versus processing markets.

The acute exposure estimate at the 99.9th percentile of exposure for the overall U.S. population is 0.000465 mg/kg bw/day. When compared to a maternal toxicity NOAEL of 50 mg/kg bw/day from a developmental toxicity study in rats, the Margin of Exposure (MOE) at the 99.9th percentile of exposure is 107437. For women of child-bearing age, the acute exposure estimate at the 99.9th percentile of exposure is 0.000142 mg/kg bw/day (MOE = 351939). The population subgroup with the highest predicted level of acute exposure was children 1 to 6 years of age. Acute exposures for children 1 to 6 years of age were 0.000682 mg/kg bw/day (MOE = 73309). Because the predicted exposures, expressed as MOEs, are well above 100, there is reasonable certainty that no acute effects would result from dietary exposure to 2,6-DIPN.

b. *Chronic dietary exposure*. Chronic exposure estimates were calculated for potential residues of 2,6-DIPN in/on all potatoes, including those destined for processing (e.g., frozen, canned). Generally, exposure to chemicals that have the potential to elicit a toxic response after an extended period of exposure (chronic toxicant) is calculated using per-capita mean consumption estimates and an average residue value. As a conservative estimate of potential long-term dietary exposure, it was

assumed that 100% of the potatoes consumed would contain 2,6-DIPN residues at 0.30 ppm (average residue). This residue value was multiplied by the processing factors (PF) determined from 2,6-DIPN processing studies on baked (PF = 0.10), boiled (PF = 0.078), fried (PF = 0.032), and washed potatoes (PF = 0.15).

A risk assessment was performed for 2,6-DIPN using the subchronic toxicity study in rats NOAEL of 104 or 121 mg/kg/day (males and females, respectively). Although the developmental toxicity study indicates a lower NOAEL for the same toxicity (reduced body weight, weight gain, and food consumption), the maternal LOAEL of 150 mg/kg/day is between the subchronic NOAEL of 104–121 mg/kg/day and the LOAEL of 208–245 mg/kg/day. However, the maternal toxicity NOAEL of 50 mg/kg/day is appropriate for use in characterization of risks for the subpopulation of women of childbearing age.

Because of its status as a biopesticide, chronic toxicity studies would not normally be required for 2,6-DIPN; however, a reference dose (RfD) of 1 mg/kg/day can be established for purposes of chronic dietary risk assessment if necessary. The RfD value is based on the NOAEL from the subchronic rat study and use of a 100-fold uncertainty factor (10X for interspecies extrapolation and 10X for intraspecies variability, RfD = 104/100 = 1 mg/kg/day). Retention of an FQPA safety factor is not necessary for 2,6-DIPN. Developmental data in rats showed no unique susceptibility to DIPN.

For the overall U.S. population, chronic exposure was estimated to be 0.000033 mg/kg bwt/day or <0.1 % of the RfD. Chronic exposure also was calculated for women of child-bearing age. Exposure estimates were 0.000019 mg/kg bwt/dw (<0.1 % of the RfD). For the most highly exposed population subgroup, children 1 to 6 years of age, chronic exposure was estimated to be 0.000119 mg/kg bw/day or <0.1 % of the RfD.

ii. *Drinking water*. There is no established maximum concentration level for 2,6-DIPN in water. Based on the low use rate and an indoor use pattern that is not widespread, residues of 2,6-DIPN in drinking water and exposure from this route is unlikely.

2. *Non-dietary exposure*. 2,6-DIPN is not registered for any use that could result in non-occupational, non-dietary exposure to the general population.

E. Cumulative Exposure

There is no evidence to indicate or suggest that 2,6-DIPN shares any mechanism of toxicity in common with those of any other pesticides. Therefore, cumulative exposure concerns are not anticipated.

F. Safety Determination

1. *U.S. population*. The acute exposure estimate at the 99.9th percentile of exposure for the overall U.S. population was 0.000465 mg/kg bwt/day. When compared to a maternal toxicity NOAEL of 50 mg/kg bwt/day from a developmental toxicity study in rats, the MOE at the 99.9th percentile of exposure is 107437. For women of child-bearing age, the acute exposure estimate at the 99.9th percentile of exposure was 0.000142 mg/kg bwt/day (MOE = 351939). For the overall U.S. population, chronic exposure was estimated to be 0.000033 mg/kg bwt/day or <0.1% of the RfD. Chronic exposure also was calculated for women of child-bearing age. Exposure estimates were 0.000019 mg/kg bwt/day (<0.1% of the RfD) for women of child-bearing age.

2. *Infants and children*. Acute exposures for infants and children 1 to 6 years of age were 0.000682 mg/kg bwt/day (MOE = 73309). For the most highly exposed population subgroup, children 1 to 6 years of age, chronic exposure was estimated to be 0.000119 mg/kg bwt/day or <0.1% of the RfD.

G. Effects on the Immune and Endocrine Systems

Platte has no information to suggest that 2,6-DIPN will adversely affect the immune or endocrine systems. The Agency is not requiring information on endocrine effects of this biochemical pesticide at this time.

H. Existing Tolerances

No codex maximum residue levels are established for residues of 2,6-DIPN in/on any food or feed crop.

[FR Doc. 01–23482 File 9–20–01; 8:45 am]

BILLING CODE 6560–50–S

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on September 19, 2001, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

New Business—Other

—FY 2002 Revised Budget and FY 2003 Proposed Budget

Dated: September 17, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–23561 Filed 9–18–01; 5:02 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Technological Advisory Council Meeting Postponed

AGENCY: Federal Communications Commission.

ACTION: Notice of cancellation of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, Public Law 92–463, as amended, this notice advises interested persons that the meeting of the Technological Advisory Council scheduled for September 20, 2001 has been cancelled and will be rescheduled at a later date.

FOR FURTHER INFORMATION CONTACT: Robert Kimball@fcc.gov or 202–418–2339.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23595 Filed 9–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1391–DR]

New York; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–1391–DR) dated September 11, 2001, and related determinations.

EFFECTIVE DATE: September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 11, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5204c (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of New York, resulting from fires and explosions on September 11, 2001, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5204c (the Stafford Act).

I, therefore, declare that such a major disaster exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas, Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Theodore A. Monette of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New York to have been affected adversely by this declared major disaster:

Bronx, Kings, New York (boroughs of Brooklyn and Manhattan), Queens, and Richmond Counties for Individual and Public Assistance.

All counties within the State of New York are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Joe M. Allbaugh,

Director.

[FR Doc. 01–23651 Filed 9–20–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1390–DR]

Ohio: Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA–1390-DR), dated August 27, 2001, and related determinations.

EFFECTIVE DATE: August 27, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 27, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5204c (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Ohio, resulting from severe storms and flooding on July 17–18, 2001, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5204c (the Stafford Act). I, therefore, declare that such a major disaster exists in the State of Ohio.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert Colangelo of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Ohio to have been affected adversely by this declared major disaster: Brown, Butler, Clermont, and Hamilton Counties for Public Assistance.

All counties within the State of Ohio are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers(CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–23691 Filed 9–20–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3168–EM]

Virginia; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the Commonwealth of Virginia (FEMA–3168–EM), dated September 12, 2001, and related determinations.

EFFECTIVE DATE: September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 12, 2001, the President declared an emergency under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5204c (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the Commonwealth of Virginia, resulting from fires and explosions on September 11, 2001, is of sufficient severity and magnitude to warrant an emergency declaration under subsection 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5204c (the Stafford Act). My decision to make this declaration pursuant to subsection 501(b) of the Stafford Act is based upon the fact that the explosion occurred at a Federally-owned facility. I, therefore, declare that such an emergency exists in the Commonwealth of Virginia.

In order to provide Federal assistance, you are hereby authorized to coordinate and direct other Federal agencies and fund activities not authorized under other Federal statutes and allocate from funds available for these purposes, such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Pursuant to this emergency declaration, you are authorized to provide emergency assistance as you deem appropriate under Title V of the Stafford Act at 100 percent Federal funding.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Thomas Davies of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following area of the Commonwealth of Virginia to have been affected adversely by this declared emergency:

Arlington County for emergency assistance under Section 502 of the Stafford Act as deemed necessary by the Federal Coordinating Officer.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Joe M. Allbaugh,

Director.

[FR Doc. 01–23650 Filed 9–20–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Radiological Preparedness Coordinating Committee Meeting

AGENCY: Federal Emergency Management Agency (FEMA)

ACTION: Notice.

SUMMARY: The Federal Radiological Preparedness Coordinating Committee (FRPCC) advises the public that the FRPCC will meet on October 4, 2001 in Washington, DC.

DATES: The meeting will be held on October 4, 2001, at 9:00 a.m.

ADDRESSES: The meeting will be held at the Federal Emergency Management Agency Room 331, 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Pat Tenorio, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, telephone (202) 646–2870; fax (202) 646–3508; or e-mail *pat.tenorio@fema.gov*.

SUPPLEMENTARY INFORMATION: The role and functions of the FRPCC are described in 44 CFR §§ 351.10(a) and 351.11(a). The Agenda for the upcoming FRPCC meeting is expected to include: (1) Introductions, (2) reports from FRPCC subcommittees, (3) old and new business, and (4) business from the floor.

The meeting is open to the public, subject to the availability of space. Reasonable provision will be made, if time permits, for oral statements from the public not more than five minutes in length. Any member of the public who wishes to make an oral statement at the October 4, 2001, FRPCC meeting should request time in writing from Russell Salter, FRPCC Chair, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472. The request should be received at least five business days before the meeting. Any member of the public who wishes to file a written statement with the FRPCC should mail the statement to: Federal Radiological Preparedness Coordinating Committee, c/o Pat Tenorio, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

Russell Salter,

Director, Technological Hazards Division, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Chair, Federal Radiological Preparedness Coordinating Committee.

[FR Doc. 01–23692 Filed 9–20–01; 8:45 am]

BILLING CODE 6718–06–P

FEDERAL HOUSING FINANCE BOARD

Announcing an Open Meeting of the Board

TIME AND DATE: 10 A.M., Wednesday, September 26, 2001.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED DURING PORTIONS OPEN TO THE PUBLIC:

- Final Rule: Affordable Housing Program
- Final Rule: Amendment of Community Investment Cash Advance Programs Regulation
- Waiver of Compliance with Sections 932.8 and 932.9 of the Federal Housing Finance Board's Regulations (Unsecured Credit Limits and Minimum Liquidity Requirements) until January 28, 2002
- Solicitation of Public Comment: Multi-District Member Operations

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

James L. Bothwell,

Managing Director.

[FR Doc. 01–23786 Filed 9–19–01; 1:29 pm]

BILLING CODE 6725–01–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 9, 2001

A. Federal Reserve Bank of Kansas City(Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Larry Ross Cox, Henderson, Nebraska; to acquire voting shares of Cedar Rapids State Company, Cedar Rapids, Nebraska, and thereby indirectly acquire voting shares of Cedar Rapids State Bank, Cedar Rapids, Nebraska.

Board of Governors of the Federal Reserve System, September 18, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23676 Filed 9–20–00; 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 18, 2001.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Catawba Valley Bancshares, Inc., Hickory, North Carolina; to acquire 100 percent of the voting shares of First Gaston Bank of North Carolina, Gastonia, North Carolina.

Board of Governors of the Federal Reserve System, September 18, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23677 Filed 9–20–00; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Statement of Organization, Functions and Delegations of Authority

Program Support Center

Part P (Program Support Center) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS), (60 FR 51480, October 2, 1995 as amended most recently at 66 FR 35981 dated July 10, 2001) is amended to reflect changes in Chapter PA within Part P, Program Support Center (PSC), HHS. The PSC is renaming the Office of Marketing to reflect program priorities.

Program Support Center

Under *Part P, Section P–20, Functions,* change the following:

Under *Chapter PA, Office of the Director (PA),* delete the title and functional statement for the *Office of Marketing (PAC)* and substitute the following:

Office of Customer Relations (PAC)

(1) Provides an overall customer relations program for the PSC to advocate, cultivate and evaluate the delivery of products and services on a fee-for-service basis to current and potential customers within and external to HHS; (2) develops resources to support and enhance the communications and promotion of PSC services including presentations, brochures, videos, etc., and detailed technical descriptions of our products and services; (3) develops, directs and evaluates strategic promotional plans to add to the overall customer base and enhance the visibility, credibility and utility of the PSC; (4) designs and conducts customer satisfaction surveys and research projects to determine customer attitudes and determine if PSC services and products are meeting customer requirements and expectations; (5) coordinates and implements HHS policies and procedures regarding the Privacy Act of 1974 and the Paperwork Reduction Act of 1995 for the PSC; (6) coordinates the PSC-wide policy and procedures system utilizing the PSC Intranet; and (7) operates and monitors the PSC Internet and Intranet Web sites.

Dated: September 14, 2001.

Curtis L. Coy,

Director, Program Support Center.

[FR Doc. 01–23697 Filed 9–20–01; 8:45 am]

BILLING CODE 4168–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request the Office of Management and Budget (OMB) to allow the proposed information collection project: ''Voluntary Customer Surveys of ''Partners'' for the Agency for Healthcare Research and Quality.'' In accordance with the Paperwork Reduction Act as amended (see in particular 44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection request to allow AHRQ to conduct these customer satisfaction surveys.

DATES: Comments on this notice must be received by November 20, 2001.

ADDRESSES: Written comments should be submitted to: Cynthia D. McMichael, Reports Clearance Officer, AHRQ, 2101 East Jefferson Street, Suite 500, Rockville, MD 20852–4908.

All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Cynthia D. McMichael, AHRQ, Reports Clearance Officer, (301) 594–3132.

SUPPLEMENTARY INFORMATION:

Proposed Project

Voluntary Customer Surveys of ''Partners'' of the Agency for Healthcare Research and Quality

In response to Executive Order 12862, the Agency for Healthcare Research and Quality (AHRQ) plans to conduct voluntary customer surveys of ''partners'' to identify how well AHRQ is performing its functions with its partners and to use this information to determine the kind and quality of services they like and expect, their level of satisfaction with existing services, and to implement improvements where feasible and practical.

AHRQ partners are typically health care payers, plans, practioners and providers, researchers, professional associations, AHRQ data suppliers, and State and local governments, as well as persons or entities that provide service to the public for AHRQ, *e.g.,* dissemination of AHRQ publications by a ''middle man'' such as a professional society.

Partner surveys to be conducted by AHRQ may include, for example, surveys of research grantees to measure satisfaction with technical assistance received from AHRQ. Results of these surveys will be used to assess and redirect resources and efforts needed to improve services. For example, the AHRQ's Office of Research Review, Education, and Policy (ORREP) provides grant funds for training of health services researchers. AHRQ would like to survey scholars whose training it has supported regarding their experience with respect to the AHRQ grant support they received.

In addition, the Office of Health Care Information (OHCI) is proposing to survey one component of their customers: researchers. This proposed survey will be undertaken by a contractor to determine how AHRQ could better serve the research community. Questions asked may include a need for extended hours to answer inquiries on grant application—related matters or the development of a comprehensive manual on submission of grant applications.

Method of Collection

The data will be collected using a combination of preferred methodologies appropriate to each survey. These methodologies are:

- Mail and telephone surveys;
- Electronic technologies; and
- Focus groups.

The estimated annual hour burden is as follows:

Type of survey	No. of respondents	Average burden/ response in minutes	Total hours of burden
Mail/Telephone Surveys/Electronic Technologies	9,400	20	3,133.3
Focus Groups	700	97.7	1140
Totals	10,100	25.4	4,273.3

Request for Comments

Comments are invited on: (a) The necessity of the proposed collections; (b) the accuracy of the Agency's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Copies of these proposed collection plans and instruments can be obtained from the AHRQ Reports Clearance Officer (see above).

Dated: September 14, 2001.

John M. Eisenberg,

Director.

[FR Doc. 01–23548 Filed 9–20–01; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Workshop on Best Practices in Workplace

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Workshop on Best Practices in Workplace.

Times and Dates: 1 pm–4:30 pm, November 7, 2001;8 am–5:30 pm, November 8, 2001; 8 am–12 pm, November 9, 2001.

Location: Kingsgate Marriott Conference Center at the, University of Cincinnati, Cincinnati, OH 45219. Phone: 1–513–487–3800.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: To identify successful workplace surveillance programs conducted in the private and public sectors, to learn from them, and to share their tools and effective prevention activities.

Matters to be Discussed: The workshop emphasizes practical approaches to workplace surveillance. Participants will discuss current practices, describing both the difficulties encountered, and practical examples of success and impacts that can be replicated by others. The workshop format will include an introductory plenary session the afternoon of the 1st day; followed the 2nd day by multiple parallel breakout sessions with brief oral presentations, and discussion among the participants; the morning of the 3rd day includes a plenary session with National Occupational ResearchAgenda (NORA) partners reporting on workshop highlights, including identified surveillance opportunities.

Contact Person for Additional Information: John P. Sestito, J.D., M.S., Division of Surveillance, Hazard Evaluations and Field Studies, NIOSH, CDC, M/S R–12, 4676 Columbia Parkway, Cincinnati, OH 45226. Telephone (513) 841–4208, E-mail *Jsestito@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for ToxicSubstances and Disease Registry.

Dated: September 13, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–23593 Filed 9–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Council meeting.

Name: Advisory Council for the Elimination of Tuberculosis(ACET).

Times and Dates: 8:30 a.m.–5 p.m., October 10, 2001; 8:30 a.m.–12 p.m., October 11, 2001.

Place: Corporate Square, Building 8, 1st Floor Conference Room, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: The Council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters To Be Discussed: Agenda items include issues pertaining to tuberculosis laboratory issues, improving TB efforts in the Southeast, and other TB related topics.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Paulette Ford-Knights, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE, M/S E–07, Atlanta, Georgia 30333, telephone 404/639–8008.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for ToxicSubstances and Disease Registry.

Dated: September 13, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–23594 Filed 9–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–185]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Granting and Withdrawal of Deeming Authority to Private Nonprofit Accreditation Organizations and of State Exemption Under State Laboratory Programs and Supporting Regulations in 42 CFR 493.551–493.557; *Form No.:* CMS–R–185 (OMB# 0938–0686); *Use:* The information required is necessary to determine whether a private accreditation organization's or State licensure program's standards and accreditation/licensure process is equal to or more stringent than those of CLIA; *Frequency:* Other: Initial application/as needed; *Affected Public:* Not-for-profit institutions, Business or other for-profit, State, local or tribal government; *Number of Respondents:* 8; *Total Annual Responses:* 76; *Total Annual Hours:* 768.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie Brown, Attn. CMS–R–185, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: September 11, 2001.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–23576 Filed 9–20–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–306]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Restraint and Seclusion Standards for Psychiatric Residential Treatment Facilities; *Form*

No.: CMS–R–306 (OMB# 0938–0833); *Use:* Psychiatric residential treatment facilities are required to report deaths, serious injuries and attempted suicides to State Medicaid Agency and Protection and Advocacy Organization. They are also required to provide residents restraint and seclusion policy in writing and to document resident record of all activities involving use of restraint and seclusion; *Frequency:* On occasion; *Affected Public:* Business or other for-profit, Not for profit institutions; *Number of Respondents:* 500; *Total Annual Responses:* 2,600,000; *Total Annual Hours:* 877,750. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: September 11, 2001.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–23577 Filed 9–20–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care and Development Fund Annual Report (ACF–700).

OMB No.: 0980–0241.

Description: The Child Care and Development Fund (CCDF) report requests annual tribal aggregate information on services provided through the CCDF which is required by the Child Care and Development Block Grant (CCDBG) Final Rule (45 CFR parts 98 and 99). Tribes are required to submit annual aggregate data appropriate to tribal programs on children and families receiving CCDF-funds or CCDBG funded child care services. The CCDBG statute and regulations also require Tribal Lead Agencies to submit a supplemental narrative as part of the ACF–700 report. This narrative describes general child care activities and actions in the Tribal Lead Agency's service area and is not restricted to CCDF-funded child care activities. Instead this description is intended to address all child care available in the Tribal Lead Agency's service area. The ACF–700 and supplemental narrative report will be included in the Secretary's report to Congress, as appropriate, and will be shared with all Tribal Lead Agencies to inform them of CCDF or CCDBG-funded activities in other tribal programs.

Respondents: Tribal CCDF Programs (257 in total).

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
CCDF Annual report	257	1	35	8,995
Estimated Total Annual Burden Hours				8,995

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: September 17, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–23646 Filed 9–20–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01E–0089]

Determination of Regulatory Review Period for Purposes of Patent Extension; Kaletra

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Kaletra and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments..*

FOR FURTHER INFORMATION CONTACT: Claudia Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug

product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Kaletra (lopinavir). Kaletra is indicated in combination with other antiretroviral agents for the treatment of HIV–1 infections in adults and pediatric patients age 6 months and older. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Kaletra (U.S. Patent No. 5,886,036) from Abbott Laboratories, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 11, 2001, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Kaletra represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Kaletra is 1,397 days. Of this time, 1,290 days occurred during the testing phase of the regulatory review period, while 107 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: November 20, 1996. The applicant claims November 18, 1996, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was November 20, 1996, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: June 1, 2000. FDA has verified the applicant's claim that the new drug application (NDA) for Kaletra (NDA 21–226) was initially submitted on June 1, 2000.

3. *The date the application was approved*: September 15, 2000. FDA has verified the applicant's claim that NDA 21–226 was approved on September 15, 2000.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 324 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (address above) written comments and ask for a redetermination by November 20, 2001. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by March 20, 2002. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 5, 2001.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 01–23700 Filed 9–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00E–1251]

Determination of Regulatory Review Period for Purposes of Patent Extension; Synercid

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Synercid and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and

Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Synercid (quinupristin and dalfopristin). Synercid is indicated for the treatment of patients with serious or life threatening infections associated with vancomycin-resistant Enterococcus faecium (VREF) bacteremia. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Synercid (U.S. Patent No. 4,668,669) from Rhone Poulenc Rorer S.A., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated April 26, 2000, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Synercid represented the first permitted commercial marketing or use of the product. Subsequently, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Synercid is 1,919 days. Of this time, 1,172 days occurred during the testing phase of the regulatory review period, while 747 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: June 22, 1994. The applicant claims June 23, 1994, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was June 22, 1994, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: September 5, 1997. FDA has verified the applicant's claim that the new drug application (NDA) for Synercid (NDA 50–747) was initially submitted on September 5, 1997.

3. *The date the application was approved*: September 21, 1999. FDA has verified the applicant's claim that NDA 50–747 was approved on September 21, 1999.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,333 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before November 20, 2001, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before March 20, 2002, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 5, 2001.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 01–23701 Filed 9–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01E–0092]

Determination of Regulatory Review Period for Purposes of Patent Extension; Rescula

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Rescula and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments..*

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration,5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Rescula (unoprostone isopropyl ester). Rescula is indicated for the lowering of intraocular pressure in patients with open-angle glaucoma or ocular hypertension who are intolerant of other intraocular pressure lowering medications or insufficiently responsive (failed to achieve target IOP determined after multiple measurements over time) to another intraocular pressure lowering

medication. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Rescula (U.S. Patent No. 5,221,763) from R-Tech Veno, Ltd./Novartis, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 3, 2001, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Rescula represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Rescula is 1,347 days. Of this time, 1,186 days occurred during the testing phase of the regulatory review period, while 161 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: November 27, 1996. The applicant claims October 25, 1996, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was November 27, 1996, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: February 25, 2000. The applicant claims February 14, 2000, as the date the new drug application (NDA) for Rescula (NDA 21–214) was initially submitted. However, FDA records indicate that NDA 21–214 was submitted on February 25, 2000.

3. *The date the application was approved*: August 3, 2000. FDA has verified the applicant's claim that NDA 21–214 was approved on August 3, 2000.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 774 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (address above) written comments and ask for a redetermination by November 20, 2001. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by March 20, 2002. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 5, 2001.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 01–23702 Filed 9–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01E–1250]

Determination of Regulatory Review Period for Purposes of Patent Extension; Synercid

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Synercid and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments.*

FOR FURTHER INFORMATION CONTACT: Claudia Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Synercid (quinupristin and dalfopristin). Synercid is indicated for the treatment of patients with complicated skin and skin structure infections caused by Staphylococcus aureus (methicillin susceptible) or Streptococcus pyogenes. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Synercid (U.S. Patent No. 4,798,827) from Rhone Poulenc Rorer S.A., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated April 26, 2000, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Synercid represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Synercid is 2,793 days. Of this time, 2,046 days occurred during the testing phase of the regulatory review period, while 747 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: January 30, 1992. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on January 30, 1992.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: September 5, 1997. FDA has verified the applicant's claim that the new drug application (NDA) for Synercid (NDA 50–748) was initially submitted on September 5, 1997.

3. *The date the application was approved*: September 21, 1999. FDA has verified the applicant's claim that NDA 50–748 was approved on September 21, 1999.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,770 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (address above) written comments and ask for a redetermination by November 20, 2001. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by March 20, 2002. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted except thatindividuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 5, 2001.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 01–23703 Filed 9–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of October 2001.

Name: National Advisory Council on the National Health Service Corps.

Date and Time: October 11, 2001; 3 p.m.—5:30 p.m.,October 12, 2001; 8:30 a.m.—5 p.m., October 13, 2001; 9 a.m. to 5 p.m.,October 14, 2001; 8 a.m.—11 a.m.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852, Phone: (301) 468–1100.

The meeting is open to the public.

Agenda: The agenda will focus on meeting with the management team from the Agency and the Bureau of Health Professions regarding the Administration's vision and goals for the National Health Service Corps and the designation of health professional shortage areas.

For further information, call Ms. Eve Morrow, Division of National Health Service Corps, at (301) 594–4144.

Agenda items and times are subject to change as priorities dictate.

Dated: September 17, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–23611 Filed 9–20–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act(Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of October 2001.

Name: Advisory Committee on Training in Primary Care Medicine and Dentistry.

Date and Time: October 29, 2001; 8:30 a.m.–5:00 p.m., October 30, 2001; 8:30 a.m.–4:00 p.m.

Place: The Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting is open to the public.

Purpose: The Advisory Committee shall (1) provide advice and recommendations to the Secretary concerning policy and program development and other matters of significance concerning activities under section 747 of the Public Health Service Act; and (2) prepare and submit to the Secretary, the Committee on Health, Education, Labor and Pensions of the Senate, and the Committee on Energy and Commerce of the House of Representatives a report describing the activities of the Advisory Committee, including findings and recommendations made by the Committee concerning the activities under section 747 of the PHS Act. The Advisory Committee will meet twice each year and submit its first report to the Secretary and the Congress by November 2001.

Agenda: Policy and program development issues will be discussed and recommendations for the future will be addressed.

Anyone interested in obtaining a roster of members or other relevant information should write or contact Crystal L. Clark, M.D., M.P.H., Acting Deputy Executive Secretary, Advisory Committee on Training in Primary Care Medicine and Dentistry, Parklawn Building, Room 9A–21, 5600 Fishers Lane, Rockville, Maryland 20857, phone (301) 443–6326, e-mail *cclark@hrsa.gov*. The web address for the Advisory Committee is *http://www.bhpr.hrsa.gov/dm/actpcmd.htm*.

Dated: September 17, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–23612 Filed 9–20–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: August 2001

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of August 2001, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any

business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
ALBERTY, GLENDA FAYE ..... IDABEL, OK	09/20/2001
AMERICAN FAMILY HOME CARE, INC ..... N KINGSTOWN, RI	09/20/2001
ANASTASIO, ANDREW S ..... NEW HAVEN, CT	09/20/2001
ANDREOZZI, ROCCO J JR ..... WARWICK, RI	09/20/2001
ARWAS, RAPHAEL ..... AVENTURA, FL	09/20/2001
ASONYE, IBEABUCHI ONEYEMA ..... FLOSSMOOR, IL	09/20/2001
BENNETT, WILLIAM LEON ..... DETROIT, MI	09/20/2001
BENTLEY, FRANK R ..... TOPEKA, KS	09/20/2001
BILANI, SAMI SUHEIL ..... DEARBORN HGTS, MI	09/20/2001
BOEHM, GREGORY X ..... SHAKER HGTS, OH	09/20/2001
BONNER, LILLIE MAE ..... RENO, NV	09/20/2001
BOONE TAYLOR PHARMACY AHOSKIE, NC	09/20/2001
CARTER, JASON MICHAEL .... MEMPHIS, TN	09/20/2001
CARTER-BROWN, DINAH L ... ALBION, IN	09/20/2001
CARVELLI, LINDA ..... HALLETSVILLE, TX	09/20/2001
CESTARI, JOSEPH ..... LAWRENCE, NY	09/20/2001
CESTARI PHARMACY, INC .... INWOOD, NY	09/20/2001
CHAMPION, DAVID M ..... DECATUR, GA	09/20/2001
CLARK, SHERRON ..... CRYSTAL SPRINGS, MS	09/20/2001
CLEARWATER CLINICAL LAB, INC ..... CLEARWATER, FL	09/20/2001
COMMUNITY CLINICAL LAB, INC ..... CLEARWATER, FL	09/20/2001
COMPREHENSIVE CLINICAL CTR ..... E GREENBUSH, NY	09/20/2001
D'ANJOU, THOMAS ..... ATLANTA, GA	09/20/2001
DANIELS, JERRY G ..... ANACONDA, MT	09/20/2001
DEBOSE, BURREL MICHAEL JR ..... KENT, WA	09/20/2001
DIAZ, LACARO ..... MIAMI, FL	09/20/2001
DOMINGUEZ, RAMON ..... MIAMI, FL	09/20/2001
DOMINGUEZ, RAMON ..... MIAMI, FL	09/20/2001
DYEVICH, KEVIN J ..... MILLTOWN, NJ	05/01/1996
EDWARDS, SONYA Z ..... MILWAUKEE, WI	09/20/2001
FABRIKANT, JAY ..... NEW YORK, NY	09/20/2001
FINGAL, JOHN JOSEPH ..... MITCHELLVILLE, MD	09/20/2001
FIRST CARE HAMTRAMCK DENTAL ..... HAMTRAMCK, MI	09/20/2001
FORTIN, JEFFREY A ..... DEVENS, MA	09/20/2001
GAINES, WILLIAM P JR ..... BAKER, LA	09/20/2001
GATES, BONNIE BELLE ..... WATERLOO, IA	09/20/2001
GEPP, VINCENT ..... PALM HARBOR, FL	09/20/2001
GOMEZ-MARTINEZ, YO-LANDA ..... SAN LORENZO, PR	09/20/2001
GOODWIN, GARY L ..... LEXINGTON, KY	09/20/2001
GRANDIDGE, WAYNE B ..... N KINGSTOWN, RI	09/20/2001
GRAU, JOSE E ..... SPRINGHILL, FL	09/20/2001
GRIFFIN JENNINGS, SHERRILL P ..... LAFAYETTE, LA	09/20/2001
GUTMAN, ALBERTO ..... MIAMI, FL	09/20/2001
HARRY, JACLYNN A ..... VANCOUVER, WA	09/20/2001
HEART TRACE OF NASHUA, INC ..... DEVENS, MA	09/20/2001
HERNANDEZ, JOSE ..... MIAMI, FL	09/20/2001
HERRERA, ALFREDO J ..... ELLICOTT CITY, MD	09/20/2001
HILDRETH, DANA E ..... MACON, MO	09/20/2001
HOLCOMB, RONALD D ..... GAINESVILLE, GA	09/20/2001
HULBERT, DEBORAH ANN .... FT MYERS, FL	09/20/2001
HULIN, MICKIE ..... COLLEGE PARK, GA	09/20/2001
HUNTER, SAUNDRA MARIE .. DETROIT, MI	09/20/2001
HURST, PATRICK J ..... LOMPOR, CA	09/20/2001
IMANSEPAHI, REZA ..... DENVER, CO	09/20/2001
JOHNSON, WILLIAM ..... STONE MOUNTAIN, GA	09/20/2001
JOHNSON, LANNES NEIL ..... TULSA, OK	09/20/2001
JOSSELYN, REBECCA L ..... MANCHESTER, NH	09/20/2001
KAZMA, ROBERT M ..... FERNDALE, MI	09/20/2001
KILGORE, SAMUEL E ..... UNION POINT, GA	09/20/2001
LILLEY, GALE BROWNLOW ... ELDON, MO	09/20/2001
LOUDERMILK, NADEANE ..... WITCHITA, KS	09/20/2001
LTC PHARMACY, INC ..... MINONK, IL	09/28/2000
MAISONET, CARLOS ..... TOA ALTA, PR	09/20/2001
MARIN, RITA F ..... ATLANTA, GA	09/20/2001
MARTI-AGOSTO, MARTA ..... BAYAMON, PR	09/20/2001
MARTINEZ, SOPHIE ..... CANJILON, NM	09/20/2001
MAYER, JAN A ..... NASHVILLE, TN	09/20/2001
MAZAL, BENJAMIN C ..... ENGLEWOOD, OH	09/20/2001
MCCAUSLAND, JOHN M JR ... ERLANGER, KY	09/20/2001
MCCORMICK, THOMAS L ..... GRAND BLANC, MI	09/20/2001
MCCOY, PAUL ..... CHICAGO, IL	09/20/2001
MCDONALD, JOHN PATRICK WOODLAND PARK, CO	09/20/2001
MCKEOWN, JAMES L SR ..... CLEARWATER, FL	09/20/2001
MELKONYAN, ARSEN M ..... N HOLLYWOOD, CA	09/20/2001
MERCADO, ZENAIDA ..... CORAL GABLES, FL	09/20/2001
MUNOZ, JOSE A ..... WHITESTONE, NY	09/20/2001
MURPHY, SHARON KAY ..... GRAND SALINE, TX	09/20/2001
NAGAPETYAN, OGANES M ... ELMONTE, CA	09/20/2001
NAPOLITANO, THOMAS ..... HOWARD BEACH, NY	09/20/2001
NEAL, CONNIE LYNN ..... NEW ULM, MN	09/20/2001
NEW ERA ALTERNATIVE TREATMENT ..... HIGHLAND PARK, MI	09/20/2001
NORMAN, BRIGID ..... RIVERDALE, GA	09/20/2001
NWANKWO, FESTUS ..... UNION, NJ	09/20/2001
OPTIMUMCARE MEDICAL CTR, L L C ..... GAITHERSBURG, MD	09/20/2001
OUDIN, MADELYN ALEXIS ..... EL CENTRO, CA	09/20/2001
PALMER, VERLYNNE G ..... SALT LAKE CITY, UT	09/20/2001
PEREZ, DULCE M ..... MIAMI, FL	09/20/2001
PINKARD, DWAYNE LAMAR .. DETROIT, MI	09/20/2001
POTTS, ELENA THERESA ..... PALM DESERT, CA	09/20/2001
PUKAS, BRENDA ..... WESTERLY, RI	09/20/2001
RAMOS, DOMINGO ..... MIAMI, FL	09/20/2001
REED, BRENDA MARIE ..... DETROIT, MI	09/20/2001
REEVES, MICHAEL ..... LITHONIA, GA	09/20/2001
REVELS, ROBERT STEVEN ... ROCK HILL, SC	09/20/2001
RILEY, JAMES E	09/20/2001

Subject, city, state	Effective date
BELLVUE, OH	
ROBERTSON, LAWRENCE MARSHALL DENVER, CO	06/18/2001
ROBLES, NORA LYDIA TUCSON, AZ	09/20/2001
RONALD Q SHERMER, D M D, P A COLUMBIA, SC	09/20/2001
ROWE, MICHAEL H HURRICANE, UT	09/20/2001
SALAZAR, JAMES ALBERT THE WOODLANDS, TX	09/20/2001
SALAZAR, HERNAN EFRAIN THE WOODLANDS, TX	09/20/2001
SAMI BILANI, D D S, P C DEARBORN, MI	09/20/2001
SAVERY, FRANCOIS L LAS VEGAS, NV	09/20/2001
SCHMOOKLER, NAZILYA BROOKLYN, NY	09/20/2001
SCOTT, DAVID JR MUSKEGON, MI	09/20/2001
SCOTT, TRACY LYNN HAWORTH, OK	09/20/2001
SCOW, RACHELLE EVA PARACHUTE, CO	09/20/2001
SHAH, BHUPENDRA N OLD BROOKVILLE, NY	09/20/2001
SHROUT, WILLIAM J FAIRTON, NJ	09/20/2001
SHUMAN, VINCENT MICHAEL N LAS VEGAS, NV	09/20/2001
SMITH, LINDA M WESTBURY, NY	09/20/2001
SOLTERO, SUSAN C MIAMI, FL	09/20/2001
SPRAGUE, TERI JO CRESTON, IA	09/20/2001
STONE HILL HEALTH SVCS, INC WESTERLY, RI	09/20/2001
TAMRAZYAN, GAGIK M ELMONTE, CA	09/20/2001
THIELEN, TANYA LEE ALBANY, MN	09/20/2001
TUNICK, EDWIN FT LAUDERDALE, FL	09/20/2001
TURNBOUGH, FELICIA JONESBORO, GA	09/20/2001
TYSON, RICHARD PARKLAND, FL	09/20/2001
VANDERSLUIS, MICHAEL ALBERT DE MOTTE, IN	06/16/1999
WANG, JOE CHENG TEMPLE CITY, CA	09/20/2001
WILLIAMS, DOTTIE MARIE TUCSON, AZ	09/20/2001

FELONY CONVICTION FOR HEALTH CARE FRAUD

Subject, city, state	Effective date
BRANHAM, BRADLEY WILLIS COLDWATER, MI	09/20/2001
CARLSON, ERIC DOUGLAS SIERRA MADRE, CA	09/20/2001
CASSON, RONALD JULIAN JR SAN DIEGO, CA	09/20/2001
DURAND CLINIC, P C DURAND, MI	09/20/2001
FROSOLONE, CAMILLE GUILFORD, CT	09/20/2001
HOLLADY, JASON LYNN LAKE ANGELUS, MI	09/20/2001
RAVENSCRAFT, SYLVESTER DALE LYNCHBURG, OH	09/20/2001
SINGH, MARIA CORAZON C WESLEY HILLS, NY	09/20/2001
STEFFEN, H PAUL PAULSBORO, NJ	09/20/2001

FELONY CONTROL SUBSTANCE CONVICTION

Subject, city, state	Effective date
BETTS-WALKER, CAROLYN RENEE CARLISLE, AR	09/20/2001
BLAIR, KATHERINE MARIE CANTON, OH	09/20/2001
CARR, GEORGE AUSTIN E ELMHURST, NY	09/20/2001
CHAMPLAIN, JANENNE VIAN, OK	09/20/2001
EMERY, WILLIAM L BOISE, ID	09/20/2001
GLAZE, PENNY L WESTPORT, IN	09/20/2001
OEXMANN, RICHARD BUSSE TULSA, OK	09/20/2001
ROBERTS, HANDEL JAY CANTON, OH	09/20/2001
RODRIGUEZ, JAMES J SELMER, TN	09/20/2001
THEDE, TARA FT WORTH, TX	09/20/2001

PATIENT ABUSE/NEGLECT CONVICTIONS

Subject, city, state	Effective date
BALOURDAS, GREGORY MICHAEL SAN DIEGO, CA	09/20/2001
BURGESS, RAYMOND ODELL JR TUCSON, AZ	09/20/2001
BURTON, DIANE DONNA LOUISE OKLAHOMA CITY, OK	09/20/2001
CAIN, PATRICIA ELLA LAS VEGAS, NV	09/20/2001
CLACKLEY, MACK O DELMONT, NJ	09/20/2001
COCKRELL, JACK SALEM, OR	09/20/2001
COMPASSIONATE HOME CARE, INC MINNEAPOLIS, MN	09/20/2001
DERBY, SANDRA BLOOMFIELD, NY	09/20/2001
DONNER, JEFFREY S WESTON, FL	09/20/2001
DOWD, CLAIRE BROOKSVILLE, MS	09/20/2001
GANN, TINA CAROL LAWTON, OK	09/20/2001
GRAHAM, TIMOTHY SHAWN DILLON, MT	09/20/2001
HILL, MARK ANTHONY TAFT, OK	09/20/2001
ILAIYAN, KATHERINE E HYDE PARK, NY	09/20/2001
JONES, WALTER COLUMBUS FT WORTH, TX	09/20/2001
KLAUSNER, ELIAH STEVEN DENVER, CO	09/20/2001
LACY, TYSON SHEROD COLUMBIA, TN	09/20/2001
LIGGETT, EDITH RENIA MESA, AZ	09/20/2001
LISKEY, GLORIA JEAN BRIDGEWATER, VA	09/20/2001
LOCKETT, JOVON MARIE COMMERCE, OK	09/20/2001
LYNCH, CHRIS JOHN CALIPATRIA, CA	09/20/2001
MARTINO, DONNA MARIE NEMO, TX	09/20/2001
MCDOUGALL, DEBBIE K BOUNTIFUL, UT	09/20/2001
MENDEZ, LUCELLE ADA OKLAHOMA CITY, OK	09/20/2001
MILLER, DAVID W MARCY, NY	09/20/2001
MOOREHEAD, WINSTON YONKERS, NY	09/20/2001
PACKER, FRANCINE BARTON PETERSBURG, VA	09/20/2001
PIERRE, AVIOLLE ELMONT, NY	09/20/2001
POINTER, BRENDA DENISE BALTIMORE, MD	09/20/2001
RUCKER, DELWIN JON ENID, OK	09/20/2001
SANDOVAL, SAMUEL CARMEN DAVID LAKEVILLE, OH	09/20/2001
SIMMONS, ANTOWANE BUFFALO, NY	09/20/2001
SMELIK, STEVEN F FORT ANN, NY	09/20/2001
THOFIELD, PEARLENE GULFPORT VALLEY, MS	09/20/2001
VALDIVIA, RODOLFO CARLOS EL PASO, TX	09/20/2001
WELCH, JEFFREY PENN YAN, NY	09/20/2001
WILSON, WILLIAM FRANK MONROE, CA	09/20/2001
YOUSUFZAI, BASHIR A DU BOIS, PA	09/20/2001

CONTROLLED SUBSTANCE CONVICTIONS

Subject, city, state	Effective date
HODSON, BRUCE A ATTICA, IN	09/20/2001

LICENSE REVOCATION/SUSPENSION/SURRENDERED

Subject, city, state	Effective date
ANAND, VIKRAMJIT S ITHACA, NY	09/20/2001
ANDERSON, DAVID P SAN DIEGO, CA	09/20/2001
ANDERSON, DEBORAH A MIDDLEBURY, VT	09/20/2001
BALEN, MICHELLE LACOUR MALVERN, PA	09/20/2001
BARAD, DAVID CLOSTER, NJ	09/20/2001
BARTON, SCOTT D CLINTON, CT	09/20/2001
BASS, RONALD LETHRIE SARALAND, AL	09/20/2001
BEATLEY, GINGER SHORT	09/20/2001

Subject, city, state	Effective date
STEPHENS CITY, VA	
BEATTY, SCOTT ALLEN ELWOOD, IN	09/20/2001
BEDFORD, CHRISTINE L WOONSOCKET, RI	09/20/2001
BELTS, RICHARD PAUL STEILACOOM, WA	09/20/2001
BENSON, MARSHA LYNN FERGUS FALLS, MN	09/20/2001
BEZNER, WANDA MARIE WICHITA FALLS, TX	09/20/2001
BIZER, DAWN ROSE VENICE, FL	09/20/2001
BLACKSTONE, QUENTIN M SACO, ME	09/20/2001
BODKIN, DANNA KAY WICHITA FALLS, TX	09/20/2001
BODNAR, MARY F W MIFFLIN, PA	09/20/2001
BOLING, GINA R CROWDER, MS	09/20/2001
BONNELL, JOHN N APPLETON, WI	09/20/2001
BOOTH, SALLY ANN ZOINSVILLE, IN	09/20/2001
BOURBEAU, VERONICA M SALEM, MA	09/20/2001
BOWLES, LAURIE H CHARLOTTSVILLE, VA	09/20/2001
BRASHER, TRACEY CAROL HAMILTON, AL	09/20/2001
BRENNAMAN, BRUCE HOWARD COLUMBUS, GA	09/20/2001
BYRD, JOHN ELVIS MANILA, AR	09/20/2001
CANAMORE, MELVIN DANIEL PARAGOULD, AR	09/20/2001
CARAGINE, PAUL J JR KINNELON, NJ	09/20/2001
CARTER, JUDITH A NICHOLASVILLE, KY	09/20/2001
CHAMBERLAIN, ALEXANDER TUCSON, AZ	09/20/2001
CHENOWETH, CHERYL LYNN LUBBOCK, TX	09/20/2001
CHESSON, JAN M LAWRENCE, MA	09/20/2001
CLARK, CHRISTINE DIANA LEAGUE CITY, TX	09/20/2001
CLARK, KATHLEEN M CUMBERLAND, RI	09/20/2001
COBURN, MELANIE WARWICK, RI	09/20/2001
CODY, KATHLEEN RENEE BATESVILLE, AR	09/20/2001
CONTRERAS, KELLY RAE LODI, CA	09/20/2001
COOK, TYRONE PHILADELPHIA, PA	09/20/2001
CUNNINGHAM, ROXANNE L NORTHGLENN, CO	09/20/2001
DAFFRON, BONNIE BARBARA WAYCROSS, GA	09/20/2001
DANIEL, KEITH BRIAN VIDOR, TX	09/20/2001
DAVIS, TERRY B MEMPHIS, TN	09/20/2001
DAVIS, JAMES E BURLINGTON, VT	09/20/2001
DEUPREE, WILLIAM DWIGHT SHELBYVILLE, IN	09/20/2001
DILLS, RICHARD AARON BIG SPRING, TX	09/20/2001
DILORENZO, DIANE M PROVIDENCE, RI	09/20/2001
DILUCA, CHRISTINE DECECCO MCKEESPORT, PA	09/20/2001
DOUGLAS, TAMMY JO TERRE HAUTE, IN	09/20/2001
EDMONDS, KARLA JO GUNTER, TX	09/20/2001
ERGIN, NEVIT O SANTA CRUZ, CA	09/20/2001
ERNST, ANNE KENNEDY ORANGE, TX	09/20/2001
FAFINSKI, CAROL ANN KNABB CLINTON, MD	09/20/2001
FARRIS, JOEL NEPTUNE, NJ	09/20/2001
FAULKNER, PATRICIA T WHITEHALL, OH	09/20/2001
FORD, DEBORAH MICHELLE DALEVILLE, AL	09/20/2001
FORMAN, TOD F MARSHFIELD, MA	09/20/2001
FOWLER, THANA SAN ANGELO, TX	09/20/2001
FRICKS, JAEMS TOMS RIVER, NJ	09/20/2001
GARVEY, LAURA J SAN ANGELO, TX	09/20/2001
GAUSE, JANEIL LEHI, UT	09/20/2001
GILLENWATER, DAVID RAY SUWANEE, GA	09/20/2001
GOLDENBERG, JACOB EMMANUEL FORT BRAGG, CA	09/20/2001
HEADLEY, IKESHIA M FALL RIVER, MA	09/20/2001
HENDERSON, LACHELLE KILMARNOCK, VA	09/20/2001
HENRIKSON, NANCEE J GLEN ELLYN, IL	09/20/2001
HEREDIA, CORRINA SURPRISE, AZ	09/20/2001
HERICKHOFF, JEFFREY JOSEPH ST PAUL, MN	09/20/2001
HIGGINS, SHARON SCHUYLKILL HAVEN, PA	09/20/2001
HIGMAN, KAREN E WEBB CITY, MO	09/20/2001
HILL, JOAN MELIN RALEIGH, NC	09/20/2001
HODGES, REBECCA CAROL SAN ANGELO, TX	09/20/2001
HOWELL, MARK STEVEN HALTOM CITY, TX	09/20/2001
ILAGAN, CORAZON S NEW BRITAIN, CT	09/20/2001
JACKSON, PEARL A SHAWNEETOWN, IL	09/20/2001
JESSER, MARY E CRANSTON, RI	09/20/2001
JOHNSON, ARIA MARIE DALLAS, TX	09/20/2001
JOHNSON, SHILOH E CHARLESTOWN, RI	09/20/2001
JOHNSON, MANDI MICHELE EL RENO, OK	09/20/2001
JONES, SHERRY L ST ALBANS, VT	09/20/2001
JULIAN, ALEXANDER M SAN FRANCISCO, CA	09/20/2001
KASPER, RICHARD G WILLMAR, MN	09/20/2001
KAY, GARY S II TUCSON, AZ	09/20/2001
KIM, RONALD RIN IRVINE, CA	09/20/2001
LACQUEMENT, CHESTER LOUIS III OKLAHOMA CITY, OK	09/20/2001
LAGRANGE, MATTHEW INDIANAPOLIS, IN	09/20/2001
LANGLOIS, SHERRI L BURLINGTON, VT	09/20/2001
LAPORTE, DIANE MARIE BEACH PARK, IL	09/20/2001
LEE, YUNG M GLEN ARM, MD	09/20/2001
LINDEMANN, ALAN R FARGO, ND	09/20/2001
LITT, LAWRENCE L SCHERTZ, TX	09/20/2001
LOBRUTTO, JOSEPH MADISONVILLE, KY	09/20/2001
LOFTON, JODY DENIS LEBANON, IN	09/20/2001
LOOPER, KERRI LYNN DENTON, TX	09/20/2001
LOVOI, SUSAN JANE TULSA, OK	09/20/2001
LUCK, GREGORY C YARMOUTH, ME	09/20/2001
MAISONNEUVE, LOUIS PHILIPPE S OZONE PARK, NY	09/20/2001
MAJENTY, NADINE M PHOENIX, AZ	09/20/2001
MAJOR, CAROL A RIVERSIDE, RI	09/20/2001
MARLETTE, WAYNE LEE PEKIN, IL	09/20/2001
MARSH, ARTHUR C ST SIMONS ISLAND, GA	09/20/2001
MCEWEN, AERICA PHOENIX, AZ	09/20/2001
MCGEE, BRIDGETTE GOREVILLE, IL	09/20/2001
MERRITT, JANETTA MICHELLE JOINER, AR	09/20/2001
MERSHON, PAUL DUGAN LOUISVILLE, KY	09/20/2001
MOORE, SHARON D PROVIDENCE, RI	09/20/2001
MORGENROTH, DEBRA KAREN PORTLAND, TX	09/20/2001
MOSHER, TIFFANY LEE SPENCER, IA	09/20/2001
MULLAN, PAUL A BALTIMORE, MD	09/20/2001
NAPPA, THOMAS P GREENE, RI	09/20/2001
NASHAD, ALI RUTLAND, VT	09/20/2001
NEALS, SHERRY JERSEY CITY, NJ	09/20/2001
NEELEY, SANDRA A GREENVILLE, SC	09/20/2001
NEVINS, JULIE ANNE OTTAWA, IL	09/20/2001
PEERY, LISA MICHELLE ARDMORE, OK	09/20/2001
PERRY, MARY ANN	09/20/2001

Subject, city, state	Effective date
PROVIDENCE, RI	
PHILLIPS, SUSAN FORT WORTH, TX	09/20/2001
PHILLIPS, DAVID BAKER INDIANAPOLIS, IN	09/20/2001
PIERCY, SHARON KAY CHRISTOPHER, IL	09/20/2001
PINHAS, SIMON J BEVERLY HILLS, CA	09/20/2001
POTTS, LINDSAY A NEWPORT, RI	09/20/2001
PREMER, ELAINE GAIL LOS ANGELES, CA	09/20/2001
PRUITT, MICHAEL DAVID MISSION VIEJO, CA	09/20/2001
RALSTON, PATRICIA MARIE VALLEJO, CA	09/20/2001
RAMIREZ, TERESA F MESA, AZ	09/20/2001
RAMIREZ, THERESA MAY CHOCHILLA, CA	09/20/2001
RATHBUN, RENEA SUE PENNVILLE, IN	09/20/2001
REYES, RONALD E YUMA, AZ	09/20/2001
RICHEY, TERRI RENEE SCOTTSBURG, IN	09/20/2001
ROBINSON, BERNICE LAROSE CICERO, IL	09/20/2001
ROGERS, TAMRA M CHICAGO, IL	09/20/2001
ROONEY, MICHAEL JOHN IONE, CA	09/20/2001
ROSE, LEESIA MARIE DAYTON, TX	09/20/2001
ROWE, RUTH S GLOUCESTER, MA	09/20/2001
RUNNER, ROCHELLE LEIGH CHARLESTON, IL	09/20/2001
RUSSELL, JAMES W NASHVILLE, TN	09/20/2001
RUTHERFORD, ANGELA RENEE EVA, AL	09/20/2001
RYAN, BARBARA JEAN MOORE, OK	09/20/2001
SADDLER, TAMMY WILLMAN ATLANTA, IL	09/20/2001
SANDERS, JEAN BALDWINSVILLE, NY	09/20/2001
SCHAUERHAMER, ROBERT ALAN APPLE VALLEY, MN	09/20/2001
SCHELL, CHRISTINE NEWPORT, RI	09/20/2001
SCOTT, TRAVIS DEAN RIVERTON, UT	09/20/2001
SEAGERS, RAPHEAL SCOTT ROWLETT, TX	09/20/2001
SERENO, PATRICIA HOWELL, NJ	09/20/2001
SHAFFER, JEFFERY ALLAN FEDERAL WAY, WA	09/20/2001
SIEPMANN, LAURA M ORIENT, ME	09/20/2001
SLAY, JERRY L BRENTWOOD, TN	09/20/2001
SMITH, CHAD M FOUNTAIN HILLS, AZ	09/20/2001
SORK, ROY ALLEN EL PASO, TX	09/20/2001
SPENCE, STEFANIE ANNE DOTHAN, AL	09/20/2001
ST GERMAIN, GAIL M WOONSOCKET, RI	09/20/2001
STARK, CHRISTIE L MANCHESTER, NH	09/20/2001
THOMPSON, JOY R STANLEY, NY	09/20/2001
TOMARCHIO, JANET L PORTLAND, ME	09/20/2001
TRUJILLO, CHRISTINE A ASHLAND CITY, TN	09/20/2001
TURNER, TERRI LYNN GEARY, OK	08/20/2001
VALENZUELA, GUADALUPE PHOENIX, AZ	09/01/2001
VANCE, MARJORIE LOU HOUSTON, TX	09/20/2001
WALLACE, LINDA J AGAWAM, MA	09/20/2001
WARNER, RENE JR LOGANSPORT, IN	09/20/2001
WELCH, SUSAN M PROVIDENCE, RI	09/20/2001
WELCH, BRENDA KAYE WHITEWRIGHT, TX	09/20/2001
WELLS, WEETONIA ANN BOONEVILLE, AR	09/20/2001
WILLIAMS, MARITZA T SUNBURY, PA	09/20/2001
WOODERSON, PHILLIP CLYDE INDIANOLA, IA	09/20/2001
WRIGHT, KATHE L WILLIAMSPORT, PA	09/20/2001
YAN, MICHELLE LIU WALNUT, CA	09/20/2001
ZILKA, EZECKIEL LOS ANGELES, CA	09/20/2001
FEDERAL/STATE EXCLUSION/ SUSPENSION	
AUSTRIACO, JOSE D MAYWOOD, IL	09/20/2001
CHEN, CHENG TAI CHICAGO, IL	09/20/2001
GORDON, BARBARA S PLAINFIELD, NJ	09/20/2001
JAIN, KANAKMAL HANOVER PARK, IL	09/20/2001
ROBERTI, SUZANNE CAROLYN PORTLAND, OR	09/20/2001
ROBERTI, JOHN PORTLAND, OR	09/20/2001
QUALITY OF CARE VIOLATIONS	
STRINE, WALTER M JR MEDIA, PA	07/11/2001
FRAUD/KICKBACKS	
ADULT & ADOLESCENT PSYCHIATRY WEST HAVEN, CT	09/24/1998
BALISTOCKY, MARVIN H PLYMOUTH MEETING, PA	02/21/2001
COLORADO NEUROSURGERY, P C DENVER, CO	06/18/2001
DOMINGUEZ, RAMON MIAMI, FL	11/15/1999
HERTZ, BRADLEY MIAMI, FL	03/23/2001
INTERIM HEALTHCARE OF HOLLYWOO MIAMI, FL	03/23/2001
MACLEOD, JOHN A CRANSTON, RI	08/26/2001
MOORE, D WAYNE E BOOTHBAY, ME	11/27/2000
O'CALLAGHAN, MARY STEWART TRABUCO CANYON, CA	06/20/2001
SARPONG, GODFRIED OWUSU HOUSTON, TX	09/20/2001
VANDERSLUIS, MICHAEL ALBERT DE MOTTE, IN	06/16/1999
OWNED/CONTROLLED BY CONVICTED	
ALSI CARE SERVICES, INC MIAMI, FL	09/20/2001
ALSI MEDICAL EQUIPMENT, INC MIAMI, FL	09/20/2001
AMBULATORY HEALTH ASSOC, INC ORLANDO, FL	09/20/2001
ARMITAGE CHIROPRACTIC EDGELEY, ND	09/20/2001
ASSEM H ADMAD, D C SAN JOSE, CA	09/20/2001
BODY ENERGETICS, INC ELLICOTT CITY, MD	09/20/2001
C & P NURSING SERVICES, INC MIAMI, FL	09/20/2001
CHARITY HOME HEALTH CARE, INC MIAMI, FL	09/20/2001
FLORIDA CHIROPRACTIC CENTER PALM HARBOR, FL	09/20/2001
GOLD RIVER HEALTHCARE SALES SACRAMENTO, CA	09/20/2001
GOOD NURSING SERVICES, INC MIAMI, FL	09/20/2001
OXY MED SERVICES, INC OYSTER BAY COVE, NY	09/20/2001
PEACH STATE SONOGRAPHERS, INC TUCKER, GA	09/20/2001
PSYCHOLOGICAL CONNECTIONS, INC CHEVY CHASE, MD	09/20/2001
PURE CARE NURSING SVCES, INC MIAMI, FL	09/20/2001
RITE AID NURSING HOME HEALTH MIAMI, FL	09/20/2001
TEXOMA CHIROPRACTIC CLINIC SHERMAN, TX	09/20/2001
DEFAULT ON HEAL LOAN	
ADLER, JANE M POTOMAC, MD	09/20/2001
AGUIAR, CARLOS R QUINCY, MA	09/20/2001
ALLEN, KENNETH W	09/20/2001

Subject, city, state	Effective date
SUTTON, MA	
ASHKINAZY, ALAN C ..... COOPER CITY, FL	09/20/2001
BERLOW, RUSTIN R ..... SAN DIEGO, CA	09/20/2001
BETHEL-MURRAY, KIMBERLY F ..... DAYTON, OH	09/20/2001
BEVERLEIGH, HOWARD K ..... SAN JOSE, CA	09/20/2001
BRICKER, DANIEL SHAWN .... LAJOLLA, CA	09/20/2001
BROUSSARD, LINDA CATHERINE ..... LOS ANGELES, CA	09/20/2001
BROWN, JEFFREY TODD ..... TRABUCO CANYON, CA	09/20/2001
BROWN, SHERRY L ..... PANAMA CITY, FL	09/20/2001
CAFFERTY, RANDALL J ..... PUYALLUP, WA	09/20/2001
CAPILLI, MICHAEL A ..... LONG BRANCH, NJ	07/30/2001
CRAIG, EUGENE SLOAN JR .. BALTIMORE, MD	09/20/2001
DAS, BRAJENDRA CHAND .... DES MOINES, IA	09/20/2001
DEHGHAN, AMIR ASAD ..... CLAYTON, CA	09/20/2001
DORIAN, SARO S ..... GLENDALE, CA	09/20/2001
EADS, TRACIE J ..... BOWLING GREEN, KY	09/20/2001
EASTMAN, LISA L ..... MANHATTAN, KS	09/20/2001
EITEMILLER, TODD O ..... CHADRON, NE	09/20/2001
FOWLER, WAYNE A ..... ANDOVER, MA	09/20/2001
GALLIHER, JACK THOMAS .... BREA, CA	09/20/2001
GAYDOS, RICHARD F JR ..... FONTANA, CA	09/20/2001
GULLA, KEVIN M ..... W CHESTER, OH	09/20/2001
GUTIERREZ, JAIME JAVIER .. DEL RIO, TX	09/20/2001
GUYER, LARRY GENE ..... SEBASTOPOL, CA	09/20/2001
HALL, PATRICIA M ..... BRIGHTON, MA	09/20/2001
HALL, ANTHONY P ..... DAYTON, OH	09/20/2001
HARRISON, ALLEN JEFFREY ENGLEWOOD, CO	09/20/2001
HARVEY, ALEXIS HUTTON .... FELTON, CA	09/20/2001
HOFFMAN, THOMAS BRETT VISTA, CA	09/20/2001
HOWELL, RALPH GREGORY CLOVIS, CA	09/20/2001
HUFFMAN, SHARON LEA ..... METAIRIE, LA	09/20/2001
HUNTER, DONALD E ..... FAIRBORN, OH	09/20/2001
JENSEN, CLAUDIA JANE ..... VENTURA, CA	09/20/2001
JERUZAL, FRANCIS X ..... OSHKOSH, WI	09/20/2001
KAHANEK, CAROL A ..... SANTA CRUZ, CA	09/20/2001
KILLIAN, JAMES KEITH ..... OKLAHOMA CITY, OK	09/20/2001
LARA, ADRIENNE E ..... CHESTNUT HILL, MA	09/20/2001
LENARD, ALEXANDER N ..... MIAMI BEACH, FL	09/20/2001
LY, HUNG THIEN ..... SAVANNAH, GA	09/20/2001
MACK, OLLIE R JR ..... SACRAMENTO, CA	09/20/2001
MALIN, MAUREEN A ..... MILTON, MA	09/20/2001
MELNAR, RANDALL K ..... N LITTLE ROCK, AR	09/20/2001
MILLER, JENNIFER K ..... BOZEMAN, MT	09/20/2001
MORAN, JOSEPH E ..... WILKES BARRE, PA	09/20/2001
MURPHY, MONICA J ..... BAKERSFIELD, CA	09/20/2001
MUSTO, JAMES J ..... FORTY FORT, PA	09/20/2001
MYERS, TERESA L ..... MURPHYSBORO, IL	09/20/2001
NYMAN, DAVID WILLIAM ..... TUCSON, AZ	09/20/2001
OLIVERA, PABLO R ..... NEWARK, NJ	09/20/2001
PHILLIPS, GUY E JR ..... CINCINNATI, OH	09/20/2001
PIZARRO, MARINA P ..... ORLANDO, FL	09/20/2001
PRITCHARD, DOYLE P ..... EL CENTRO, CA	09/20/2001
RAFFERTY, DIANNA L ..... UNIONTOWN, PA	09/20/2001
RODAK, RANDALL RAYMOND SALIDA, CO	09/20/2001
SEDOVSKY, JEFFREY R ..... WALTHAM, MA	09/20/2001
SHIENVOLD, FRANCES L ..... ORLANDO, FL	09/20/2001
SIMON, CATHY L ..... ALISO VEJO, CA	09/20/2001
STERMETZ, CHARLES K ..... CHANDLER, AZ	09/20/2001
STYCHNO, CHRISTOPHER P WARREN, OH	09/20/2001
TEAGUE, JENETTE ..... LOS ANGELES, CA	09/20/2001
VAN WHY, KENT JOHN ..... DAVENPORT, IA	09/20/2001
VERRILLA, RONALD G ..... PENN HILLS, PA	09/20/2001
WHEELER, TREV D ..... NYSSA, OR	07/23/2001
WIELAND, DAVID M ..... LARGO, FL	09/20/2001
WITT, RODNEY PAUL ..... NIXA, MO	09/20/2001
YORK, LISA ROBIN ..... TULSA, OK	09/20/2001

Dated: September 6, 2001.

Calvin Anderson, Jr.,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 01–23560 Filed 9–20–01; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Director's Consumer Liaison Group.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Director's Consumer Liaison Group.

Date: September 17, 2001.

Time: 12 p.m. to 2 p.m.

Agenda: To discuss the upcoming October 2001 Fall meeting, to give updates on CARRA and the working groups.

Place: 6116 Executive Boulevard, Room 306A, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Elaine Lee, Acting Executive Secretary, Office of Liaison Activities, National Institutes of Health, National Cancer Institute, 6116 Executive Boulevard, Suite 300 C, Bethesda, MD 20892, 301/594–3194.

This notice is being published less than 15 days prior to meeting due to scheduling conflicts.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's homepage: *deainfo.nci.nih.gov/advisory/dclg/delg.htm.* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23581 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Spore in Gastrointestinal and Prostate Cancer.

Date: October 9–11, 2001.

Title: 6 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Brian E. Wojcik, Phd., Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8019, Bethesda, MD 20892, 301/402–2785.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interest person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395. Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Supports; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23590 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Clinical Trials Review Committee.

Date: October 28–29, 2001.

Time: 6 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Joyce A. Hunter, PhD., Review Branch, Room 7192, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892–7924, 301/435–0277.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23585 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: October 18–19, 2001.

Open: October 18, 2001, 8:30 a.m. to 5 p.m.

Agenda: For discussion of program policies and issues.

Place: National Institutes of Health, Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: October 19, 2001, 8 a.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Edward M Donohue, Acting Director, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, NIH, Two Rockledge Center, Room 7100, 6701 Rockledge Drive, Bethesda, MD 20892, 301/435–0260.

Information is also available on the Institute's/Center's home page: www.nhlbi.nih.gov/meetings/index.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23586 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Health Services Research Review Subcommittee.

Date: October 11, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Bethesda, MD 20814.

Contact Person: Elsie Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, *etaylor@niaaa.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group Clinical and Treatment Subcommittee.

Date: October 26, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Bethesda, MD 20814.

Contact Person: Elsie Taylor, MS, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, *etaylor@niaaa.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: September 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23582 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: October 18, 2001.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: L Tony Beck, PhD., Scientific Review Administrator, National Institutes on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003, 301–443–0913, lbeck@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: September 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23583 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: September 26, 2001.

Time: 9 a.m. to 10 a.m.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Yen Li, PhD., Scientific Review Administrator, Scientific Review Programs, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, yli@niaid.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 13, 2001.

LaVerne Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23584 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Program Project.
Date: October 1, 2001.
Time: 12:30 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Khursheed Asghar, PhD., Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, Msc 9547, Bethesda, MD 20892–9547, (301) 443–2620.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Initial Review Group Health Services Research Subcommittee.
Date: October 10–11, 2001.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Raddison Barcelo Hotel, 2121 P Street NW., Washington, DC 20037.
Contact Person: Marina L. Volkov, PhD., Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1433.

Name of Committee: National Institute on Drug Abuse Initial Review Group Treatment Research Subcommittee.
Date: October 10–11, 2001.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Raddison Barcelo Hotel, 2121 P Street NW., Washington, DC 20037.
Contact Person: Kesinee Nimit, MD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1432.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Treatment Research.
Date: October 11, 2001.
Time: 9 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: Raddison Barcelo Hotel, 2121 P Street NW., Washington, DC 20037.
Contact Person: Mark R. Green, PhD., Chief, CEASRB, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, Suite 3158, 6001 Executive Boulevard, Bethesda, MD 20892–9547, (301) 435–1431.

Name of Committee: National Institute on Drug Abuse Initial Review Group Training and Career Development Subcommittee.
Date: October 23–25, 2001.
Time: 9 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Arlington Hyatt, 1325 Wilson Boulevard, Arlington, VA 22209.
Contact Person: Mark Swieter, PhD., Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1389.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel.
Date: October 25, 2001.
Time: 1 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Arlington Hyatt, 1325 Wilson Boulevard, Arlington, VA 22209.
Contact Person: Khursheed Asghar, PhD., Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, Msc 9547, Bethesda, MD 20892–9547, (301) 443–2620.

Name of Committee: National Institute on Drug Abuse Initial Review Group Medication Development Research Subcommittee.
Date: November 1, 2001.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
Contact Person: Khursheed Asghar, PhD., Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, Msc 9547, Bethesda, MD 20892–9547, (301) 443–2620.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel.
Date: November 13–14, 2001.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Empress Hotel of La Jolla, 7766 Fay Avenue, La Jolla, CA 92037.
Contact Person: Rita Liu, PhD., Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2620.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: September 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23587 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group Surgery and Bioengineering Study Section.
Date: October 1–2, 2001.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Teresa Nesbitt, DVM, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda MD 20892, (301) 435–1172, nesbitt@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 2, 2001.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, (301) 435–1225, politisa@csr.nih.gov.

Name of Committee: Oncological Sciences Integrated Review Group, Pathology B Study Section.
Date: October 3–5, 2001.
Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Martin L. Padarathsingh, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 4, 2001.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Debora L. Hamernik, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, Bethesda, MD 20892, 301–435–4511, hamernid@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 5, 2001.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Debora L. Hamernik, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, Bethesda, MD 20892, 301–435–4511, hamernid@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878m 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23588 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(c) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provision set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 19, 2001.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jeanne N. Ketley, PhD., Scientific Review Administrator, Center for Scientific Review, National Institute of Heath, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (303) 435–1789.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.937–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23589 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–38]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: September 14, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 01–23406 Filed 9–20–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection to be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act of 1995 (PRA)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: New Information Collection—State Certification of Expenditures.

SUMMARY: The U.S. Fish and Wildlife Service (Service) plans to submit the information collection requirement described below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995 (PRA). The Service is soliciting comment and suggestions on the requirement as described below.

DATES: Interested parties must submit comments on or before November 20, 2001.

ADDRESSES: Interested parties should send comments and suggestions on the requirement to Rebecca A. Mullin, Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 222, Arlington, VA 22203 or *Rebecca_Mullin@fws.gov* e-mail.

FOR FURTHER INFORMATION CONTACT: Tim Hess, (703) 358–1849, fax (703) 358–1837, or *Tim_Hess@fws.gov* e-mail.

SUPPLEMENTARY INFORMATION: *Title of Forms:* Certification of Spending.

Service Form Number: 3–2197a.

This form currently has no OMB Control Number. The Service may not condcut or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB Control Number.

Description and Use: The Service administers grant programs authorized by the Federal Aid in Wildlife and Sport Fish Restoration Acts. The Wildlife and Sport Fish Restoration Programs Improvement Act of 2000 requires that States certify annually in writing that their expenditures of these Federal grant funds was in accordance with the appropriate Act.

The Service must forward these certifications to Congress annually by December 31st each year.

The Service plans to submit the following information collection requirements to OMB for review and extension approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are invited on (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Frequency: Annually.

Description of Respondents: States and the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the U.S. Virgin Islands, and American Samoa.

BILLING CODE 4310–55–C

OMB Control No. 1018-xxxx
Approval Expires xx/xx/xxxx

UNITED STATES
DEPARTMENT OF THE INTERIOR
U.S. Fish and Wildlife Service

STATE CERTIFICATION OF SPENDING

for the Wildlife and Sport Fish Restoration Programs

for the Period October 1, ____, through September 30, ____

_____
(State)

_____
(Agency)

Pursuant to the Wildlife and Sport Fish Restoration Programs Improvement Act of 2000 (Public Law 106-408), subsection 133(d)(1),

I CERTIFY that:

Amounts apportioned under the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.) and the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 et seq.) were expended by the State in accordance with each of those Acts.

_____ _____
(Certifying Official's Signature) (Date)

_____
(Typed Name and Title)

Instructions
1. Fill in your State and Agency names at the top of the form.
2. Complete the Certification Period if it is blank or incorrect as it appears on the form.
3. Type the name and title of the Certifying Official on the designated line.
4. Sign and date the form.
5. Mail the completed form no later than November 29 each year to your appropriate Service Regional Office.

Notes:
1. The *Certifying Official* is the Director of the State agency receiving the apportioned funds, or the person to whom the Director reports.
2. A *State*, as defined in 50 CFR 80.1(b), is any state of the United States; the territorial areas of Guam, the U.S. Virgin Islands, and American Samoa; the Commonwealth of Puerto Rico; the District of Columbia; and the Commonwealth of the Northern Mariana Islands.

FWS Form No. 3-2197a
9/2001

Paperwork Reduction Act and the Privacy Act – Notices

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.) and the Privacy Act of 1974 (5 U.S.C. 552a), please be advised that:

1. The gathering of information on fish and wildlife restoration expenditures is authorized by:
   – Pub. L. 106-408, Wildlife and Sport Fish Restoration Programs Improvement Act of 2000 (Section 133(d)(1)).

2. Submission of requested information is required and authorized under the above authority. Response is not required unless a currently valid Office of Management and Budget (0MB) control number is displayed.

3. There will be no routine annual publication of certification forms in the Federal Register under this program. However, the Fish and Wildlife Service may make the form available on its Federal Aid Web site.

4. Routine use disclosures may also be made:
   (a) to the U.S. Department of Justice when related to litigation or anticipated litigation,
   (b) as information indicating a violation or potential violation of a statute, regulation, rule, policy, or Court order to appropriate Federal, State, or local agency responsible for investigation or prosecuting such violation, or for enforcing or implementing the statute, regulation, rule, policy, or order,
   (c) in response to a request from a congressional office, or
   (d) in conjunction with audit of State records.

5. No personal information such as home address and telephone number, financial data, and personal identifiers (Social Security Number, birth date, etc.) are part of this certification form.

6. The public reporting burden for this information collection is 30 minutes. This burden estimate includes time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of the form to the Service Information Clearance Officer, U.S. Fish and Wildlife Service, Mail Stop 222, Arlington Square, U.S. Department of the Interior, 1849 C Street N.W., Washington, D.C. 20240.

Freedom of Information Act - Notice

There is no confidential information collected on this form. All information on this form may be made available to the public under FOIA [43 CFR 2].

Certification Processing Fee

There is no certification form processing fee.

Completion Time and Annual Response Estimate:

Form name	Completion time per form	Annual response	Annual burden
State Certification of Expenditures	½ Hour	60 Forms	30 Hours

Dated: September 6, 2001.

Rebecca Mullin,

U.S. Fish and Wildlife Service, Information Collection Clearance Officer.

[FR Doc. 01–23662 Filed 9–20–01; 8:45 am]

BILLING CODE 4310–55–C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: Jonathan Winthrop, Beverly Hills, CA, PRT–047727

The applicant requests a permit to import the sport-hunted trophies of two male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Arthur N. Rowland, Boyertown, PA, PRT–043621

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: September 7, 2001.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Office of Management Authority.

[FR Doc. 01–23660 Filed 9–20–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permit for Marine Mammals

On July 3, 2001, a notice was published in the **Federal Register** (66 FR 35265), that an application had been filed with the Fish and Wildlife Service by Charles W. Helscel for a permit (PRT–044695) to import one polar bear (*Ursus maritimus*), taken from the Northern Beaufort Sea population, Canada for personal use.

Notice is hereby given that on August 20, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On August 7, 2001, a notice was published in the **Federal Register** (66 FR 41260), that an application had been filed with the Fish and Wildlife Service by Fish and Wildlife Service/Marine Mammal Management, Anchorage, AK for a permit (PRT–046081) to take (harass) polar bear (*Ursus maritimus*), for the purpose of scientific research while conducting aerial population surveys.

Notice is hereby given that on August 21, 2001 as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein. This permit was issued prior to the close of the formal comment period, as authorized by 16 U.S.C. 1374 Section 104 (c)(3)(A), after it was determined that a delay in issuing the permit could result in the loss of unique research opportunities.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone (703) 358–2104 or fax (703) 358–2281.

Dated: September 7, 2001.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–23661 Filed 9–20–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed Cooperative Research & Development Agreement (CRADA) Negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with Alpha DVD, LLC for the development of DVD formats relating to earth science topics.

Inquiries: If any other parties are interested in similar activities with the USGS, please contact Jerry McFaul, U.S. Geological Survey, 12201 Sunrise Valley Drive, MS 918, Reston, Virginia, 20192, telephone (703) 648–7126.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS requirements stipulated in Survey Manual Chapter 500.20.

P. Patrick Leahy,

Associate Director for Geology, U.S. Geological Survey.

[FR Doc. 01–23575 Filed 9–20–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed Cooperative Research & Development Agreement (CRADA) Negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) will MarketPoint, Inc. for the development of regionalized Resource Analysis and Economic Models based on various USGS energy data bases.

Inquiries; If any other parties are interested in similar activities with the USGS, please contact Donald Gautier, U.S. Geological Survey, Bldg. 15 McKelvey Bldg—MS 975., 345 Middlefield Rd., Menlo Park, CA 94025, telephone (650) 329–4909.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS requirements stipulated in Survey Manual Chapter 500.20.

P. Patrick Leahy,

Associate Director for Geology, U.S. Geological Survey.

[FR Doc. 01–23573 Filed 9–20–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed Cooperative Research & Development Agreement (CRADA) Negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with the Northwest Geophysical Associates to develop Northern Alaska Geophysical Models.

Inquiries: If any other parties are interested in similar activities with the USGS, please contact Richard W. Saltus,

U.S. Geological Survey, Energy Resources Team, MS 939 Box 25046 Denver Federal Center, telephone (303) 236–1647.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS requirements stipulated in Survey Manual Chapter 500.20.

P. Patrick Leahy,

Associated Director for Geology, U.S. Geological Survey.

[FR Doc. 01–23574 Filed 9–20–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–990–5101–ER–FL07]

Notice of Rescheduled Scoping Meetings for the Environmental Impact Statement (EIS) for Renewal of the Federal Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline System (TAPS).

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of rescheduled Scoping Meetings for the Environmental Impact Statement (EIS) for Renewal of the Federal Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline System (TAPS).

SUMMARY: The BLM is rescheduling scoping meetings originally scheduled to occur on September 12, 2001, in Barrow, Alaska and September 13, 2001, in Fairbanks, Alaska, and is extending the scoping period. The Notice of Intent establishing the original scoping period and notifying the public of meeting times was published in the **Federal Register** on July 31, 2001 (Vol. 66, No. 147, p. 39529). The tragic events of September 11, 2001 and the resultant disruption of air traffic made the postponement and extension necessary.

The BLM will hold rescheduled public scoping meetings for the EIS in these communities as listed below (specific meeting times and places will be announced through local media, project web site, and by e-mail):

Fairbanks, Alaska: Wednesday, October 10, 2001

Barrow, Alaska: Friday, October 12, 2001

The public scoping period, originally scheduled to end on September 29, is extended to October 19.

DATES: The BLM will accept written comments on the EIS scope postmarked by October 19, 2001; and electronic, faxed, and voice comments received by October 19, 2001. Written comments may also be hand-delivered to the Joint Pipeline Office in Anchorage, Alaska, by 4 p.m. on October 19, 2001.

ADDRESSES: Written comments should be mailed to BLM TAPS Renewal Scoping, Argonne National Laboratory EAD/900, 9700 S. Cass Avenue, Argonne, IL 60439. As an alternative, written comments can be hand-delivered to BLM TAPS Renewal Scoping, 411 W. 4th Avenue, Suite 2, Anchorage, AK. (Do not mail them to this address.) Comments also can be e-mailed to tapseis@anl.gov, submitted through the ''Public Comment Form'' feature on the TAPS Renewal EIS Web site at http://tapseis.anl.gov, by fax toll free to 866–386–7350, or by voice message toll free at 866–386–7331.

FOR FURTHER INFORMATION, CONTACT: Rob McWhorter, 907–271–3664, Joint Pipeline Office, 411 W 4th Avenue, Suite 2, Anchorage, AK 99501, rmcwhort@jpo.doi.gov, or visit the TAPS Right-of-Way Renewal Web site at http://www.tapsrenewal.jpo.doi.gov or the TAPS Renewal EIS Web site at http://tapseis.anl.gov.

Withholding of Personal Information: It is the BLM's practice to make comments, including names and addresses of commenters, available for public review during regular business hours. Individual commenters may request that we withhold their home address from the scoping record, and we will honor such requests to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: September 13, 2001.

Francis R. Cherry, Jr.,

State Director, Alaska.

[FR Doc. 01–23735 Filed 9–20–01; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service; Proposed Information Collection Request Submitted for Public Comment and Recommendations; Eligibility Data Form: Uniformed Services Employment and Reemployment Rights Act and Veteran's Preference (USERRA/VP)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with The Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506 C (2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Veterans' Employment and Training Service (VETS) is soliciting comments concerning the proposed information collection request for the VETS USERRA/VP Form 1010.

DATE: Comments are to be submitted by November 20, 2001.

ADDRESSES: Comments are to be submitted to the Veterans' Employment and Training Service, U.S. Department of Labor, Room S–1316, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 693–4711. Written comments limited to 10 pages or fewer may also be transmitted by facsimile to (202) 693–4755. Receipt of submissions, whether by U.S. mail, e-mail or FAX transmittal, will not be acknowledged; however, the sender may request confirmation that a submission has been received, by telephoning VETS at (202) 693–4711.

FOR FURTHER INFORMATION: Contact Charles N. Dawson, Office of Compliance, Veterans' Employment and Training Service, U.S. Department of Labor, Room S–1316, 200 Constitution Ave., NW, Washington, DC 20210, telephone: (202) 693–4711 (Voice) or (800) 670–7008 (TTY/TDD). Copies of the referenced information collection request are available for inspection and copying through VETS and will be mailed to persons who request copies by telephoning Mr. Charles N. Dawson at (202) 693–4711.

SUPPLEMENTARY INFORMATION:

I. Background

The purposes of the Uniformed Services Employment and Reemployment Rights Act (USERRA) and this information collection requirement include: protect and facilitate the prompt reemployment of members of the uniformed services (to include National Guard and Reserves); to minimize disruption to the lives of persons who perform service in the

uniformed services and their employers; and to encourage individuals to participate in non-career uniformed service. Also, to prohibit discrimination in employment and acts of reprisal against persons because of their obligations in the uniformed services, prior service, intention to join the uniformed services, filing of a USERRA claim, seeking assistance concerning an alleged violation, testifying in a proceeding, or otherwise assisting in an investigation. The purposes of Veteran's Preference laws and regulations and this information collection requirement include: to provide preference for certain veterans (preference eligibles) over others in Federal hiring from competitive lists of applicants; and to provide preference eligibles with preference over others in retention during reductions in force in Federal agencies. The VETS/USERRA/VP Form 1010 is used to file complaints with the Department of Labor's Veterans' Employment and Training Service (VETS) under either the Uniformed Services Employment and Reemployment Rights Act (USERRA) or laws/regulations related to veteran's'1 preference (VP) in Federal employment.

II. Desired Focus of Comments

Currently VETS is soliciting comments concerning the proposed information collection request for the VETS/USERRA/VP Form 1010. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

This notice requests an extension of the current Office of Management and Budget approval of the paperwork requirements for VETS/USERRA/VP Form 1010.

Type of Review: Extension.

Agency: Veterans' Employment and Training Service.

Title: VETS/USERRA/VP Form 1010.

OMB Number: 1293–0002.

Affected Public: Individuals or households.

Total Respondents: Approximately 1,500.

Average Time per Response: 15 minutes.

Total Burden Hours: 375 hours.

Total Annualized Capital/Startup costs: $0.

Total Initial Annual Costs: $0.

Comments submitted in response to this notice will be summarized and included in the request for the Office of Management and Budget approval of the information collection request. Comments will become a matter of public record.

Dated: September 12, 2001.

Charles S. Ciccolella,

Special Assistant to the Secretary for Veterans' Employment and Training Service.

[FR Doc. 01–23555 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–79–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of August and September, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,378; Flextronics Enclosures, Chambersburg, PA

TA–W–39,553; National Textiles LLC, Gaffney, SC

TA–W–39,215; Georgia-Pacific Corp., Plywood Div., Louisville, MS

TA–W–39,595; RHO Industries, Buffalo, NY

TA–W–39,530; Facemate Corp., Collierville, TN

TA–W–39,450; Northwestern Steel and Wire Co., Sterling, IL

TA–W–39,460; Johnson Controls, Automotive Systems Group, Taylor, MI

TA–W–39,131; Wilmot Printing Co., El Paso, TX

TA–W–38,618; Belding Hausman, Inc., Bogor City, NC

TA–W–39,311; T and K Timber, Inc., La Pine, OR

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,434; Condor DC Power Supplies, Inc., Todd Products Group, Brentwood, NY

TA–W–39,172; Celanese AG, Celanese Acetate Div., Rock Hill, SC

TA–W–39,576; The Serco Co., Buffalo, NY

TA–W–39,158; ACS Group, Inc., Plastics Automation Engineering, Windsor, CT

TA–W–39,301; APV Crepaco, Inc., APV Americas, Inc., Lake Mills, WI

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification.

TA–W–39,483; Franklin Industries, Franklin, PA

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–39,535 & A,B; Computer Sciences Corp., Charleston, SC, Wilmington, NC and Kingston, NC

TA–W–39,555; Wilson Freight Associates, Inc., Buren, AR

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,214; Bridgestone/Firestone Off-Road Tires, Bloomington, IL April 25, 2000.
TA–W–39,561; 411 Warehouse Corp., Madisonville, TN: June 21, 2000.
TA–W–39,363; Pratt and Whitney HAC, Grand Prairie, TX: May 29, 2000.
TA–W–39,545; Invensys Systems, Inc., Systems Manufacturing, Foxboro, MA: June 4, 2000.
TA–W–39,181; Southwire Co,— Arkansas Plant, Osceola, AR: April 12, 2000.
TA–W–39,726; Act Manufacturing, Corinth, MS: July 12, 2000.
TA–W–39,581; Ross Allen Design, Bean Station, TN: June 21, 2000.
TA–W–39,765; Rugged Sportswear, LLC, LaGrange, NC: July 18, 2000.
TA–W–39,516; Woods Industries, Loogootee Manufacturing, Loogootee, IN; June 5, 2000.
TA–W–39,636; Angelica Corp., Angelica Image Apparel, Mountain View, MO: June 28, 2000.
TA–W–39,597; Adaptec, Inc., Orlando, FL: June 21, 2000.
TA–W–39,223; Old Forge Lamp & Shade, Div. of Woodstock Wire Works, Inc., Old Forge, PA: April 10, 2000.
TA–W–39,481; Elder Manufacturing Co., Inc., Dexter, MO: June 4, 2000.
TA–W–39,766; Yazoo Uniforms, Yazoo City, MS: June 23, 2000.
TA–W–39,696; Hunt Forest Products, Inc., Castor, LA: July 13, 2000.
TA–W–39,053; SGL Carbon Corp., Carbon and Graphite Unit, Niagara Falls, NY: March 29, 2000.
TA–W–39,265; McGinley Mills, Inc., Easton, PA: April 26, 2000.
TA–W–39,240; FCI USA, Inc., Electrical Connectors, Hanover, PA: April 26, 2000.
TA–W–39,240A; JFC Temporary Works of FCI USA, Inc., Electrical Connectors, Clearfield, PA: May 7, 2000.
TA–W–39,627; Timkin, Columbus Railroad Bearing Plant, Columbus, OH: June 19, 2000.
TA–W–39,649; Nazareth/Century Mills, Inc., Quitman, MS: August 24, 2001.
TA–W–38,990; AMI Candle, Inc., Fall River, MA: March 24, 2000.
TA–W–29,772; Manitowoc Boom Trucks, Inc., York, PA: July 27, 2000.
TA–W–39,157 & A; Butwin Division, Rennoc Corp., St. Paul, MN and Litchfield, MN: April 16, 2000.
TA–W–39,459 & A; The Lane Co., Altavista, VA and Rocky Mount, VA: June 6, 2000.
TA–W–39,814; Tingley Rubber Corp., South Plainfield, NJ
TA–W–39,692 & A; AM Communications, Quakertown, PA and NeSTronix, Inc., Quakertown, PA: July 11, 2000.
TA–W–39,492; APW, Ltd, Erie, PA: June 6, 2000.
TA–W–39,714; American Drillbox Co., Caruthersville, MO: July 18, 2000.
TA–W–39,319; Stanley Works Hardware Div., New Britain, CT: June 11, 2001.
TA–W–39,699; Sterling Lebanon Packaging Corp., Jeannette, PA: July 13, 2000.
TA–W–39,622; UCAR Carbon Co., Inc. Clarksville Plant, Clarksville, TN: July 2, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of August and September, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada or articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–05172; Admiral Marine Construction, Inc, Port Angeles, WA
NAFTA–TAA–04850; APV Crepaco, Inc., APV Americas, Lake Mills, WI
NAFTA–TAA–04756 & A,B; Butwin Division of Rennoc Corp., St. Paul, MN and Litchfield, MN
NAFTA–TAA–04706; Form Tech Enterprises, Inc., Orwigsburg, PA
NAFTA–TAA–05064; Timkin, Columbus Railroad Bearing Plant, Columbus, OH
NAFTA–TAA–04829; SGL Carbon Corp., Carbon and Graphite Unit, Niagara Falls, NY
NAFTA–TAA–05117; Besser Lithibar, Holland, MI
NAFTA–TAA–05032; National Textiles, LLC, Gaffney, SC
NAFTA–TAA–04979; Johnson Controls, Automotive Systems Group, Taylor, MI

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–05096; Sterling Lebanon Packaging Corp., Jeanette, PA: July 13, 2000.
NAFTA–TAA–05052; UCAR Carbon Co., Inc., Clarksville, TN: July 5, 2000.
NAFTA–TAA–04818; McGinley Mills, In., Easton, PA: April 26, 2000.
NAFTA–TAA–05007; Sola Optical USA, Petaluma, CA: March 30, 2000.
NAFTA–TAA–04837; FCI USA, Inc., Electrical Connectors, Hanover, PA: April 24, 2000
NAFTA–TAA–04837A; JFC Temporary Workers of FCI USA, Inc., Electrical Connectors, Clearfield, PA: May 7, 2000
NAFTA–TAA–04951; Celanese AG, Celanese Acetate Div., Rock Hill, SC: June 1, 2000.
NAFTA–TAA–04994; Invensys Systems, Inc., Systems Manufacturing, Foxboro, MA: June 4, 2000.
NAFTA–TAA–04815; Penridge Manufacturing, Inc., Freeland, PA: April 27, 2000.
NAFTA–TAA–04819; Old Forge Lamp and Shade, Div. Of Woodstock Wire Works, Inc., Old Forge, PA: April 10, 2000.
NAFTA–TAA–04886; Crowntex, Inc., Wrightsville, GA: May 8, 2000.
NAFTA–TAA–04995; Elder Manufacturing Co., Inc., Dextger, MO: June 14, 2001

NAFTA–TAA–05086; Hunt Forest Products, Inc., Castor, LA: July 13, 2000.

NAFTA–TAA–05063; Angelicia Corp., Angelica Image Apparel, Mounting View, MO: July 17, 2000.

NAFTA–TAA–05093; A.O. Smith Corp., Electrical Products Co., Mebane, NC: July 23, 2000.

NAFTA–TAA–04707; Wabash Alloys, LLC, Oak Creek, WI: March 29, 2000.

NAFTA–TAA–05030; Ross Allen Design, Bean Station, TN: June 28, 2000.

NAFTA–TAA–04749; Hammond and Associates, Inc., Lexington, AL: April 4, 2000.

NAFTA–TAA–04824; Mother Parker's Tea and Coffee, Inc., Amherst, NY: April 10, 2000.

NAFTA–TAA–05047; Graphic Controls, Cherry Hill Facility, Cherry Hill, NJ: June 26, 2000.

I hereby certify that the aforementioned determinations were issued during the month of August and September, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 14, 2001

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23531 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of DTAA at the U.S. Department of Labor (DOL) Washington, DC provided such request if filed in writing with the Director of DTAA not later than October 1, 2001.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of DTAA at the address shown below not later than October 1, 2001.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 4th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[09/04/2001]

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Kimlor Mills (Wkrs)	Orangeburg, SC	07/09/2001	NAFTA–5,044	apparel.
Micron Electronics (Wkrs)	Nampa, ID	05/24/2001	NAFTA–5,045	computer systems.
Harvard Industries, Inc. (UAW)	Stowe, PA	06/29/2001	NAFTA–5,046	Stators, caps & covers—Automotive Use.
Graphic Controls (Co.)	Cherry Hill, NJ	07/03/2001	NAFTA–5,047	cables and leadwires.
Cott Manufacturing (Co.)	West Mifflin, PA	07/05/2001	NAFTA–5,048	warning signs.
John Crane (Co.)	Crystal Lake, IL	07/09/2001	NAFTA–5,049	carbon & silicon carbide sealing.
Laco Sportwear (Co.)	Chattanooga, TN	07/02/2001	NAFTA–5,050	knit tops.
Quality Fabricating (Wkrs)	N. Huntington, PA	07/05/2001	NAFTA–5,051	sheet metal parts.
UCAR Carbon (Co.)	Clarksville, TN	07/05/2001	NAFTA–5,052	graplit electrodes.
Greg Stout Logging (Co.)	Gold Hill, OR	07/03/2001	NAFTA–5,053	lumber, plywood and wood chips.
Spectrum Control (Wkrs)	Elizabethtown, PA	06/26/2001	NAFTA–5,054	microwave resonator products.
Alpha Industries (Wkrs)	Knoxville, TN	07/09/2001	NAFTA–5,055	military jackets.
Bike Athletic (Co.)	Mountain City, TN	07/09/2001	NAFTA–5,056	men's and ladies shorts.
Gamco Manufacturing (Co.)	Jamestown, TN	07/09/2001	NAFTA–5,057	ladies sportswear and uniforms.
Tower Automotive (PACE)	Sebewaing, MI	07/10/2001	NAFTA–5,058	auto supplier metal stamping.
JPS Apparel Fabrics (Co.)	Greenville, SC	07/09/2001	NAFTA–5,059	spun & filament greige woven fabric.
JPS Apparel Fabrics (Co.)	South Boston, VA	07/09/2001	NAFTA–5,059	spun & filament greige woven fabric.
JPS Apparel Fabrics (Co.)	New York, NY	07/09/2001	NAFTA–5,059	spun & filament greige woven fabric.
JPS Apparel Fabrics (Co.)	Laurens, SC	07/09/2001	NAFTA–5,059	spun & filament greige woven fabric.
ABC NACO (IBM)	Superior, WI	07/10/2001	NAFTA–5,060	trackwork products for railroads.
Great Lakes Stitchery, Inc. (Comp.).	Manistee, MI	07/17/2001	NAFTA–5,061	Ladies' and Men's Apparel.

APPENDIX—Continued

[09/04/2001]

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
M and S Manufacturing (Wkrs)	Hudson, MI	07/17/2001	NAFTA–5,062	Screw Machine Products.
Angelica Corp. (Wrks.)	Mountain View, MO	07/17/2001	NAFTA–5,063	Service Apparel.
Timken (USWA)	Columbus, OH	07/16/2001	NAFTA–5,064	Bearing Reconditioning.
Harsco Corp (USWA)	Mechanicsburg, PA	07/10/2001	NAFTA–5,065	Compressed Air Cylinders.
Carol Ann Fashions, Inc. (Wrks)	Hastings, PA	07/13/2001	NAFTA–5,066	Ladies' Apparel.
Lamb-Grays Harbor Co (Comp)	Hoquiam, WA	07/10/2001	NAFTA–5,067	Equipment for Pulp and Paper.
Rosti (Minden) (Co.)	Coushatta, LA	07/09/2001	NAFTA–5,068	phone kits.
Cooper Bussmann (Co.)	Black Mountain, NC	07/11/2001	NAFTA–5,069	electrical fuses.
Owens-BrigGam Medical (Co.)	Fletcher, NC	07/05/2001	NAFTA–5,070	disposable medical supplies.
Modine Aftermarket Holdings (Wrks).	Merced, CA	07/05/2001	NAFTA–5,071	accounting.
Endar Corp (Comp)	Temecula, CA	07/11/2001	NAFTA–5,072	Potpourri.
DV and P, Inc. (Wrks)	New York, NY	07/02/2001	NAFTA–5,073	ladies' suits, pants, blouses, skirts.
Plaid Clothing (Co.)	Somerset, KY	07/13/2001	NAFTA–5,074	men's suits, jackets and pants.
Wilcox Forging (USWA)	Mechanisburg, PA	07/10/2001	NAFTA–5,075	Steel Castings.
N. Oritsky (UNITE)	Reading, PA	07/05/2001	NAFTA–5,076	men's suits and slacks.
Carter Industries, Inc (Wrks)	Brooklyn, NY	07/16/2001	NAFTA–5,077	Jackets, Uniforms, Coveralls.
Bournn (Comp)	Ogden, UT	07/16/2001	NAFTA–5,078	Optical Encoders.
Neles Automation USA (Co.)	Houston, TX	07/16/2001	NAFTA–5,079	Industrial Control Valves.
Great Western International (Wrks).	Portland, OR	07/13/2001	NAFTA–5,080	Industrial Chemicals.
Sparten International, Inc (Comp)	Spartanburg, SC	07/16/2001	NAFTA–5,081	Woven Fabrics.
Yale Hoist (USWA)	Forest City, AR	07/16/2001	NAFTA–5,082	Hoists.
Benmer Manufacturing, Inc (Wrks).	Rochester, NY	07/12/2001	NAFTA–5,083	Fabricated Sheet Metal Products.
Guilford Mills (Wrks)	Greensboro, NC	07/13/2001	NAFTA–5,084	ladies' swim wear and intimate apparel.
Dessor Lithibar (Wrks)	Holland, MI	07/13/2001	NAFTA–5,085	Block and Brick Cutters & Splitters.
Hunt Forest Products, Inc (Comp)	Castor, LA	07/17/2001	NAFTA–5,086	Pine Lumber.
RHI America (USWA)	Farber, MO	07/17/2001	NAFTA–5,087	Fire Clay and Refractories Products.
RHI America (USWA)	Mexico, MO	07/17/2001	NAFTA–5,088	Fire Brick & Specialities.
Malbon (Co.)	Hiram, GA	07/18/2001	NAFTA–5,089	pants, slack, dresses, shirts & uniforms.
Square D (Wrks)	Huntington, IN	07/18/2001	NAFTA–5,090	electric transformers.
TechnoTrim (Co.)	Maysville, KY	07/18/2001	NAFTA–5,091	automobile seat covers.
Parker Hannifin (Co.)	Wake Forest, NC	07/23/2001	NAFTA–5,092	air control devices.
A.O. Smith Electrical Products (Co.).	Mebane, NC	07/23/2001	NAFTA–5,093	franctional.
Contempora Fabrics (Co.)	Lumberton, NC	07/18/2001	NAFTA–5,094	circular knitted fabric.
Rexnord Corp.—Roller Chain (USWA).	Indianapolis, IN	07/19/2001	NAFTA–5,095	industrial roller chains.
Sterling Packaging (Wkrs)	Jeannette, PA	07/17/2001	NAFTA–5,096	paperboard boxes.
NYCO Minerals (Wkrs)	Willshoro, NY	07/17/2001	NAFTA–5,097	fine grind stone.
Ogden Manufacturing (Co.)	Albany, WI	07/17/2001	NAFTA–5,098	industrial electric heating elements.
Merry Maid Novelties (UNITE)	Bangor, PA	07/17/2001	NAFTA–5,099	slacks, skirts and ladies' sportswear.
Merry Maid Novelties (UNITE)	Tatamy, PA	07/17/2001	NAFTA–5,099	slacks, skirts and shirts—ladies'.
International Components Technology (Co.).	San Jose, CA	07/13/2001	NAFTA–5,100	automotive safety products.
Nabisco Falls Bakery (IAMAW)	Niagara Falls, NY	07/18/2001	NAFTA–5,101	triscuit line of shredded wheat.
General Mills (Wkrs)	Carlisle, PA	07/18/2001	NAFTA–5,102	single serve fruit juice beverage.
PEC of American (Co.)	San Diego, CA	07/17/2001	NAFTA–5,103	precision metal stamping parts.
Ceres Candles and Gifts (Wkrs)	Hayward, CA	07/16/2001	NAFTA–5,104	botanical candles.
Ademco Group (Wkrs)	Syosset, NY	07/18/2001	NAFTA–5,105	alarm system.
L.E. Smith Glass (Wkrs)	Mt. Pleasant, PA	07/20/2001	NAFTA–5,106	lighting shades, glassware.
Michigan Bag (Co.)	Grand Haven, MI	07/23/2001	NAFTA–5,107	men's and women's apparel.
Ryan Engineering and Design (Co.).	Pellston, MI	07/18/2001	NAFTA–5,108	castings.
Safari Motor Coach (Wkrs)	Hines, OR	07/16/2001	NAFTA–5,109	motor homes.
O'Bryan Brothers (Co.)	Leon, IA	07/19/2001	NAFTA–5,110	ladies' underwear and day wear.
SMTC Mfg. Corp. of Wisconsin (Wkrs).	Appleton, WI	07/19/2001	NAFTA–5,111	circuit boards.
Minnesota Twist (Wkrs)	Chisholm, MN	07/19/2001	NAFTA–5,112	high speed drill bite.
C.T. Gamble Acquisition (Wkrs)	Delanco, NJ	07/18/2001	NAFTA–5,113	electrical resistors.

APPENDIX—Continued

[09/04/2001]

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Morgan Machine (USWA)	Fulton, MO	07/17/2001	NAFTA–5,114	machined parts and brick products.
Hunt Forest Products (Co.)	Castor, LA	07/17/2001	NAFTA–5,115	pine lumber used in buildings.
3Com Corporation (Wkrs)	Santa Clara, CA	07/17/2001	NAFTA–5,116	network interface cards.
Besser Lithibar (Wkrs)	Holland, MI	07/13/2001	NAFTA–5,117	block and brick cutters & splitters.
AMI Semiconductor (Wkrs)	Poatello, ID	06/21/2001	NAFTA–5,118	integrated circuits.
Rebel Screeners (Co.)	Sharon, TN	07/23/2001	NAFTA–5,119	screen prints sleepwear.
Arvin Menitor (Co.)	Pulaski, TN	07/23/2001	NAFTA–5,120	shock absorber.
Thermo King (Wkrs)	Bloomington, MN	07/19/2001	NAFTA–5,121	machining, tube bending/brazing castings.
Maxxim Medical (Wkrs)	Eaton, OH	06/22/2001	NAFTA–5,122	pvc medical exam gloves.
Atlas Bag (Co.)	Houston, TX	07/24/2001	NAFTA–5,123	bulk bags.
Superior Electric (Co.)	Bristol, CT	06/13/2001	NAFTA–5,124	electrical components.
Sola Optical USA (Co.)	Eldon, MO	07/24/2001	NAFTA–5,125	glass ophthalmic lenses and moulds.
AMI Doduco (Co.)	Cedar Knolls, NJ	07/25/2001	NAFTA–5,126	electrical contact parts.
Evenflo Company (Wkrs)	Jasper, AL	07/24/2001	NAFTA–5,127	car seat pads.
Ambler Industries (Co.)	Orangeburg, SC	07/24/2001	NAFTA–5,128	men's and boy's suits.
Rugged Sportswear (Co.)	LaGrange, NC	07/24/2001	NAFTA–5,129	t-shirts, fleece sweatshirts & sweatpants.
Delta Apparel (Co.)	Washington, GA	07/25/2001	NAFTA–5,130	t-shirts.
Lincoln Automotive (Co.)	Jonesboro, AR	07/25/2001	NAFTA–5,131	service jacks.
Gentron Corporation (Co.)	Clarksville, TN	07/25/2001	NAFTA–5,132	refrigerator shelving.
Grover Industries (Co.)	Grover, NC	07/25/2001	NAFTA–5,133	spun yarns.
Precision Flame (Co.)	Bourbonnais, IL	07/25/2001	NAFTA–5,134	parts for tractors & mining equipment.
House Glass (AFGWU)	Point Marion, PA	07/26/2001	NAFTA–5,135	silkscreened coffee mugs and glassware.
Federal Mogul (UAW)	St. Johns, MI	07/26/2001	NAFTA–5,136	aluminum, copper or lead bushings.
Kemet Electronics (Co.)	Greenville, SC	07/26/2001	NAFTA–5,137	capacitors.
Power One (Co.)	Allston, MA	07/20/2001	NAFTA–5,138	power devices.
Garan (Co.)	Starkville, MS	07/25/2001	NAFTA–5,139	knit and woven apparel.
Dyersburg Fabrics (Co.)	Dyersburg, TN	07/25/2001	NAFTA–5,140	fleece, active wear.
Russell Corporation (Co.)	Lafayette, AL	07/24/2001	NAFTA–5,141	knit apparel.
Russell Corporation (Co.)	Alexander City, AL	07/24/2001	NAFTA–5,141	knit apparel.
Russell Corporation (Co.)	Sylacauga, AL	07/24/2001	NAFTA–5,141	knit apparel.
Russell Corporation (Co.)	Alexander City, AL	07/24/2001	NAFTA–5,141	knit apparel.
Agrium U.S. (Co.)	Kennewick, WA	07/27/2001	NAFTA–5,142	ammonia.
Howes Leather (Co.)	Curwensville, PA	07/27/2001	NAFTA–5,143	upholstery leather.
Manitowoc Boom Trucks (Wkrs)	York, PA	07/28/2001	NAFTA–5,144	pedestals, turrets.
KMA Manufacturing (Co.)	Livingston, TN	07/27/2001	NAFTA–5,145	men's and ladies' shirts.
Atchison Products (Wkrs)	Boonville, MO	07/27/2001	NAFTA–5,146	sports bags, tote bags, briefcases.
Square D (Wkrs)	Cedar Rapids, IA	07/23/2001	NAFTA–5,147	circuit breakers.
PlasticSource (Co.)	El Paso, TX	07/30/2001	NAFTA–5,148	headlamp parts.
Oshkosh B'Gosh (Co.)	Albanky, KY	07/30/2001	NAFTA–5,149	children's knit tops & bottoms.
Niedfeldt Trucking Services (IBT)	Lacrosse, WI	07/26/2001	NAFTA–5,150	hauling brewery products.
Piskars Consumer Products (Wkrs).	Wausau, WI	07/26/2001	NAFTA–5,151	scissors.
GKN Sinter Metals (Wkrs)	St. Marys, PA	07/30/2001	NAFTA–5,152	powdered metal parts.
Philips ETG (Wkrs)	So. Plainfield, NJ	07/20/2001	NAFTA–5,153	automated machines.
Barko Hydraulics (Wkrs)	Superior, WI	08/02/2001	NAFTA–5,154	hydraulic knuckleboom loaders.
Con Agra Flour Milling (BCTW)	N. Kansas City, MO	08/03/2001	NAFTA–5,155	wheat flour.
Con Agra Maple Leaf Milling (BCTGM).	Buffalo, NY	08/03/2001	NAFTA–5,156	flour and flour by products.
Centennial Tool and Mfg. (Co.)	Meadville, PA	08/03/2001	NAFTA–5,157	tooling for electronics.
Valeo Engine Cooling (IAMAW)	Jamestown, NY	08/02/2001	NAFTA–5,158	engine cooling products.
Colorgraphic Web Offset (Wkrs)	Lancaster, NY	07/17/2001	NAFTA–5,159	printed periodicals.
Alltrista Zinc Products (Co.)	Greeneville, TN	08/02/2001	NAFTA–5,160	drawn zinc battery shells.
Gundeson, Inc. (Wkrs)	Portland, OR	07/31/2001	NAFTA–5,161	rail cars .
MACCO Materials Handling Group (ILTBU).	Danville, IL	08/01/2001	NAFTA–5,162	overhead guards.
Tcyo Electronics (Co.)	Glen Rock, PA	08/02/2001	NAFTA–5,163	fiber optics.
Kysor Panel Systems—Enadis Corp. (WCIW).	Portland, OR	08/01/2001	NAFTA–5,164	walk-in freezers.
Elcom, Inc. (Wkrs)	El Paso, TX	08/02/2001	NAFTA–5,165	wire harness and plastic.
TNT Logistics (Wkrs)	Bloomington, IN	08/01/2001	NAFTA–5,166	logistics provider.

APPENDIX—Continued

[09/04/2001]

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Coats North America (Co.)	Thomasville, GA	07/30/2001	NAFTA–5,167	industrial thread.
CMI Industries (Co.)	Clarkesville, GA	07/24/2001	NAFTA–5,168	polyester and ploy/nylon blend.
A.O. Smith (Wkrs)	Owosso, MI	08/01/2001	NAFTA–5,169	metal stampings.
Briggs and Stratton (PACE)	Milwaukee, WI	07/31/2001	NAFTA–5,170	cranks, cam and flywheels.
Huntsman Polymers (Wkrs)	Odessa, TX	07/31/2001	NAFTA–5,171	styrene monomer.
Admiral Marine Construction (Wkrs).	Port Angeles, WA	07/31/2001	NAFTA–5,172	components.
Albany Chicago (Wkrs)	Pleasant Prairie, WI	07/30/2001	NAFTA–5,173	custom die cast.
Engel Machinery (Wkrs)	York, PA	08/06/2001	NAFTA–5,174	injection molding machines.
Paxar Fabric Label (Wkrs)	Canton, NC	07/30/2001	NAFTA–5,175	labels.
Greenwood Mills (UNITE)	Lindale, GA	08/06/2001	NAFTA–5,176	denim cloth.
Shermag (Wkrs)	North Anson, ME	08/06/2001	NAFTA–5,177	miter box, construction tools.
Tingley Rubber (Co.)	S. Plainfield, NJ	07/31/2001	NAFTA–5,178	rubber and protection footwear.
Pennzoil Quaker State (Wkrs)	Shreveport, LA	08/13/2001	NAFTA–5,179	bulk oil products.
US Label Artistic (Wkrs)	Liberty, KY	08/08/2001	NAFTA–5,180	handtags and care label.
Clifton Walls Industrial (Co.)	Clifton, TX	08/07/2001	NAFTA–5,181	insulated clothing.
Sweetwater Walls Industrial (Co.)	Sweetwater, TX	08/07/2001	NAFTA–5,182	insulated clothing.
Cognis Corporation (Wkrs)	Lock Haven, PA	08/09/2001	NAFTA–5,183	dye intermediates.
Wisne Automation and Engineering (Wkrs).	Novi, MI	08/08/2001	NAFTA–5,184	automated welding & assembly tooling.
Conveyco Manufacturing (Wkrs)	Clackamas, OR	08/08/2001	NAFTA–5,185	wood conveying chain.
Lancer Partnership (Wkrs)	San Antonio, TX	08/09/2001	NAFTA–5,186	beverage fittings.
McMichal (Co.)	Parump, NV	08/08/2001	NAFTA–5,187	molds and tooling.
Cooper Standard Automotive (Co.).	Rocky Mount, NC	08/08/2001	NAFTA–5,188	extruded rubber automotive parts.
Tyco Electronics (Wkrs)	East Berlin, PA	08/09/2001	NAFTA–5,189	electrical connectors.
Men's Apparel Group (Wkrs)	Athensga, GA	08/13/2001	NAFTA–5,190	men's tuxedos and suits.
Chiquita Processed Foods (Co.)	Eugene, OR	08/09/2001	NAFTA–5,191	canned vegetables.
Warner Electric Brake (Wkrs)	Roscoe, IL	08/01/2001	NAFTA–5,192	Industrial brakes and clutches.
Micro Motion (Co.)	Boulder, CO	08/09/2001	NAFTA–5,193	mass flow meters.
Robert Bosch (UAW)	Ashland, OH	08/06/2001	NAFTA–5,194	light truck braking systems.
Sweetheart Cup (IBEW)	Springfield, MO	08/13/2001	NAFTA–5,195	plastic disposable food & drink products.
Phelps Dodge Magnet Wire (UAW).	Coral Gables, FL	08/13/2001	NAFTA–5,196	magnet wire.
Alcatel USA (Wkrs)	Raleigh, NC	08/13/2001	NAFTA–5,197	board assemble.
Sheftex (Wkrs)	St. Johnsbury, VT	08/14/2001	NAFTA–5,198	comforters, draperies, cushions.
Plymouth Garment (Co.)	Plymouth, NC	08/13/2001	NAFTA–5,199	children's pants.
Greensboro Printing (Wkrs)	Greensboro, NC	08/13/2001	NAFTA–5,200	gang tags, lables for garments.
AC Enterprises Construction and Fab (Co.).	North Fargo, ND	08/14/2001	NAFTA–5,201	grain drill products.
General Cable (EESMW)	Montroursville, PA	08/14/2001	NAFTA–5,202	extension cords.
Consolidated Steel Services (Wkrs).	Fallentimber, PA	08/14/2001	NAFTA–5,203	Railcar Parts.
Baker Enterprises (USWA)	Alpena, MI	08/14/2001	NAFTA–5,204	Cement Block Machines.
Signet Armorlite, Inc. (Comp)	San Marcos, CA	08/01/2001	NAFTA–5,205	Packaging of Ophtlamic Lenses.
Burlington Industries (Wkrs)	Johnson City, TN	08/14/2001	NAFTA–5,206	Greige Cloth.
Bonifay Manufacturing, Inc. (Comp).	Bonifay, FL	08/15/2001	NAFTA–5,207	Knit Shirts.
Dunlap Sales (Comp)	Hopkinsville, KY	08/15/2001	NAFTA–5,208	Supply Equipment.
Layne Christensen (Comp)	Sal Lake City, UT	08/08/2001	NAFTA–5,209	Down Hole Tools and Drill Rigs.
Elastic Corporation of America (Comp).	Haminquay, SC	08/15/2001	NAFTA–5,210	Elastic for Clothing.
New Holland North America (Comp).	Belleville, PA	08/15/2001	NAFTA–5,211	Component Parts and Welding.
Yarway Corp (IBT)	Blue Bell, PA	08/15/2001	NAFTA–5,212	Values, Steam Traps.
Evergreen Sewing, Inc. (Comp)	Seattle	08/15/2001	NAFTA–5,213	Fleece Clothing.
Horton, Inc. (Wrks)	Britton, SD	08/14/2001	NAFTA–5,214	Parts, Assembly & Finished Parts.
APW (IAMAW)	Mayville, WI	08/14/2001	NAFTA–5,215	Cabinet and Steel Frames.
Bard Access Systems (Comp)	Salt Lake City, UT	08/15/2001	NAFTA–5,216	Medical Device Products.
Amphenol/Sine Systems (Wrks)	Mt. Clements, MI	08/16/2001	NAFTA–5,217	Molded Cables and Adapters.
Chipman Union (UNITE)	Union Point, GA	08/16/2001	NAFTA–5,218	Socks.
Henry Manufacturing Co (Wrks)	Los Angeles, CA	08/10/2001	NAFTA–5,219	Girl's Garments.
Trico Products Corp (UAW)	Buffalo, NY	08/14/2001	NAFTA–5,220	Windshield Wiper Systems.
Alcoa Fujikura Ltd (Comp)	San Antonio, TX	08/20/2001	NAFTA–5,221	Automotive Products.
Cutler Hammer (Co.)	Pittsburgh, PA	08/23/2001	NAFTA–5,222	Power Management Products.
Eaton Corp.—Cutler Hammer (Co.).	Moon Twp., PA	08/20/2001	NAFTA–5,223	Power Management Products.

APPENDIX—Continued

[09/04/2001]

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Eaton Corp.—Cutler Hammer (Co.).	Pittsburgh, PA	08/20/2001	NAFTA–5,224	Power Management Products.
Illbruck Automotive (Co.)	Howell, MI	08/16/2001	NAFTA–5,225	Door Water Shields.
Finet Technologies (Wkrs)	Dunmore, PA	08/20/2001	NAFTA–5,226	Fibre Optic Communications.
Union Apparel (Wkrs)	Norvelt, PA	08/17/2001	NAFTA–5,227	Men's and Ladies Blazers.
Realco Diversfield (Wkrs)	Meadville, PA	08/17/2001	NAFTA–5,228	Mold Bases.
Edinboro Molding (Co.)	Edinboro, PA	08/17/2001	NAFTA–5,229	Electronic Components.
Aquatech—Greenwood Mills (Co.)	Cookeville, TN	08/21/2001	NAFTA–5,230	Finishing of Denim Products.
Allen Edmonds—Main Shoe (Wkrs).	Whiton, ME	08/20/2001	NAFTA–5,231	Men's Handsewn.
Asarco (Wkrs)	El Paso, TX	08/14/2001	NAFTA–5,232	Cooper.
Springs (Wkrs)	Portland, OR	08/21/2001	NAFTA–5,233	Dresses.
WKS Motion Picture and Video Laboratory (Wkrs).	Pittsburgh, PA	08/03/2001	NAFTA–5,234	Video Tape Stock, Video Shells.
Hassell Fabrication (Wkrs)	Ashland, OR	08/03/2001	NAFTA–5,235 NAFTA–5,236	Trailer Chassis.
J and J Tool (Wkrs)	Guys Mills, PA	08/29/2001	NAFTA–5,236	Steel Parts.
Versatile Mold and Design (Wkrs)	Rutledge, GA	08/30/2001	NAFTA–5,237	plastic molds.
Sanmina Corporation (Wkrs)	Pleasant Prairie, WI	08/29/2001	NAFTA–5,238	circuit boards.
Rundel Products (Co.)	Portland, OR	08/24/2001	NAFTA–5,239	vinyl binders.
Valley Machining (Co.)	Rock Valley, IA	08/27/2001	NAFTA–5,240	lincoln jacks and lubricating equipment.
Gillette Company—Oral B Laboratories (IBT).	Iowa City, IA	08/27/2001	NAFTA–5,241	toothbrushes.
Rexam Beverage Can (USWA)	Houston, TX	08/28/2001	NAFTA–5,242	cans.
Maxell Corporation of America (Co.).	Conyers, GA	08/29/2001	NAFTA–5,243	video cassettes.
Hecla Mining—Luck Friday Unit (USWA).	Mullan, ID	08/21/2001	NAFTA–5,244	silver, lead, zine, concentrates.
Eagle Pitcher Industries (IUOE)	Lubbock, TX	08/27/2001	NAFTA–5,245	construction equipment.
Ieccor Electronics—Invensys (Wkrs).	Irving, TX	08/24/2001	NAFTA–5,246	chip test.
Fedders Corporation (Wkrs)	Columbia, TN	08/20/2001	NAFTA–5,247	room air conditioners.
Dillowtex Macon Distribution Center (Wkrs).	Macon, GA	08/17/2001	NAFTA–5,248	towels, hand towels, washcloth.
Anvil International (Wkrs)	Statesboro, GA	08/17/2001	NAFTA–5,249	butter fly valve.
Motorola—AOFC (Co.)	Suwanee, GA	08/21/2001	NAFTA–5,250	battery packs, cell phones.
Willamette Industries (Co.)	Bend, OR	08/20/2001	NAFTA–5,251	particle board.
Auto Body Connection (Wkrs)	Erie, PA	08/23/2001	NAFTA–5,252	after market auto body parts.
Matco East Distribution Center (Wkrs).	Verona, VA	08/13/2001	NAFTA–5,253	monitor.
Fashion Works (Co.)	Dallas, TX	08/23/2001	NAFTA–5,254	ladies apparel.
Interroll Corporation (Co.)	Wilmington, NC	08/21/2001	NAFTA–5,255	carton and pallet flow storage.
Blue Water Fiber Limited Partnership (Wkrs).	Port Huron, MI	08/27/2001	NAFTA–5,256	recycled paper pulp.
FCI Electronics (Wkrs)	Clearfield, PA	05/14/2001	NAFTA–5,257	computer parts.
Metal USA (Wkrs)	Youngtown, OH	08/24/2001	NAFTA–5,258	steel sheets and blanks.
Speciality Coating of Virginia (Wkrs).	Ridgeway, VA	08/24/2001	NAFTA–5,259	coated wallpaper.
Cliffs Mining Services (Wkrs)	Hibbing, MN	08/21/2001	NAFTA–5,260	taconite mining research.
Hein Werner—Snap On (Co.)	Baraboo, WI	08/24/2001	NAFTA–5,261	collision repair equipment.
Lamtech (Co.)	Hartsville, TN	08/24/2001	NAFTA–5,262	apparel.
VF Imagewear (Co.)	Harriman, TN	08/27/2001	NAFTA–5,263	garments.
Pliant Corporation (Co.)	Palmer, MA	08/27/2001	NAFTA–5,264	plastic film.
Cleveland Caroknit—Spartan Int'l (Wkrs).	Lawndale, NC	08/20/2001	NAFTA–5,265	knit apparel.
Unifirst Corporation (Wkrs)	Wilburton, OR	08/24/2001	NAFTA–5,266	denim jeans, uniform jackets.
Jackson Percision Diecast (UAW)	Jackson, MI	08/31/2001	NAFTA–5,267	transmission bushings dies.
Summit Circuits (RWDSU)	Fort Wayne, IN	08/30/2001	NAFTA–5,268	printed circuit boards.
Trailmobile Trailer (Wkrs)	Liberal, KS	08/30/2001	NAFTA–5,269	dry freight & refrigerated trailes.
Gerber Childrenswear (Co.)	Pelzer, SC	08/22/2001	NAFTA–5,270	children's bed and bath goods.

[FR Doc. 01–23526 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,260]

Allegheny Ludlum Steel, Leechburg, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 13, 2001, applicable to workers of Allegheny Ludlum Steel, Leechburg, Pennsylvania. The notice was published in the **Federal Register** on August 6, 2001 (FR 66 41053).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of cold rolled grain oriented electrical steel.

New findings show that there was a previous certification, TA–W–34,929, issued on October 13, 1998, for workers of Allegheny Ludlum Steel, Leechburg, Pennsylvania who are engaged in employment related to the production of cold rolled grain oriented electrical steel. That certification expired October 13, 2000. To avoid an overlap in worker group coverage, this certification is being amended to change the impact date from April 26, 2000 to October 14, 2000, for workers of the subject firm.

The amended notice applicable to TA–W–39,260 is hereby issued as follows:

All workers of Allegheny Ludlum Steel, Leechburg, Pennsylvania who became totally or partially separated from employment on or after October 14, 2000, through July 13, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 4th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23527 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,615]

Allegheny Ludlum Steel, Brackenridge, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 16, 2001, applicable to workers of Allegheny Ludlum Steel, Brackenridge, Pennsylvania. The notice was published in the **Federal Register** on August 6, 2001 (FR 66 41053).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of cold rolled grain oriented electrical steel.

New findings show that there was a previous certification, TA–W–35,185, issued on November 20, 1998, for workers of Allegheny Ludlum Steel, Brackenridge, Pennsylvania who were engaged in employment related to the production of cold rolled grain oriented electrical steel. That certification expired November 20, 2000. To avoid an overlap in worker group coverage, this certification is being amended to change the impact date from July 16, 2000 to November 21, 2000, for workers of the subject firm.

The amended notice applicable to TA–W–39,615 is hereby issued as follows:

All workers of Allegheny Ludlum Steel, Brackenridge, Pennsylvania who became totally or partially separated from employment on or after November 21, 2000, through July 16, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 4th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23528 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,247]

Arc Mills Corporation, New York, New York; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 14, 2001, in response to a petition which was filed by the company on behalf of workers at Arc Mills Corporation, New York, New York.

The subject firm requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 13th day of September 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–23539 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38, 681]

Arrow Industries/Conagra Carrollton, Texas; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 12, 2001, in response to a worker petition which was filed on behalf of workers at Arrow Industries/Conagra, Carrollton, Texas.

During the full period of this investigation, no knowledgeable company official was located and no information became available regarding the potential eligibility of this worker group. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 5th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23537 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,313]

Lynn Electronics, Feasterville, PA; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated August 1, 2001, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on July 9, 2001, and published in the **Federal Register** on July 26, 2001 (66 FR 39055).

Petitioner provides evidence that further survey is warranted regarding customer purchases of communications wire products.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 5th day of September 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23525 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,055]

Newport Steel Corporation, Newport, KY; Notice of Negative Determination Regarding Application for Reconsideration

By applications dated June 12, 2001, and June 17, 2001, the United Steelworkers of America, District 8, Local 1970 (USWA) and a former employee of the plant, requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed May 8, 2001, and was published in the **Federal Register** on May 23, 2001 (66 FR 28553).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The denial of TAA for workers engaged in activities related to the production of steel pipe at Newport Steel Corporation, Newport, Kentucky, was based on the finding that the ''contributed importantly'' criterion of the group eligibility requirements of Section 222 of the Trade Act of 1974 was not met. Layoffs at the subject firm were related to outsourcing the raw material (steel coils) from domestic suppliers used to produce the steel pipe produced at the plant.

The USWA states that the subject firm was producing as much steel coil as possible for use in their pipe mill and only purchased steel coils from outside sources when supplies could not meet demand from the pipe mill. In 1999, Newport Steel installed a ''super furnace'' to boost production and lower costs. The USWA states that currently it costs less for the subject firm to purchase steel coils from outside vendors than to produce on-site. The USWA adds that the illegal dumping of steel caused the loss of over 200 jobs in the Newport, Kentucky plant. Also attached to the request for reconsideration were documents from the American Iron and Steel Institute, which included March 2001 trade data for steel mill products and a June 12, 2001, press release regarding April 2001 U.S. shipments of steel.

Review of the investigation record shows that during 1999, 2000, and in January through March 2001, Newport Steel Corporation, did not purchase from any foreign sources articles like or directly competitive with those produced at the Newport, Kentucky plant. Furthermore, as to steel dumping and aggregate steel mill products data, the Department of Labor's worker petition investigation is conducted with respect to articles like or directly competitive with those produced at the workers' firm, not on aggregate products company-wide or industry-wide that are not like or directly competitive with the product of the subject firm.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC this 5th day of September 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23529 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,485]

Senior Automotive, Bartlett, IL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 25, 2001 in response to a worker petition filed by a company official on behalf of workers at Senior Automotive, Bartlett, Illinois.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 31st day of August, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23532 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can

be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of collection of information for the Quantum Opportunity Program. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before November 20, 2001.

ADDRESSES: Eileen Pederson, U.S. Department of Labor, Employment and Training Administration/Office of Policy and Research, Rm. N–5637, 200 Constitution Avenue, NW., Washington, DC 20210, 202/693–3647 (this is not a toll-free number), *epederson@doleta.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Quantum Opportunity Program (QOP) Demonstration was jointly sponsored by the Ford Foundation and the Department of Labor, with support from the Department of Justice, to test a promising program to help academically at-risk youth prepare for long-term, stable employment. The demonstration targeted academically at-risk youth in schools with significant dropout rates in seven urban and rural cities. The youth enrolled in high school in 1995 (youth in one site enrolled in 1996) and were randomly assigned to either the control group or the treatment group, with the youth in the latter group able to participate in the program throughout high school. The primary focus of the program was to keep them in school through high school graduation and help them take the necessary steps for more advanced training or education. Specific services included intensive educational, life skills, and community services activities and support from an adult mentor.

ETA awarded a contract to Mathematica Policy Research, Inc. to conduct a net impact evaluation of the program. The evaluation currently will measure high school performance and completion, post-secondary enrollment and criminal and anti-social behavior up to five months after scheduled high school graduation. The evaluation will also analyze the benefits to society compared to the program's cost. This information collection was approved under OMB No. 1205–0397, which is due to expire on November 30, 2001. This request is for an extension of the previously granted OMB clearance to collect data beyond the current expiration date of the clearance. The extension is necessary to collect data approximately 72 months after random assignment of the youth.

The data will be used to examine the effects of this program on participants' outcomes six years after random assignment into QOP. Mathematica will also assess the subsequent outcomes of comparable youth randomly assigned to the control group. This additional data collection will offer supporting evidence in ETA's quest to ''ensure that our youth workforce training programs have a strong educational component, since income and opportunities increase exponentially with education credentials.''

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

This is a request for OMB approval of an extension of an existing information collection for the QOP Demonstration funded by the Department of Labor with support from the Department of Justice. Information in the form of the previously approved follow-up phone or in-person survey will be collected from all youth in the research sample approximately 72 months following their initial assignment to the program or control groups. The survey data will be utilized to analyze the impact of the QOP on participants' outcomes including education and training, employment, earnings, public assistance participation, childbearing, and other behaviors and activities.

The findings will be directly relevant for the future development of employment and training policy for youth.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Quantum Opportunity Program Demonstration Follow-up Survey.

OMB Number: 1205–0397.

Affected Public: Individuals.

Cite/Reference/Form/etc.: Quantum Opportunity Program Demonstration Evaluation follow-up survey.

Total Respondents: 1,074.

Frequency: Once (during period of extension, total of 2 times).

Total Responses: 860 (during period of extension).

Average Time per Response: 20 minutes (during extension).

Estimated Total Burden Hours: 287 hours (during extension).

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 14, 2001.

Gerard F. Fiala,

Administrator.

[FR Doc. 01–23557 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4902]

American Lumber Company; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on May 18, 2001 in response to a petition filed by a company official on behalf of workers at American Lumber Company, Union City and Williamsport, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently,

further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 12th day of September 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–23538 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05206]

Burlington Industries, Johnson City, TN; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on August 14, 2001 in response to a petition filed on behalf of workers at Burlington Industries, Johnson City, Tennessee.

The petitioners requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

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

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–23534 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4848]

Newport Steel Corporation, Newport, KY; Notice of Negative Determination Regarding Application for Reconsideration

By application dated June 17, 2001, a former employee requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for North American Free Trade Agreement—Transitional Adjustment Assistance (NAFTA–TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on May 14, 2001, and was published in the **Federal Register** on May 25, 2001 (66 FR 28928).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The denial of NAFTA–TAA for workers engaged in activities related to the production of steel pipe at Newport Steel Corporation, Newport, Kentucky, was based on the finding that criteria (3) and (4) of the group eligibility requirements of paragraph (a)(1) of section 250 of the Trade Act, as amended, were not met. There were no company imports of steel pipe from Mexico or Canada, nor did Newport Steel Corporation shift production from Newport, Kentucky to Mexico or Canada. Layoffs at the subject firm were related to outsourcing the raw material (steel coils) from domestic suppliers used to produce the steel pipe produced at the plant.

The petitioner claims that layoffs occurred in the melt shop, which made the steel that was used in the production of steel pipe at the plant. The petition further adds that Newport Steel Corporation is purchasing steel coils from domestic and foreign suppliers.

The petitioner attached documents from the American Iron and Steel Institute, which were March 2001 trade data for steel mill products and a June 12, 2001, press release regarding April 2001 U.S. shipments of steel.

Review of the investigation record shows that during 1999, 2000, and in January through March 2001, Newport Steel Corporation did not purchase any imports of articles from Mexico or Canada like or directly competitive with those produced at the Newport, Kentucky plant. Furthermore, as to steel industry data, the NAFTA–TAA petition investigation is conducted with respect to articles like or directly competitive with those produced at the workers' firm, not on a company-wide or industry-wide basis.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC this 5th day of September 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23530 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05149]

OBG Manufacturing/Distribution Company, Oshkosh B'Gosh, Inc., Albany, KY; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on July 30, 2001, in response to a petition filed on behalf of workers at OBG Manufacturing/Distribution Company, OshKosh B'Gosh, Inc., Albany, Kentucky.

An active certification covering the partitioning group of workers is already in effect (NAFTA–04468A, as amended). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 4th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23535 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04468 and NAFTA–04468A]

OBG Manufacturing/Distribution Company, Oshkosh B'Gosh, Inc., Liberty KY; OBG Manufacturing/ Distribution Company; Oshkosh B'Gosh, Inc., Albany, KY; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on April 3, 2001, applicable to workers of OBG Manufacturing Company, OshKosh B'Gosh, Inc., Liberty, Kentucky. The notice was published in the **Federal Register** on May 2, 2001 (66 FR 22008).

At the request of the company, the Department reviewed the certification for workers of the subject firm.

New information shows that worker separations occurred at the Albany, Kentucky facility of OBG Manufacturing Company, OshKosh B'Gosh, Inc. The workers are engaged in employment related to the production of children's apparel.

Accordingly, the Department is amending the certification to cover workers of OBG Manufacturing Company, OshKosh B'Gosh, Inc., Albany, Kentucky.

The intent of the Department's certification is to include all workers of OGB Manufacturing Company, OshKosh B'Gosh, Inc. adversely affected by increased imports of children's apparel from Mexico.

The amended notice applicable to NAFTA–04468 is hereby issued as follows:

All workers of OBG Manufacturing Company, OshKosh B'Gosh, Inc., Liberty, Kentucky (NAFTA–04468) and Albany, Kentucky (NAFTA–04468A) who became totally or partially separated from employment on or after January 12, 2000, through April 3, 2003, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed in Washington, DC, this 4th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23536 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5196]

Phelps Dodge Magnet Wire Company, Hopkinsville, KY; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on August 13, 2001 in response to a petition filed on behalf of workers at Phelps Dodge Magnet Wire Company, Hopkinsville, Kentucky.

An active certification (NAFTA 3292), valid until August 13, 2001, remained in effect throughout the period of possible coverage for the petitioners and the entire workforce at Phelps Dodge Magnet Wire Company. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

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

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23533 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General Wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration,

Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

New General Wage Determination Decision

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' are listed by Volume and States:

Volume IV

Michigan
MI010106 (Sept. 21, 2001)

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled ''General Wage determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Rhode Island
RI010001 (Mar. 2, 2001)

Volume II

Pennsylvania
PA010014 (Mar. 2, 2001)

Volume III

Tennessee
TN010002 (Mar. 2, 2001)
TN010018 (Mar. 2, 2001)
TN010038 (Mar. 2, 2001)
TN010039 (Mar. 2, 2001)

Volume IV

Michigan
MI010004 (Mar. 2, 2001)
MI010007 (Mar. 2, 2001)
MI010050 (Mar. 2, 2001)
MI010062 (Mar. 2, 2001)
MI010076 (Mar. 2, 2001)
MI010085 (Mar. 2, 2001)
MI010088 (Mar. 2, 2001)

Volume V

None

Volume VI

None

Volume VII

California
CA010001 (Mar. 2, 2001)
CA010002 (Mar. 2, 2001)
CA010009 (Mar. 2, 2001)
CA010028 (Mar. 2, 2001)
CA010029 (Mar. 2, 2001)
CA010030 (Mar. 2, 2001)
CA010031 (Mar. 2, 2001)
CA010032 (Mar. 2, 2001)
CA010033 (Mar. 2, 2001)
CA010034 (Mar. 2, 2001)
CA010035 (Mar. 2, 2001)
CA010036 (Mar. 2, 2001)
CA010037 (Mar. 2, 2001)
CA010038 (Mar. 2, 2001)
CA010039 (Mar. 2, 2001)
CA010040 (Mar. 2, 2001)
CA010041 (Mar. 2, 2001)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (http://davisbacon.fedworld.gov) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 13th day of September 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–23296 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Notification of Legal Identity

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before November 20, 2001.

ADDRESSES: Send comments to Lynnette M. Haywood, Deputy Director, Administration and Management, 4015 Wilson Boulevard, Room 611, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to 1haywood@msha.gov, along with an original printed copy. Ms. Haywood can be reached at (703) 235–1383 (voice), or (703) 235–1563 (facsimile).

FOR FURTHER INFORMATION CONTACT: Lynnette M. Haywood, Deputy Director, Administration and Management, U.S. Department of Labor, Mine Safety and Health Administration, Room 611, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Ms. Haywood can be reached at 1haywood@msha. gov (Internet E-mail), (703) 235–1383 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Title 30 CFR part 41 has implemented this requirement and provides for the mandatory use of MSHA From 2000–7, Legal Identity Report, for notifying MSHA of the legal identity of the mien operator. The legal identity for a mien operator is fundamental to enable the Secretary to properly ascertain the identity of persons charged with violations of mandatory standards. It is also used in the assessment of civil penalties which, by statute, must take

into account the size of the business, its economic viability, and its history of previous violations. Because of the rapid and frequent turnover in mining company ownership and statutory considerations regarding penalty assessment, the operator is required to file information regarding ownership interest in other mines held by the operator and relevant persons in a partnership, corporation or other organization. This information is also necessary to the Office of the Solicitor in determining proper parties to actions arising under the Federal Mine Safety and Health Act of 1977 (the Act).

II. Desired Focus of Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Notification of Legal Identity. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

A copy of the proposed information collection request may be viewed on the Internet by accessing the MSHA Home Page (*http://www.msha.gov)* and selecting ''Statutory and Regulatory Information'' then ''Paperwork Reduction Act Submissions (*http://www.msha.gov/regspwork.htm)*'', or by contracting the employee listed above in the *For Further Information Contact* section of this notice for a hard copy.

III. Current Actions

MSHA uses the information to properly ascertain the identity of persons chargeable with violations of mandatory safety and health standards and in the assessment of civil penalties. The Office of the Solicitor uses the information to expedite service of documents upon the mine operator.

Type of Review: Extension and Revision of Form.

Agency: Mine Safety and Health Administration.

Title: Notification of Legal Identity.

OMB Number: 1219–0008.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Recordkeeping: Life of Mine Ownership.

Cite/Reference/Form/etc.: 30 CFR 41.20.

Total Respondents: 6,625.

Total Responses: 6,625.

Average Time per Response: .2618 minutes.

Estimated Total Burden Hours: 1,735.

Total Capital/Startup Costs: 0.

Total Operating and Maintenance Costs: $1,693.20.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 14, 2001.

Lynnette M. Haywood,

Deputy Director, Administration and Management.

[FR Doc. 01–23556 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–43–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Information pertaining to the requirement to be submitted:

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR 35.32 and 35.33 ''Quality Management Program and Misadministrations''.

3. *The form number if applicable:* None.

4. *How often the collection is required:* For quality management program (QMP): *Reporting:* New applicants for medical use licenses, who plan to use byproduct material in limited diagnostic and therapy quantities under Part 35, must develop a written QMP and submit a copy of it to NRC. When a new modality involving therapeutic quantities of byproduct material is added to an existing license, current licensees must submit QMP modifications. This ICR burden estimate is inflated by the one-time cost for the development and submission of QMPs for approximately 2000 Agreement States licensees in the ten Agreement States who have not adopted the rule and are not required to. *Recordkeeping:* Records of written directives, administered dose or dosage, annual review, and recordable events, for 3 years.

For Misadministrations: Reporting: Whenever a misadministration occurs. *Recordkeeping:* Records of misadministrations for 5 years.

5. *Who is required or asked to report:* NRC Part 35 licensees who use byproduct material in limited diagnostic and therapeutic ranges and similar type of licensees regulated by Agreement States.

6. *An estimate of the number of responses:* 6300 (for both reporting and recordkeeping).

7. *The number of annual respondents:* 6300 (for both reporting and recordkeeping).

8. *The number of hours needed annually to complete the requirement or request:* 34,743 hours for applicable licensees (Reporting: 24,400 Hrs/yr, and Recordkeeping: 10,343 Hrs/yr, or an average of 5.5 hrs per licensee).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* In the medical use of byproduct material, there have been instances where byproduct material was not administered as intended or was administered to a wrong individual, which resulted in unnecessary exposures or inadequate diagnostic or therapeutic procedures. The most frequent causes of these incidents were: insufficient supervision, deficient procedures, failure to follow procedures, and inattention to detail. In an effort to reduce the frequency of such events, the NRC requires licensees to implement a quality management program (§ 35.32) to provide high confidence that byproduct material or radiation from byproduct material will be administered as directed by an

authorized user physician. Collection of this information enables the NRC to ascertain whether misadministrations (§ 35.33) are investigated by the licensee and that corrective action is taken. Additionally, NRC has a responsibility to inform the medical community of generic issues identified in the NRC review of misadministrations.

Revisions to 10 CFR 35.32 and 35.33 are being made as part of a complete revision of 10 CFR part 35 to incorporate specific improvements in NRC's regulations governing the medical use of byproduct material. A final rule revising part 35 was affirmed by the Commission on October 23, 2000 and was submitted, along with its associated clearance package, to the Office of Management and Budget (OMB). A notice was published in the **Federal Register** on March 16, 2001, announcing a 30-day public comment period on the submittal. It is anticipated that the effective date of the final rule revising part 35, including the revisions to sections 35.32 and 35.33, will be March 2002, and the OMB clearance for sections 35.32 and 35.33 will be then included under the OMB clearance for part 35 (3150–0010).

Currently, the OMB clearances for sections 35.32 and 35.33 are due to expire October 31, 2001. In view of the fact that these parts will shortly thereafter be covered under OMB clearance 3150–0010, the Commission is seeking a 1-year clearance extension for the information collection requirements in these sections to allow sufficient time for OMB to complete its review of the NRC clearance package for the revision to part 35, for NRC to publish the final rule, and for the rule to become effective. Because the final part 35 and its OMB clearance will be in place in a short time period, the burden hour estimates in this extension package are not being revised from those contained in the previous OMB approval for sections 35.32 and 35.33 under 3150–0171.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: *http://www.nrc.gov/NRC/PUBLIC/OMB/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by October 22, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–0171), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 17th day of September 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–23613 Filed 9–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–29]

Yankee Atomic Electric Company, Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from 10 CFR part 73.55(d)(5) for Facility Operating License No. DPR–3, issued to Yankee Atomic Electric Company (YAEC, or the licensee), for operation of the Yankee Nuclear Power Station (YNPS), located in Franklin County, Massachusetts. As required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the YNPS Independent Spent Fuel Storage Installation (ISFSI) from some requirements of 10 CFR 73.55, ''Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.'' Specifically, YAEC would be granted an exemption from 10 CFR 73.55(d)(5) related to access requirements. The proposed action is in accordance with the licensee's application dated September 28, 2000, as supplemented by letters dated October 12, 2000, April 18, 2001, May 29, 2001, and June 28, 2001.

The Need for the Proposed Action

YNPS was shut down in October 1991. On February 27, 1992, the licensee informed the Commission that it had decided to permanently cease operations at YNPS and that all fuel had been permanently removed from the reactor. The NRC, in a license amendment dated August 5, 1992, modified License No. DPR–3 to a Possession Only License (POL). The license is conditioned so that YAEC is not authorized to operate the reactor and fuel may not be placed in the reactor vessel, thus formalizing the YAEC commitment to permanently cease power operations. The YNPS spent nuclear fuel is currently being stored in the spent fuel pool, which is protected by a physical protection system meeting the requirements of 10 CFR 73.55, with exemptions as previously issued by the NRC. To complete the plant site decommissioning process, the spent fuel will be removed from the spent fuel pool and transferred to an onsite ISFSI for interim storage. Under the provisions of 10 CFR Part 72, Subpart K, General License for Storage of Spent Fuel at Power Reactor Sites, YAEC is required to meet the physical protection requirements of 10 CFR 73.55 for an ISFSI at a reactor site. YAEC proposed alternative approaches to meet the provisions of portions of 10 CFR 73.55 related to the security organization, physical barriers, access requirements, detection aids, communications, and response requirements. However, the staff determined that, with regard to the requirements of 10 CFR 73.55(d)(5), the measures proposed by YAEC did not meet the criteria of 10 CFR 73.55(a) to be authorized as alternative measures. However, the staff also concluded that pursuant to 10 CFR 72.7 and 10 CFR 73.5, the proposed alternatives to the requirements of 10 CFR 73.55(d)(5) that YAEC requested could be granted as an exemption.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that granting an exemption from the requirements of 10 CFR 73.55 would not have a significant impact on the environment.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect

nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in previous reviews for the Yankee Nuclear Power Station. The plant was licensed prior to the requirement for issuance of a Final Environmental Statement.

Agencies and Persons Consulted

On August 21, 2001, the staff consulted with the Massachusetts State official, Jim Muckerheide of the Massachusetts Emergency Management Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

Further details with respect to the proposed action may be found in the licensee's letter dated September 28, 2000, as supplemented by letters dated October 12, 2000, April 18, 2001, May 29, 2001, and June 28, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, http://www.nrc.gov (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 17th day of September 2001.

For the Nuclear Regulatory Commission.

Stephen Dembek,

Chief, Section 2, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23614 Filed 9–20–01; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

Postal Data Systems Briefing

AGENCY: Postal Rate Commission.

ACTION: Notice of official briefing.

SUMMARY: In a letter of August 7, 2001, the Postal Service notified the Commission of planned changes in the Revenue, Pieces and Weight (RPW) reporting system. The new approach, referred to as Characteristics RPW (CRPW), will rely on mailpiece characteristics rather than data collectors' knowledge for assigning the mailpiece to a rate category. This change, which is to be implemented beginning in Postal Quarter 1, FY 2002, appears designed to rectify nonsampling errors associated with the current system. The Service will provide a technical briefing on the change on Friday, September 21, 2001, at 11 a.m., in the Commission's hearing room, 1333 H, Street NW., Washington, DC. This briefing is open to the public.

DATES: Friday, September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820.

Steven W. Williams,

Acting Secretary.

[FR Doc. 01–23541 Filed 9–20–01; 8:45 am]

BILLING CODE 7710–FW–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax of Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 2001, shall be at the rate of 26 cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 2001, 38.7 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 61.3 percent of the taxes collected under such sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: September 14, 2001.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 01–23578 Filed 9–20–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 25156]

Investment Company Act of 1940; Order Under Sections 6(c), 17(b) and 38(a) of the Investment Company Act of 1940 Granting Exemptions From Certain Provisions of the Act and Certain Rules Thereunder

September 14, 2001.

In light of the recent events affecting the financial markets, the Commission finds that the exemptions set forth below:

Are necessary and appropriate to the exercise of the powers conferred on it by the Act;

Are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; and

Permit transactions the terms of which, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned.

The necessity for immediate action of the Commission does not permit prior notice of the Commission's action. Accordingly,

It Is Ordered:

I. In-Person Meetings and Voting of Directors Required by the Investment Company Act

For 30 calendar days beginning on September 14, 2001, a registered management investment company and any investment adviser of or principal

underwriter for such registered investment company is exempt from the requirements imposed under sections 15(c) and 32(a) of the Investment Company Act and rules 12b–1(b)(2) and 15a–4(b)(2)(ii) under the Investment Company Act with respect to the renewal of any existing contract, plan or arrangement, that votes of the registered investment company's Board of Directors be cast in person, provided that:

(i) The votes required to be cast at an in-person meeting are instead cast at a meeting in which Directors may participate by any means of communication that allows all Directors participating to communicate with each other simultaneously during the meeting;

(ii) The action does not result in any material change to the existing contract, plan or arrangement under consideration; and

(iii) The Board of Directors, including a majority of the Directors who are not interested persons of the investment company, ratifies the action taken pursuant to this exemption by vote cast at an in-person meeting within 90 calendar days of the date that the action is taken.

II. Ability of a Registered Open-End Investment Company or Insurance Company Separate Account To Borrow From an Affiliated Person

For five business days beginning on the date of the first reopening of trading on the U.S. equities and options markets after September 11, 2001, a registered open-end investment company or an insurance company separate account registered as a unit investment trust is exempt from sections 12(d)(3) and 17(a) to the extent necessary to permit it to borrow money from any affiliated person that is not itself a registered investment company if the Board of Directors of the registered open-end investment company, including a majority of the Directors who are not interested persons of the investment company, or the insurance company on behalf of the separate account, reasonably determines in the exercise of its judgment that such borrowing is in the best interests of the registered investment company and its shareholders or unitholders.

III. Ability of a Registered Open-End Investment Company To Borrow From Entities Other Than Banks

For five business days beginning on the date of the first reopening of trading on the U.S. equities and options markets after September 11, 2001, a registered open-end investment company is exempt from section 18(f)(1) of the Investment Company Act to the extent necessary to permit it to borrow money from an entity other than a bank, provided that the Board of Directors of the registered open-end investment company, including a majority of the Directors who are not interested persons of the investment company, reasonably determines in the exercise of its judgment that such borrowing is in the best interests of the investment company and its shareholders.

IV. Interfund Lending Arrangements

For five business days beginning on the date of the first reopening of trading on the U.S. equities and options markets after September 11, 2001, any registered investment company currently able to rely on a Commission order permitting an interfund lending and borrowing facility (''Order'') may make loans through the facility in an aggregate amount that does not exceed 25 percent of its current net assets at the time of the loan notwithstanding any lower limitation in the Order, as long as the loan otherwise is made in accordance with the terms and conditions of the Order.

V. Ability of a Registered Open-End Investment Company To Deviate From Its Fundamental Policy With Respect to Borrowing

For five business days beginning on the date of the first reopening of trading on the U.S. equities and options markets after September 11, 2001, a registered open-end investment company is exempt from sections 13(a)(2) and 13(a)(3) of the Investment Company Act to the extent necessary to permit it to enter into borrowing transactions that deviate from any relevant policy recited in its registration statement without prior shareholder approval, provided that:

(i) The Board of Directors of the registered open-end investment company, including a majority of the Directors who are not interested persons of the investment company, reasonably determines in the exercise of its judgment that each such transaction is in the best interests of the registered open-end investment company and its shareholders; and

(ii) The registered open-end investment company promptly notifies its shareholders of the deviation.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–23617 Filed 9–20–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

(Release No. 35–27439)

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

September 17, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statement of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 12, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After October 12, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

FirstEnergy Corp. (70–9941)

FirstEnergy Corp. (''FirstEnergy''), 76 South Main Street, Akron, Ohio, 44308, an Ohio holding company claiming exemption from registration under the Act under rule 2 (''Applicant'') has filed an application under sections 3(a)(1), 9(a), and 10 of the Act.[1]

FirstEnergy directly owns all of the issued and outstanding voting securities of Ohio Edison Company (''Ohio Edison''), American Transmission Systems, Incorporated (''ATSI''), The

[1] See FirstEnergy Form U–3A–2, ''Statement by Holding Company Claiming Exemption Under Rule U–2 from the Provisions of the Public Utility Holding Company Act of 1935,'' dated February 28, 2001 (File No. 69–00423). FirstEnergy will register as a holding company under the Act following the completion of its proposed merger with GPU, Inc., which is the subject of a separate application-declaration (Holding Co. Act Release No. 27435) (File No. 70–9793).

Cleveland Electric Illuminating Company (''Cleveland Electric''), and The Toledo Edison Company (''Toledo Edison''), and indirectly owns all of the issued and outstanding voting securities of Pennsylvania Power Company (''Penn Power''), and Northeast Ohio Natural Gas Corp. (''NONGC''). Ohio Edison, Cleveland Electric, Toledo Edison and Penn Power, collectively comprise the ''FirstEnergy Operating Companies.'' Ohio Edison directly owns 16.5% of the issued and ouststanding voting securities of Ohio Valley Electric Corporation (''OVEC''), and OVEC owns all of the issued and outstanding voting securities of Indiana-Kentucky Electric Corporation (''IKEC''). The FirstEnergy Operatomg Companies, ATSI, NONGC, OVEC, and IKEC, are all public utility companies as defined in the Act. For the twelve months ending December 31, 2000, FirstEnergy had told revenue of $7,028,961,000 and net income of $598,970,000. FirstEnergy had total assets of $17,941,294,000, as of December 31, 2000.

In addition to its public utility holdings, FirstEnergy owns directly and indirectly multiple nonutility subsidiaries. MARBEL Energy Corporation (''MARBEL''), a direct nonutility subsidiary of FirstEnergy, is the parent company of NONGC, a natural gas pipeline company, and Marbel Holdco, Inc. (''Marbel Holdco''). Marbel Holdco holds FirstEnergy's 50% ownership in Great Lakes Partners, LLC (''Great Lakes''). Great Lakes is an oil and gas exploration and production company in a 50/50 joint venture with Range Resources Corporation (''Range Resources''), a publicly traded, nonutility oil and gas exploration and production company. Great Lakes holds a majority of its assets in the Appalachian Basin. Those assets include more than 7,700 oil and natural gas wells, drilling rights, proven resources of 450 billion cubic feet equivalent of natural gas and oil, and 5,000 miles of pipeline. Great Lakes also owns intrastate gas pipelines and a small interstate pipeline between Ohio and West Virginia.

NONGC provides gas distribution and transportation service to approximately 5,000 customers located in ten counties in central and northeast Ohio, and NONGC owns and operates approximately 420 miles of distribution and transportation pipeline. NONGC receives its gas supplies from local gas producers as well as from interstate pipeline companies. For the twelve months ending December 31, 2000, NONGC had total revenue of $6,074,120 and net income of $112,985; operating revenues were principally derived from the distribution and transportation of natural gas. NONGC had total assets of $18,374,761 and $25,319,652 as of December 31, 2001, and June 30, 2001, respectively.

Effective June 4, 1998, FirstEnergy acquired all of the outstanding shares of MARBEL (the ''MARBEL Acquisition''). The MARBEL Acquisition expanded FirstEnergy's products and services to include the exploration, production, distribution, transmission, and marketing of natural gas and oil. Prior to the closing of the MARBEL Acquisition, an internal reorganization took place within the MARBEL system, as a result of which NONGC—the only company in the MARBEL system that was a public utility company under the Act—was merged into a sister company: Gas Transport, Inc. (''Gas Transport'').[2]

On May 24, 2000, the assets of the local gas distribution division of Gas Transport (''LDC'') were transferred to the Northeast Ohio Operating Companies, Inc. (''NOOCI''), an affiliated nonutility which was the parent company of NONGC and several other operating companies. On May 25, 2000, Gas Transport, which at the time only owned and operated transmission pipelines, merged into Great Lakes Transport, LLC (''GLGT''), a wholly owned subsidiary of NOOCI. On May 30, 2000, all of the membership units of GLGT were transferred to Great Lakes. This post-clearing transfer of GLGT to Great Lakes comprises the ''Great Lakes Transaction.''[3] The Great Lakes Transaction was part of a corporate reorganization and no intercompany consideration was paid. The LDC assets were transferred at the book value assigned to these assets at the time of the MARBEL Acquisition.

On July 1, 2000, NOOCI transferred the assets of LDC to NEO Construction Company (''NEO Construction''), a wholly owned subsidiary of NOOCI (the ''LDC Transaction''). Upon the asset transfer to NEO Construction, NEO Construction became a gas utility company under the Act. On July 7, 2000, NEO Construction changed its name to ''Northeast Ohio Natural Gas Corp.''[4] On March 30, 2001, NOOCI was merged into its parent, MARBEL (the ''MARBELL Merger''). Consequently, the assets of NOOCI, which include all of the issued and outstanding stock of NONGC, are now owned by MARBEL.

In this application, Applicant requests that the Commission authorize the acquisition of all of the issued and outstanding voting securities of NONGC by First Energy. NONGC is held indirectly by FirstEnergy through MARBEL.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23616 Filed 9–20–01; 8:45 am]

BILLING CODE 8010–01–M

[2] Applicant maintains that as a result of the application of rule 7(a) under the Act, Gas Transport, as the time of the MARBEL Acquisition, was not a gas utility company, and, therefore, the MARBEL Acquisition did not require prior approval of the Commission under section (a) of the Act.

[3] Applicants state that the Great Lakes Transaction was part of a larger transaction that had occurred in 1999. Effective September 30, 1999, FirstEnergy and Range Resources formed Great Lakes, a 50/50 joint venture primarily designed to consolidate and integrate both companies' gas and oil exploration operations in the Appalachian Basin, including properties in Ohio, Pennsylvania, West Virginia, Kentucky, and Tennessee. The joint venture was created to reduce operating costs associated with exploration of reserves and servicing the oil and gas properties. Applicants state that the Great Lakes Transaction was structured in the manner described above for tax reasons and in order to allow sufficient time to secure approval from the FERC for the merger of Gas Transport into GLGT. Therefore, the utility operations of LDC remained within the FirstEnergy system.

[4] NONGC has interconnections with and receives some gas from Ohio Interstate Gas Transmission Company (''OIGTC''), a nonutility which is regulated by Public Utilities Commission of Ohio and engages solely in the transportation of natural gas. OIGTC was one of the companies contributed by MARBEL to form Great Lakes on September 30, 1999. In addition, NONGC receives gas from direct interconnects with gathering pipelines owned by Great Lakes.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44802, File Nos. SR-Amex 2001–80; SR–Phlx–2001–86]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Changes Filed by the American Stock Exchange LLC (''Amex'') and the Philadelphia Stock Exchange, Inc. (''Phlx'') Relating to Temporary Trading of Amex Options on the Phlx To Respond to Market Developments

September 17, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 16, 2001, the American Stock Exchange LLC (''Amex'') and the Philadelphia Stock Exchange Inc. (''Phlx'') (collectively referred to as ''Exchanges'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

changes. The Amex and Phlx descriptions of their respective proposed rule changes are set forth in Items I and II below. The Commission is publishing this notice to solicit comments on the proposed rule changes form interested persons and to grant accelerated approval to the proposed rule changes.

I. Self-Regulatory Organization's Statements of the Terms of Substance of the Proposed Rule Changes

As a result of the attacks on the World Trade Center in New York City on September 11, 2001, the building housing the trading facilities of the Amex suffered physical damage. In addition, the area surrounding the Amex has remained largely inaccessible to all but the most essential emergency and rescue personnel and many basic services, such as electricity, water and communication lines, have not been re-established as a result of the collapse of several buildings and ensuring fires. The Exchanges, therefore, propose to permit Amex members to trade Amex options on the floor of the Phlx on a temporary basis until the Amex facility is operational. The proposals are intended to enable Amex option products to resume trading when the U.S. markets open, as well as to accommodate Amex members.

Amex

The Amex, pursuant to Rule 19b–4 of the Act, as amended, requests emergency authorization to allow certain options traded at the Amex to be traded on the Phlx, and for Amex specialists, registered options traders (''ROTs'') and floor brokers to trade on the floor of the Phlx.

Phlx

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to temporarily permit qualified Amex members who are registered at the Amex as floor brokers, registered option traders (''ROTs'') or specialists (''Amex Temporary Access Persons'' or ''TAPs'') to access the Phlx options trading floor on a temporary basis to trade the following options on the terms specified below: (i) Phase 1—non-Phlx Amex options, which include, as of the close of trading on September 10, 2001, (a) equity options traded only on the Amex; (b) equity options traded on the Amex and another options exchange, but not the Phlx; and (c) index options traded only on the Amex; and (ii) Phase 2—equity options that are traded on both the Phlx and Amex (''Phlx/Amex options'') as of the close of trading on September 10, 2001.

The proposal includes two categories of Amex members trading as Phlx ROTs or specialists: Amex ROTs and Amex specialists. The proposal may also include enabling Amex floor brokers to act as Phlx floor in Phlx/Amex options and non-Phlx Amex options (but not Phlx options not traded on Amex). The Phlx anticipates Phase 1 to begin on Monday, September 17, 2001, and Phase 2 thereafter, possibly on the same day.[3]

In addition, only Amex TAPs will be permitted to trade non-Phlx Amex options that trade on the Phlx under this proposal, unless deemed necessary by the Phlx for Phlx members to act as ROTs or floor brokers, in the interest of fair and orderly markets. However, Phlx specialist units may be allocated non-Phlx Amex options if the current Amex specialist is not affiliated with a Phlx specialist unit, as described further below.

At this time, the Phlx is proposing that Amex TAPs be permitted to act as Phlx members for purposes of temporary access on the options trading floors. As such, Amex TAPs will be subject to the Phlx trading rules that would apply today to a Phlx member in the course of trading Phlx options.[4] Further, like members, with respect to the liability provisions of Phlx By-Law Article XII, Section 12–11, Use of Facilities of Exchange (Phlx), the Phlx's liability to Amex TAPs would be limited.[5]

However, Amex TAPs will not be eligible to vote, serve on committees or otherwise participate in Phlx governance, apply for specialist privileges,[6] nor act as floor officials.[7]

For purposes of Phlx Rule 104, which provides, in pertinent part, that no member shall, while on the floor, make a transaction with any non-member, Amex TAPs shall not be considered ''non-members.'' Amex TAPs will not have access to, or the ability to act as, members respecting Phlx options that are not Phlx/Amex options. Lastly, Amex TAPs' physical access to the Phlx facilities will be limited to the Phlx options trading floor crowds where they have been granted access to trade by this proposal and any other areas designated by the Phlx.

With respect to qualification of and jurisdiction over Amex TAPs, the Phlx intends to require submission of a form containing an acknowledgement to abide by Phlx rules and submit to Phlx jurisdiction, as well as other provisions relating to Phlx floor activity and responsibility. The Acknowledgement may also include the Phlx's ability to terminate Amex TAPs access and status, or to impose conditions on such access or status.

Further, this form will contain a certification by both the Amex TAP and the Amex as to the qualification of that Amex member to trade on the Amex. Thus, qualified Amex TAPs, with approval from an appropriate Amex official, will be deemed to have satisfied, and the Phlx will waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as a Phlx member, including the 600 series of Phlx rules. In that regard, Amex procedures respecting the admission and qualification of members to trade on the Amex, for example, will be deemed to satisfy Phlx Rules 901 and 1014(b) regarding registration of ROTs.[8] Notwithstanding the above, the Phlx may determine to impose or waive certain training requirements, including the use of Phlx technology or equipment and Phlx rules, such as those contained in the Phlx Rule 620. The Phlx also proposes that Amex TAPs who sigh the form thereby bind their member organization to Phlx requirements and jurisdiction as well, consistent with fundamental principles of agency law. Amex TAPs must also de-register when discontinuing their Amex TAP status using the appropriate form.[9] Lastly, on this form, Amex TAPs shall designate an OCC-member clearing firm. The Phlx is also proposing that clearing firms that are not Phlx members will be deemed to have satisfied, and the Phlx will waive specific compliance with, in respect of accounts of Amex TAPs trading on the Phlx, rules governing or applying to clearing firms.[10]

[3] The Phlx intends to trade all non-Phlx Amex and Phlx/Amex options, but may not, taking into account space, safety, licensing, operational and technological considerations.

[4] These include, but are not limited to, Phlx Rule 104, 1000, *et seq.*

[5] Specifically, that provision states that the Phlx shall not be liable for any damages sustained by a member or a member organization arising out of the use or enjoyment by such member or member organization of the facilities afforded by Phlx to members for the conduct of their business.

[6] The extent to which Amex specialists currently acting as specialists in non-Phlx Amex options that are traded on the Phlx under Phase 1 will continue to act as specialists is discussed below.

[7] Amex TAPs would, however, be subject to the rulings of Phlx floor officials pursuant to Phlx rules, including Phlx Rule 124 and appeals therefrom.

[8] The Phlx believes that this is consistent with prior Commission-approved practices respecting members on one exchange trading on the facilities of another exchange. *See* Securities Exchange Act Release No. 40088 (June 12, 1998), 63 FR 33426 (June 18, 1998) (SR–Phlx–98–25).

[9] The Phlx has determined that de-registration may be by any written submission to the Phlx's Membership Services Department.

[10] *See, e.g.,* Phlx Rule 1000(A)(3). The Phlx is also seeking agreements from non-Phlx member clearing firms whereby the clearing firm agrees and

Because Amex TAPs would be trading on the Phlx options floor using Phlx technology in the regular Phlx trading crowd pursuant to Phlx rules, the rules (including by-laws, Certificate of Incorporation, floor procedure advices, policies and practices, all as supplemented and modified by this proposed rule change) of the Phlx would govern such activity.[11] For instance, the trading rules applicable to Phlx ROTs would apply to Amex TAPs acting as ROTs on the Phlx, including the two-sided market making obligations of Phlx Rule 1014. The Phlx intends to surveil the Phlx trading activity of Amex TAPs trading on the Phlx under this proposal, as it surveils other Phlx options trading. To the extent that Amex TAPs request the installation of equipment or communication lines, for purposes of Phlx Rule 606, the Phlx staff (in lieu of The Options Committee) must approve such.

Non-Phlx Amex options would be deemed eligible for listing on the Phlx, subject to the written representation by a designated, authorized Amex official that each non-Phlx Amex option proposed to be listed and traded on the Phlx meets Amex listing and maintenance standards. The Phlx hereby requests approval, as of September 14, 2001, for a temporary listing standard whereby options listed on Amex (and not the Phlx) as of September 10, 2001 shall be eligible for listing on the Phlx. Non-Phlx Amex options will be deemed to have satisfied, and the Phlx will waive specific compliance with, any other applicable Phlx rules governing options listing and maintenance.[12] Non-Phlx Amex options subject to delisting (and thus, ineligible for the addition of new strike prices and new expirations) at the time they are listed on the Phlx, would be deemed eligible for listing, subject to closing transactions only in those series with open interest.

Phlx/Amex options will be traded by the Phlx specialist unit assigned to that option. With respect to how specialists will be assigned to trade non-Phlx Amex options, the following agreements have been reached between the Phlx and the Amex and are proposed herein: (i) Non-Phlx Amex options normally traded by Amex specialist units whose firms or affiliates have a Phlx specialist unit will be traded by the same firm's Phlx specialist unit; (ii) non-Phlx Amex options normally traded by Amex specialist units whose firms or affiliates have no Phlx specialist unit will be traded by the Phlx specialist unit designated by that Amex specialist; and (iii) non-Phlx Amex options normally traded by Amex specialist units whose firms or affiliates have no Phlx specialist units, and are not designated by that Amex specialist, will be allocated, as of September 14, 2001, to Phlx specialist units in accordance with Phlx Rules 500–526. Further, non-Phlx Amex options will be deemed to have been duly allocated to qualified specialists, subject to the written representation by a designated, authorized Amex official that each non-Phlx Amex option has been allocated on the Amex in compliance with Amex rules governing qualifications of specialists and allocation of options to Amex specialist units. Accordingly, Amex specialists will be deemed to have satisfied, and the Phlx will waive specific compliance with, Phlx rules governing qualification of specialists.

With respect to fees, the Phlx intends to impose its options transaction charges, both equity option and index option, where applicable, on trades by Amex TAPs. For instance, Amex TAPs trading as ROTs would be subject to the option transaction/comparison charges applicable to Phlx ROTs under this proposal.[13] Amex TAPs acting as floor brokers will be charged with Phlx fees applicable to floor brokers (floor brokerage assessment) respecting all trades. Phlx members and member organizations may not apply fees paid by Amex TAPs who are associated with Phlx member organizations to their $1,000 monthly credit.[14] The Phlx has determined not to impose its dues, technology fee and facilities related fees (*e.g.,* post/booth space) due to the emergency and temporary nature of the situation.

II. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the Exchange included statements concerning the purpose of and the basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item III below. The Exchanges have prepared summaries set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for the Proposed Rule Changes

1. Amex

The purpose of the Amex's proposed rule change is to permit Amex members, on a temporary basis, to trade Amex options at the Phlx. As proposed, Amex members who are duly qualified as specialists, ROTs and floor brokers will be temporary members of the Phlx known as ''Temporary Access Persons'' or ''TAPs.'' The arrangement for trading Amex options by Amex TAPs at the Phlx would be limited to those options traded on the Amex as of the close of business on September 10, 2001, which are the following: (1) Multiply-traded options that are traded on both the Amex and Phlx; (2) multiply-traded options traded on the Amex but not currently traded on the Phlx; (3) equity options solely traded on the Amex; and (4) index options only traded on the Amex.

With respect to all of the options indicated above, Amex specialists and ROTs that expect to trade on the Phlx will serve as Phlx ROTs in the trading crowd on the floor of the Phlx. Amex specialists that are dual members of both the Amex and Phlx will continue to trade as specialists in their assigned options through their affiliated specialist unit at the Phlx. Moreover, it is expected that Amex floor brokers will be permitted to act as floor brokers on the Phlx for those options traded on the Amex as of the close of business on September 10, 2001 and that will now trade on the Phlx. The Phlx will provide trade reporting, quote reporting and surveillance in connection with the trading of options by Amex TAPs on the Phlx as would otherwise be the case for options trading of Phlx options.

The Phlx proposes to impose transaction-based fee charges on all options transactions of Amex TAPs. Amex floor brokers trading on the Phlx as TAPs will be charged the fees by the Phlx applicable to current Phlx floor brokers.

For purposes of this temporary access to the Phlx options trading floor, Amex members will be Phlx members identified as TAPs, and, therefore,

undertakes to comply with all applicable Phlx rules in respect of Phlx/Amex options and/or non-Phlx Amex options for the account of Amex TAPs as if the clearing firm were a member of the Phlx.

[11] The Phlx notes that Amex TAP trades shall be deemed Phlx trades, including for purposes of trade reporting, clearing and the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan'').

[12] Amex will enter into an agreement with Phlx concerning the Exchanges' respective obligations under the proposal; Amex will, *inter alia,* agree to be responsible for maintenance studies and maintaining listing standards on all Non-Phlx Amex options.

[13] The Phlx intends to bill Amex TAPs through their clearing firms.

[14] *See* Securities Exchange Act Release No. 44292 (May 11, 2001), 66 FR 27715 (May 18, 2001) (SR–Phlx–2001–49).

subject to Phlx rules and regulations, including all options trading rules. However, Amex TAPs will not be permitted to participate in the corporate governance of the Phlx, including, but not limited to, the right to vote or serve as floor officials.

As detailed in the Phlx proposed rule change, Amex TAPs who execute the acknowledgement form and conduct business at the Phlx will be subject to the jurisdiction of the Phlx as well as the Amex. Therefore, Amex members will be qualified members of both the Amex and the Phlx, although, primary jurisdiction for trading on the options floor of the Phlx will reside with the Phlx. However, the Amex has not completely relinquished jurisdiction over its own members. For example, the Phlx may prefer that the Amex investigate and bring an enforcement action against an Amex member for violations of Phlx rules in connection with options trading at the Phlx.

For these reasons, the Amex believes that its proposed rule change is consistent with Section 6 of the Act,[15] in general, and with Section 6(b)(5) of the Act,[16] specifically, in that it is designed to perfect the mechanisms of a free and open market and the national market system, protect investors and the pubic interest and promote just and equitable principles of trade by members.

2. Phlx

The purpose of the Phlx proposed rule change is to accommodate Amex TAPs and to accommodate trading in non-Phlx Amex options, particularly those options traded only on the Amex that would otherwise temporarily have no trading facility, on a temporary basis, during a crisis in the nation's financial markets. The proposal is intended to provide access to certain options products previously traded by these Amex members on the Amex, pending restoration of the Amex's facility.

The Phlx's proposal is tailored to permit access to Amex TAPs seeking to continue their livelihood and make markets, as well as provide a marketplace for options that trade only on the Amex. It is with respect to these options, in particular, that this proposal is intended to perfect the mechanism of a free and open market and a national market system. Because the Phlx trading facility is being utilized, the Phlx technology and trading rules would apply to both Phlx/Amex options and non-Phlx Amex options, including minimum trading increments, strike price, position and exercise limits, and firm quote and Auto-X guarantees. The method of submission of orders to the Phlx trading floor continues to be the use of the AUTOM System (through a Phlx member) or a floor broker, although the floor broker could be an Amex floor broker/TAP.[17] The Phlx also anticipates that Amex TAPs may require support staff, such as trading floor clerks, who would be permitted under specified terms. Clerks would be required to register (and de-register) [18] on a similar form, identifying the responsible Amex market makers and Amex member organization.[19]

Operationally, the Phlx intends to handle Amex market maker quotes and trades like other Phlx quotes and trades, including quote and trade reporting and dissemination via OPRA. The Phlx intends to establish appropriate account number processing for Amex TAP trades. The Phlx will provide general notice as well as an educational session for Amex TAPs. Respecting Phlx/Amex options, Amex TAPs will trade with Phlx ROTs and other Phlx members in the respective Phlx options trading crowds.

With respect to other regulatory aspects of the proposals, in addition to surveillance, the Phlx intends to exercise enforcement jurisdiction over Amex TAPs trading options on the Phlx. However, the Phlx and the Amex have agreed that the Phlx may request the Amex to assume enforcement jurisdiction upon request by Phlx, as well as incremental costs associated with surveillance, investigations and enforcement, under this proposal. The Amex has also agreed to cooperate with the Phlx by providing information to the Phlx respecting Amex TAPs. Because Amex TAPs will continue to be Amex members and subject to Amex rules respecting such membership, Amex financial responsibility rules, including margin provisions, will continue to apply.[20] Accordingly, the Amex has agreed to retain examination jurisdiction over Amex TAPs, including the daily net capital review. With respect to arbitration jurisdiction, Phlx arbitration rules will apply.

The Phlx is requesting immediate accelerated approval of the proposal in order to promptly enable Amex TAPs to begin trading on the Phlx, which is anticipated to be a 9:30 A.M. on Monday, September 17, 2001. In addition to the immediacy of the situation, the Phlx believes that Amex TAP access would only remain in effect until the Amex facility is restored and resumes such options trading, which is anticipated to be several days, although it is difficult to predict the timing of the resolution of the situation in New York described above.

For these reasons, the Phlx believes that the proposed rule change is consistent with Section 6 of the Act,[21] in general, and in particular, with section 6(b)(5) of the Act,[22] because it would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, by providing an options facility for Amex members.

B. Self-Regulatory Organizations' Statements on Burden on Competition

The Exchanges do not believe that the proposed rule changes will impose any inappropriate burden on competition.

C. Self-Regulatory Organizations' Statements on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

No comments were either solicited or received by Amex or Phlx.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule changes are consistent with the Act. Persons making written submissions should file fix copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(5).

[17] If the Phlx permits an Amex TAP to act as a floor broker on the Phlx, the Phlx is not obligated to provide trading floor or other physical space, or technology, including floor broker order entry terminals, to such floor brokers.

[18] The Phlx has determined the de-registration may be by any written submission to the Phlx's Membership Services Department.

[19] The Phlx, in its sole discretion, may limit the number of clerks and Amex TAPs granted access to the Phlx options floor due to space and safety concerns.

[20] As stated above and in the certification form, Amex membership-related rules would apply, because Phlx is waiving its rules governing status as a Phlx member. Admissions procedures is another example of such a rule.

[21] 15 U.S.C. 78f.

[22] 15 U.S.C. 78f(b)(5).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filings will also be available for inspection and copying at the principal offices of Amex and Phlx, respectively. All submissions should refer to File Nos. SR–Amex-2001–80 and SR–Phlx-2001–86 and should be October 12, 2001.

IV. Commission Findings and Order Granting Accelerated Approval of the Proposed Rule Changes

The Commission notes that the proposed rule changes were submitted in response to the emergency situation that resulted from the September 11, 2001 attacks on the World Trade Center in New York City. On September 11, 2001, the U.S. equities and options markets determined not to open in light of the attacks that morning. The U.S. equities and options markets remained closed throughout the remainder of that week. As a result of the attacks, the Amex facilities were damaged and, at this time, cannot be reopened. The Amex and Phlx have worked to accommodate the opening of trading of Amex options and to accommodate trading by Amex members.[23]

The Commission notes that Amex TAPS that are granted temporary access to the Phlx will only be permitted to trade on the Phlx those securities that the TAP traded on the Amex, and to act in those capacities that are authorized by Phlx and that are comparable to capacities that the TAP has been authorized to act on the Amex.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[24] Specifically, the Commission finds that the proposed rule changes are consistent with section 6(b)(5) of the Act,[25] which requires, among other things, that the rules of an exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the arrangements between the Amex and Phlx to permit the trading of Amex products on the Phlx by Amex members will ensure that all Amex options products will be available for trading by market participants when trading resumes in the U.S. markets. The Commission also believes that the arrangements allowing Amex specialists and Amex ROTs to make markets on the Phlx in the options for which they made markets on Amex should ensure that Amex options have a similar level of liquidity as was the case on September 10, 2001. Further, the Commission believes that permitting Amex floor brokers to act as floor brokers in the options for which they acted as floor brokers on Amex should ensure that the orders directed to Phlx for Amex options are handled efficiently. The Commission considers to be appropriate the arrangement whereby the Phlx will be responsible for ensuring compliance of Amex members trading on the Phlx floor with Phlx trading rules, while Amex will be responsible for ensuring that its members comply with member qualification and financial responsibility rules. In this regard, the Commission notes that it is important that the Amex and the Phlx continue to closely coordinate and cooperate to ensure that Amex members temporarily trading on the Phlx are adequately surveilled and that their financial condition is monitored.

The Commission is satisfied that the arrangements worked out between Amex and Phlx will enable continuous, liquid markets to be maintained for :Amex options in an exchange environment while maintaining the usual investor protection safeguards. This is especially important in light of the upcoming options expiration on September 21, 2001.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of the notice of filing in the **Federal Register**. The Commission believes that it is necessary to approve the proposed rule changes on an accelerated basis to provide a trading venue for Amex options, which market participants would otherwise not be able to trade until Amex's New York facilities are reopened, and to provide a higher level of liquidity in those products than would be available without permitting Amex members temporary access to the Phlx.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[26] that the proposed rule changes (SR–Amex–2001–80 and SR–Phlx–2001–86) are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23524 Filed 9–20–01; 8:45 am]

BILLING CODE 8010–01–M

[23] The Commission notes that the Phlx and the Amex have, of necessity, had discussions, understandings and agreements concerning the listing of non-Phlx Amex options on the Phlx in order to facilitate the establishment of the arrangements described in this Order outside the framework permitted by the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934. This Order approves such discussions, understandings, and agreements.

[24] In approving these proposals, the Commission has considered their impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78f(b)(5).

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[(Release No. 34–44807; File No. SR–Amex–2001–67)]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC to Codify Current Audit Trail and Trade Comparison Requirements and to Make Other Technical Amendments to the Exchange's Audit Trail Rules

September 17, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on August 28, 2001, the American Stock exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Amex Rule 719: (1) To codify current audit trail and trade comparison requirements, (2) to clarify that Amex Rule 719 applies to all Amex securities, and (3) to delete rule language to the implementation of T+1 comparison.

The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[Next Day] Comparison of Exchange Transactions

Rule 719

(a) Notwithstanding any other rule to the contrary, [on and after February 26, 1990,] each transaction effected on the Exchange shall be compared or otherwise closed out by the close of business on the Exchange on the business day following the day of the contract.

(b) The provisions of paragraph (a) above shall apply regardless of whether the transaction has been submitted to a registered clearing agency for comparison or settlement, but such provisions shall apply only to contracts for ''regular way'', ''next day'' and ''seller's option'', settlement on alternative delivery periods, and settlement in *Options Clearing Corporation issued securities,* stocks, rights, warrants, ''when issued'' and ''when distributed'' securities, *bonds, and other securities admitted to dealings.* [The provisions of paragraph (a) shall apply to contracts in listed bonds on and after October 21, 1994.]

(c) To facilitate [next day] comparison of transactions effected on the Exchange as provided for in paragraph (a) above, by such time following any such transaction as the Exchange may prescribe *(but in no event more than two hours after execution),* each member or member organization which is a party to the contract shall submit, or cause to be submitted, such trade data as may be required by the Exchange or the registered clearing agency it selects in such form as the Exchange or the registered clearing agency shall prescribe, to:

(i) The registered clearing agency it selects; or

(ii) Such facility as the Exchange may develop and implement to facilitate comparison of transactions effected on the Exchange; and,

(iii) In the case where the registered clearing agency will not be used to compare or settle the transactions, to the party or parties on the other side of the trade.

(d) No change

* * * Commentary

.01 For purposes of paragraph (b) of this Rule 719, the term ''registered clearing agency'' shall have the same meaning as set forth in Rule 700, provided further that a clearing agency shall be deemed a ''registered clearing agency'' only if it has established rules and procedures to facilitate [next day] comparison of transactions as provided for in paragraph (a) of this Rule 719.

.02 Regardless of whether or not a registered clearing agency is being used for comparison and/or settlement, each clearing member organization shall submit the following trade data and audit trail information with respect to contracts for securities entered into on the Exchange to a registered clearing agency in such form and within such time periods as may be described by the registered clearing agency or the Exchange:

(1) Name or identifying symbol of the security,

(2) The clearing firm's number of alpha symbol as may be used from time to time, in regard to its side of the contract,

(3) The executing broker's badge number or alpha symbol as may be used from time to time, in regard to its side of the contract,

(4) Trade date,

(5) The time the trade was executed,

(6) Number of shares or quantity of security,

(7) Transaction price,

(8) The clearing firm's number or alpha symbol as may be used from time to time, in regard to the contra side of the contract,

(9) The executing broker badge number or alpha symbol as may be used from time to time, in regard to the contra side of the contract,

(10) The terms of settlement,

(11) Specialist, registered trader, and market maker acronyms in regards to options transactions,

(12) Account type code—equities only. The current account type codes for equity transactions are as follows. Members should use the most restrictive account type code available. Thus, for example, members only should use the ''A'' account type code for an agency transaction when no other account type code accurately describes the trade. These codes may be changed from time to time as the Exchange may determine:

S—Specialist principal transaction in a specialty security (regardless of the account or clearing member)

G—Registered Trader market maker transaction regardless of the clearing member

V—Amex Option Specialist or Market Maker transaction in an Amex ''paired security'' (regardless of the clearing member)

O—Proprietary transactions cleared for a competing market maker that is affiliated with the clearing member

T—Transactions cleared for the account of an unaffiliated member's competing market maker

R—Transactions cleared for the account of a non-member competing market maker

I—Transactions cleared for the account of an individual investor

E—Short exempt transactions cleared for the proprietary account of a clearing member organization or affiliated member/member organization

F—Short exempt transactions cleared for the proprietary account of an unaffiliated member/member organization

H—Short exempt transactions cleared for an individual customer account

B—Short exempt transactions cleared for all agency customer accounts

L—Short exempt transaction cleared for a competing market maker that is affiliated with the clearing member

X—Short exempt transaction cleared for the account of an unaffiliated member competing market maker

Z—Short exempt transaction cleared for the account of a non-member competing market maker

W—Proprietary transactions not specified above and cleared for the account of an unaffiliated member/ member organization

A—Transactions cleared for all agency customer accounts

P—Transactions not specified above and cleared for the proprietary account of a clearing member organization or affiliated member/member organization New York Stock Exchange program trade audit trail account type codes as used from time to time also are acceptable.

(13) Account type code—options only. The current account type codes for option transactions are as follows. Members should use the most restrictive account type code available. These codes may be changed from time to time as the Exchange may determine:

S—Specialist principal transaction in a specialty security (regardless of the account or clearing member)

C—Transactions cleared for the account of an individual investor

F—Transactions cleared for the account of a broker-dealer that is not a registered market maker in the security

P—Registered trader market maker transaction regardless of the clearing member

N—Transactions cleared for the account of a non-member market maker

(14) Such other information as the Exchange may from time to time require. Clearing members may not ''summarize'' multiple trades in the same security, executed at the same price with the same contra clearing firm as this results in degradation of the audit trail.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex's requirements regarding the timely and accurate reporting of clearance and audit trail information into the comparison system currently are embodied in Information Circulars and are not codified in the Exchange's rules. The Exchange, accordingly, is proposing to amend Amex Rule 719 to codify both the time frame in which information must be submitted to comparison (within two hours of execution) and the specifics of the trade data and audit trail information to be submitted.

Amex believes that the prompt submission of trades to comparison reduces the financial risk to investors and broker-dealers of uncompared transactions. Amex further believes that the provision of detailed audit trail information by the parties to Amex transactions allows the Exchange to better perform its market oversight functions.

The Exchange also is proposing to amend Amex Rule 719 to clarify that it applies to all Amex securities admitted to dealings. This will ensure that the rule applies to the new securities that the Exchange lists. The Exchange also is proposing to delete obsolete language in Amex Rule 719 related to the implementation of T+1 comparison in the early 1990s.

Amex has represented that the proposed rule change would not alter the Exchange's substantive requirements and would make these requirements more readily accessible to members.

2. Statutory Basis

Amex believes that the proposed rule change is consistent with Section 6(b) of the Act [3] in general and furthers the objectives of Section 6(b)(5) [4] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex believes that the proposed rule change would impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–2001–67 and should be submitted by October 12, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23619 Filed 9–20–01; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44808; File No. SR–CBOE–2001–50]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchanges, Incorporated To Adopt Certain Intermarket Trading System-Related Terms and Conditions Regarding the Temporary Use by the American Stock Exchange LLC of the Facilities of the New York Stock Exchange, Inc.

September 17, 2001.

Pursuant to Section 19(b)(1) of the Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 17, 2001, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) [4] thereunder, which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange has asked the Commission to waive the five-day filing notice requirement and the 30-day operational delay, pursuant to Rule 19b–4(f)(6). 17 CFR 240.19b–4(f)(6). *See* September 17, 2001 letter from Angelo Evangelou, Attorney, Legal Division, CBOE to Belinda Blaine, Associated Director, Division of Market Regulation, SEC, and attachments.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to adopt the terms and conditions related to the Intermarket Trading System (''ITS'') that were set forth in an American Stock Exchange (''Amex'') proposed rule change (SR–Amex–2001–78), regarding the temporary use by the Amex of the facilities of the New York Exchange, Inc. The text of the proposed rule change is available at the CBOE and at the Commission.

III. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CBOE proposes to adopt all of the terms and conditions set forth in Securities Exchange Act Release No. 44803 (September 17, 2001) with respect to the ITS Plan and ITS Participants (as defined in Securities Exchange Act Release No. 44803).

2. Statutory Basis

The CBOE believes the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[6] in general, and Section 6(b)(5)[7] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) significantly affect the protection of investors or the public interest;

(ii) imposes any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Exchange has requested that the Commission waive the five-day pre-filing notice requirement and accelerate the operative date. The Commission finds good cause to designate the proposal to become operative upon filing with the Commission because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow CBOE to adopt the terms and conditions set forth in Securities Exchange Act Release No. 44803 without unnecessary delay. For these reasons, the Commission finds good cause to waive the pre-filing notice requirement and to designate that the proposal is both effective and operative upon filing with the Commission.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to file number SR–CBOE–2001–50 and should be submitted by October 12, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23618 Filed 9–20–01; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12)

DEPARTMENT OF STATE

[Public Notice 3778]

Office of the Procurement Executive; 30-Day Notice of Proposed Information Collection: Department of State Acquisition Regulation (DOSAR); OMB Control Number 1405–0050

ACTION: Notice.

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: Extension of a currently approved collection.

Originating Office: Bureau of Administration, Office of the Procurement Executive (A/OPE).

Title of Information Collection: Department of State Acquisition Regulation (DOSAR).

Frequency: On occasion.

Form Number: N/A.

Respondents: Any business, other for-profit, individual, not-for-profit, or household organizations wishing to receive Department of State contracts.

Estimated Number of Respondents: 2,790.

Average Hours Per Response: Varies.

Total Estimated Burden: 225,503 hours.

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 Gladys Gines, Procurement Analyst, Office of the Procurement Executive, U.S. Department of State, Washington, DC 20520; telephone (703) 516–1691; e-mail address: *ginesgg@state.gov.* Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB),Washington, DC 20530, who may be reached at (202) 395–3897.

Dated: July 13, 2001.

Lloyd W. Pratsch,

Procurement Executive, Bureau of Administration, U.S. Department of State.

[FR Doc. 01–23666 Filed 9–20–01; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 3788]

Office of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to section 36(c) and 36(d) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. 2776).

EFFECTIVE DATE: July 16 and August 3, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202–663–2700).

SUPPLEMENTARY INFORMATION: Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to section 36(c) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: September 11, 2001.

William J. Lowell,

Director, Office of Defense Trade Controls, Department of State.

United States Department of State,

July 16, 2001.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the export of the EchoStar VII commercial communications satellite for launch on a Proton rocket from Kazakhstan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 049–01.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

United States Department of State,

August 3, 2001.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of the Echostar VIII commercial communication satellite, ground support and secure communication equipment to Baikonur, Kazakhstan for launch on a Proton rocket.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 087–01.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

United States Department of State,

August 3, 2001.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of oneIntelsat IX commercial communications satellite to Baikonur, Kazakhstan for launch on a Proton and four Intelsat IX commercial communications satellites to Korou, FrenchGuiana for launch on an Ariane. Upon orbit, the satellites will be operated by Intelsat, a U.S. entity.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 090–01.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

United States Department of State,

August 3, 2001.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of a DirecTV commercial communications satellite to Baikonur, Kazakhstan for launch on a Proton launch vehicle. Upon orbit, the satellite will be operated by a U.S. entity.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 098–01.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

[FR Doc. 01–23668 Filed 9–20–01; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 3787]

Notice of Receipt of Cultural Property Request From the Government of the Republic of Honduras

AGENCY: Department of State.

ACTION: Notice.

The Government of the Republic of Honduras, concerned that its cultural heritage is in jeopardy from pillage, made a request to the Government of the United States under Article 9 of the 1970 UNESCO Convention. The request was received on August 22, 2001, by the United States Department of State. It seeks U.S. import restrictions on Pre-Columbian archaeological material that includes certain categories of ceramic, stone, metal, shell, and bone artifacts.

In accordance with provisions of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 *et seq.*), the request will be submitted for review by the Cultural Property Advisory Committee that will report on its findings and recommendations.

A Public Summary of the Honduras Request and information about the Act and U.S. implementation of the 1970 UNESCO Convention can be found at http://exchanges.state.gov/education/culprop.

Dated: September 17, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 01–23667 Filed 9–20–01; 8:45 am]

BILLING CODE 4710–11–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Cancellation of Meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC–14)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting cancellation.

SUMMARY: A notice was published in the **Federal Register** dated September 7, 2001, Volume number 66, Notice 174, page 46860, announcing a meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC–14), scheduled for September 24, 2001, from 9 a.m. to 4 p.m. The meeting was to be open to the public from 9 a.m. to 10 a.m. and again from 10:45 a.m. to 4 p.m. and closed to the public from 10 a.m. to 10:45 a.m. However, the meeting has been cancelled.

FOR FURTHER INFORMATION CONTACT: Millie Sjoberg or Pam Wilbur, of the Department of Commerce, (202) 482–4792.

Elizabeth A. Gianini,

Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 01–23615 Filed 9–20–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance Houlton International Airport, Houlton, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments. Notice of intent of waiver with respect to land.

SUMMARY: The FAA is requesting public comment on the Town of Houlton's request to dispose of a portion of airport property (approximately 1.66 acres known as 42 Airport Road, Houlton, Maine) no longer needed for aeronautical use, as shown on the Airport Layout Plan. The property requested for disposition is currently vacant and will be sold to an abutter for use in expansion of an ongoing business. There appear to be no impacts to the airport by allowing the disposal of the property. The land was transferred from the federal government as Surplus Property by Quitclaim Deed dated under July 14, 1947 and Supplemental Quitclaim Deed dated July 31, 1948.

Proceeds from the sale of the airport property will be used for Airport purposes.

DATES: Comments must be received on or before October 22, 2001.

ADDRESSES: Documents are available for review by appointment by contacting Charles Upton, Director of Community Development at 21 Water Street, Houlton, Maine, Telephone 207–532–7113 and by contacting Donna R. Witte, Federal Aviation Administration, 16 New England Executive Park, Burlington, Massachusetts, Telephone 781–238–7624.

FOR FURTHER INFORMATION CONTACT: Donna R. Witte at the Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone 781–238–7624.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21) requires the FAA to provide an opportunity for public notice and comment to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport property for aeronautical purposes.

Issued in Burlington, Massachusetts on September 10, 2001.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 01–23566 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance, Houlton International Airport, Houlton, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for Public Comments. Notice of intent of waiver with respect to land.

SUMMARY: The FAA is requesting public comment on the Town of Houlton's request to dispose of a portion of airport property (two parcels consisting of 2 acres each known as 108 and 136 White Settlement Road, Houlton, Maine) no longer needed for aeronautical use, as shown on the Airport Layout Plan. The properties requested for disposition are each improved with privately owned residences. The airport leases the underlying land to the homeowners. There appear to be no impacts to the airport by allowing the disposal of the property. The land was transferred from the federal government as Surplus Property by Quitclaim Deed dated under July 14, 1947 and Supplemental Quitclaim Deed dated July 31, 1948.

Proceeds from the sale of the airport property will be used for Airport purposes.

DATES: Comments must be received on or before October 22, 2001.

ADDRESSES: Documents are available for review by appointment by contacting Charles Upton, Director of Community

Development at 21 Water Street, Houlton, Maine, Telephone 207–532–7113 and by contacting Donna R. Witte, Federal Aviation Administration, 16 New England Executive Park, Burlington, Massachusetts, Telephone 781–238–7624.

FOR FURTHER INFORMATION CONTACT: Donna R. Witte at the Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone 781–238–7624.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21) requires the FAA to provide an opportunity for public notice and comment to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport property for aeronautical purposes.

Issued in Burlington, Massachusetts on September 10, 2001.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 01–23567 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice Before Waiver With Respect to Land at Niagara Fall International Airport, Niagara Falls, New York

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The FAA is publishing notice of the proposed release of approximately 4.9 acres of land located directly across Niagara Falls Boulevard from the terminal building at Niagara Falls International Airport, to allow its sale for non-aviation development. The parcel was part of the airport land deeded to the City of Niagara Falls under a quit claim conveyance from the United States. When the airport property was conveyed to the Niagara Frontier Transportation Authority (NFTA), this parcel was not transferred, and remains under the ownership of the city of Niagara Falls. The City of Niagara Falls proposes to sell the land to a developer who will it develop it as a car dealership or another similar use.

FAA's action is to release the land from a deed provision requiring aeronautical use of the property. The NFTA has stated that it has no aeronautical use for the parcel now or in the near future according to the Niagara Falls Intl. Airport Layout Plan. The Fair Market Value of the land will be paid to the NFTA for the maintenance, operation and capital development of the Niagara Falls International Airport.

Any comments the agency receives will be considered as a part of the decision.

DATES: Comments must be received on or before October 22, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Philip Brito, Manager, FAA New York Airports District Office, 600 Old Country Road, Suite 446 Garden City, New York 11530.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas M. O'Donnell, Deputy Corporation Counsel, City of Niagara Falls, at the following address: Mr. Thomas M. O'Donnell, Deputy Corporation Counsel, City of Niagara Falls, P.O. Box 69, Niagara Falls, New York 14302–0069.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Brito, Manager, New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530; telephone (516) 227–3803; FAX (516) 227–3813; E-Mail *Philip.Brito@faa.gov.*

SUPPLEMENTARY INFORMATION: On April 5, 2000, new authorizing legislation became effective. That bill, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61) (AIR 21) requires that a 30 day public notice must be provided before the Secretary may waive any condition imposed on an interest in surplus property.

Issued in Garden City, New York on September 3, 2001.

Philip Brito,

Manager, New York Airports District Office, Eastern Region.

[FR Doc. 01–23693 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Meeting

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice.

SUMMARY: The FAA is issuing this notice to advise the public of the date change for the third meeting of the FAA Aircraft Repair and Maintenance Advisory Committee. The purpose of the meeting is for the Committee to continue working towards accomplishing the goals and objectives pursuant to its congressional mandate.

DATES: The meeting will now be held Tuesday, September 25, 2001, 9:00 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 13873 Park Center Road, Suite 160, Herndon, Virginia 20171.

FOR FURTHER INFORMATION CONTACT: Ellen Bowie, Federal Aviation Administration (AFS–300), 800 Independence Avenue, SW, Washington, DC 20591; phone (202) 267–9952; fax (202) 267–5115; e-mail Ellen *Bowie@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the FAA Aircraft Repair and Maintenance Advisory Committee to be held on September 25, at the Federal Aviation Administration, 13873 Park Center Road, Suite 160, Herndon, Virginia 20171.

The agenda will include:

- Introduction of any new designated alternate members
- Committee administration
- Reading and approval of minutes
- Review of open/additional action items
- Working group status review
- Statements of members of the public
- Review of Committee workscope vs. mandate
- Plan/discuss next steps/agenda and timeline
- Closing remarks and adjournment

Attendance is open to the public but will be limited to the availability of meeting room space. Persons desiring to present a verbal statement must provide a written summary of remarks. Please focus your remarks on the tasks, specific activities, projects or goals of the Advisory Committee, and benefits to the aviation public. Speakers will be limited to 5-minute presentations. Please contact Ms. Ellen Bowie at the number listed above if you plan to attend the meeting or to present a verbal statement.

Individuals making verbal presentations at the meeting should bring 25 copies to give to the Committee's Executive Director. These copies may be provided to the audience at the discretion of the submitter.

Issued in Washington, DC, on September 17, 2001.

James J. Ballough,

Acting Manager, Continuous Airworthiness Maintenance Division.

[FR Doc. 01–23696 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Cincinnati/Northern Kentucky International Airport, Covington, Kentucky

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cincinnati/Northern Kentucky International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES Comments must be received on or before October 22, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 3385 Airways Boulevard, Suite 302, Memphis, Tennessee 38116–3841.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert F. Holscher, Director of Aviation of the Kenton County Airport Board at the following address: PO Box 752000, Cincinnati, Ohio 45275–2000.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Kenton County Airport Board under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry O. Bowers, Program Manager, Memphis Airports District Office, 3385 Airways Boulevard, Suite 302, Memphis, Tennessee 38116–3841, (901) 544–3495, Extension 21. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cincinnati/Northern Kentucky International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 12, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by Kenton County Airport Board was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 26, 2001.

The following is a brief overview of the application.

PFC Application No.: 01–07–C–00–CVG.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 2002.

Proposed charge expiration date: March 1, 2003.

Total estimated net PFC revenue: $27,638,000.

Brief description of proposed project(s): (1) Concourse C Improvements—(a) South Infill Expansion and (b) North Infill Expansion and Entry and Canopy Renovation; (2) Deicing System Enhancements—(a) Instream Treatment System Engineering and Design and (b) Glycol Processing and Recycling Facility; (3) Runway 27 Safety Zone Improvements—(a) Realign Taxiway ''M'' and Relocate Taxiway ''M4'' and (b) Displace Runway 27 Threshold; (4) Taxiway ''M'' Extension and Connecting Taxiways; (5) Taxiway ''N'' extension; (6) Aircraft Rescue and Fire Fighting Building (Phase 1); and (7) Planning Study Updates—(a) Airport Master Plan Update (2002) and (b) part 150 Study Update (2003).

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: (1) FAR part 121 supplemental operators which operate at the Airport without an operating agreement with the Board and enplane less than 1,500 passengers per year and (2) part 135 on-demand air taxis, both fixed wing and rotary.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Kenton County Airport Board.

Issued in Memphis, Tennessee on September 12, 2001.

LaVerne F. Reid,

Manager, Memphis Airports District Office South Region.

[FR Doc. 01–23569 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Quad City International Airport, Moline, Illinois

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Quad City International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 22, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA, Great Lakes Region, Chicago Airports District Office, 2300 East Devon Avenue, Room 320, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bruce E. Carter, Director of Aviation of the Metropolitan Airport Authority of Rock Island County at the following address: Metropolitan Airport Authority of Rock Island County, Quad City International Airport, P.O. Box 9009, Moline, Illinois 61265.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Metropolitan Airport Authority of Rock Island County under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Richard A. Pur, Airports Engineer, FAA, Great Lakes Region, Chicago Airports District Office, 2300 East Devon Avenue, Room 320, Des Plaines, Illinois 60018, 847–294–7527. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public

comment on the application to impose and use the revenue from a PFC at Quad City International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 29, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by Metropolitan Airport Authority of Rock Island County was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 26, 2001.

The following is a brief overview of the application.

PFC application number: 01–04–C–00–MLI.

Level of the proposed PFC: $4.50.

Proposed charge effective date: July 1, 2016.

Proposed charge expiration date: July 1, 2017.

Total estimated PFC revenue: $1,520,320.00.

Brief description of proposed projects: Purchase of Aircraft Rescue and Fire Fighting Equipment, Purchase of two Regional Jet Boarding Bridges.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 air taxi/commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Metropolitan Airport Authority of Rock Island County.

Issued in Des Plaines, Illinois on September 5, 2001.

Gary E. Nielsen,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 01–23694 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application (01–03–I–00–TEX) to Impose a Passenger Facility Charge (PFC) at Telluride Regional Airport, Submitted by the County of San Miguel, Colorado and the Telluride Regional Airport Authority

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at the Telluride Regional Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before October 22, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan E. Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Richard W. Nuttall, Airport Manager, at the following address: Telluride Regional Airport, P.O. Box 1807, Telluride, Colorado 81435.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to the Telluride Regional Airport, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (01–03–I–00–TEX) to impose a PFC at Telluride Regional Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 7, 2001, the FAA determined that the application to impose a PFC submitted by San Miguel County, Colorado, was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 5, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: April 1, 2002.

Proposed charge expiration date: December 31, 2007.

Total requested for impose only approval: $430,000.

Brief description of proposed projects: Acquire land, engineering design services for future runway and runway safety area upgrades.

Class or classes of air carriers that the public agency has requested not be required to collect PFC's: Non-scheduled/On Demand air carriers filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Telluride Regional Airport.

Issued in Renton, Washington on September 7, 2001.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 01–23568 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 01–04–C–00–ALO To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Waterloo Municipal Airport, Waterloo, Iowa

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

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Waterloo Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of

1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or be received on or before October 22, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 901 Locust, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Kim Bakker, Assistant Director of Aviation, Waterloo Municipal Airport, at the following address: 2790 Livingston lane, Waterloo, Iowa 50703.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Waterloo Municipal Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, PFC Program Manager, FAA, Central Region, 901 Locust, Kansas City, MO 64106, (816) 329–2641. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Waterloo Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 29, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Waterloo Municipal Airport was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 28, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: February, 2002.

Proposed charge expiration date: July, 2004.

Total estimated use revenue: $801,800.

Total estimated impose revenue: $291,800.

Brief description of proposed project(s): Terminal Building Modernization—Construction; Runway 12/30 Rejuvenation; Runway 18/36 Rejuvenation; Reconstruct Taxiway E; Reconstruct Taxiway A.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Waterloo Municipal Airport.

Issued in Kansas City, Missouri on August 29, 2001.

George A. Hendon,

Manager, Airports Division, Central Region.

[FR Doc. 01–23695 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2001–9270]

Wabtec Railway Electronics; Public Hearing

On April 6, 2001, the Federal Railroad Administration (FRA) published a notice in the **Federal Register** (66 FR 18351) announcing Wabtec Railway Electronic's (Wabtec) request to obtain a permanent waiver of compliance from certain provisions of the Power Brakes and Drawbars regulations, 49 CFR part 232, regarding two-way end-of-train devices. Specifically, § 232.23(f)(2), which requires: ''The rear unit batteries shall be sufficiently charged at the initial terminal or other point where the device is installed and throughout the train's trip to ensure that the end-of-train-device will remain operative until the train reaches its destination.'' Due to an administrative error on the part of the agency, an incomplete copy of Wabtec's petition was filed in the public docket. That error was corrected and FRA extended the comment period by thirty days with a notice in the **Federal Register** (66 FR 31274).

As a result of the comments received by FRA concerning this waiver petition, FRA has determined that a public hearing is necessary before a final decision is made on this petition. Accordingly, a public hearing is hearby set for 10 a.m. on October 18, 2001, in Conference Room #1 on the seventh floor, at the FRA Headquarters Building, 1120 Vermont Avenue NW., Washington, DC 20005. Interested parties are invited to present oral statements at this hearing. The hearing will be informal and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR 211.25) by a representative designated by the FRA. The FRA representative will make an opening statement outlining the scope of the hearing, as well as any additional procedures for the conduct of the hearing. The hearing will be a non-adversarial proceeding in which all interested parties will be given the opportunity to express their views regarding this waiver petition, without cross-examination. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given an opportunity to do so in the same order in which initial statements were made.

Issued in Washington, DC, on September 12, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–23547 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number. FRA–2001–10217

Applicants:

Norfolk Southern Corporation, Mr. Brian L. Sykes, Chief Engineer C&S Engineering, 99 Spring Street, S.W., Atlanta, Georgia 30303.

West Tennessee Railroad, Mr. Bruce Hohorst, President, One Depot Street,Trenton, Tennessee 38382.

Norfolk Southern Corporation (NS) and the West Tennessee Railroad jointly seek approval of the proposed discontinuance and removal of the automatic block signal system on the Alabama Division, Jackson District, between Fulton Junction, milepost IC–406.2, near Fulton, Kentucky and Ruslor Junction, milepost IC–526.0, near Corinth, Mississippi, a distance of approximately 120 miles. The proposed changes include the removal of all automatic block signals, conversion of the spring switches to hand operation, and retention of the interlocking signals at Milan, Tennessee, where the NS single main track crosses at grade the single main track of CSX Transportation, Incorporated.

The reason given for the proposed changes is that present and anticipated traffic density and train movements do not warrant retention of the signal system.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on September 12, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–23546 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition to open a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted by Mr. John E. Ballow, dated July 20, 2000, to NHTSA under 49 U.S.C. 30162, which requested the agency to commence a proceeding to determine the existence of a defect related to motor vehicle safety in certain General Motors (GM) vehicles equipped with flex fans (part number 336032). After reviewing the petition and other information, NHTSA has concluded that further expenditure of the agency's investigative resources on the issues raised by the petition does not appear to be warranted. The agency accordingly denies the petition.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Borris, Safety Defects Engineer, Vehicle Integrity Division, Office of Defects Investigation, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Telephone (202) 366–5202.

SUPPLEMENTARY INFORMATION: In a letter dated July 20, 2000, John E. Ballow, an attorney in Buffalo, New York, petitioned NHTSA to conduct an investigation of a certain GM flexible blade engine cooling fan and, if later warranted, all flexible radiator fans offered as original equipment in GM vehicles, particularly light duty trucks. The petitioner specifically identified GM Part No. 336032 and alleged that additional injuries have been caused by this component since NHTSA last considered this issue in 1996. Enclosed with the petitioner's letter were opinions and analyses from four independent experts in fan engineering, failure analysis, engine design, and human factors engineering. As an enclosure to a supplementary letter dated September 26, 2000, the petitioner provided numerous photographs depicting the severity of injuries allegedly resulting from separated flex fan blades. NHTSA's Office of Defects Investigation (ODI) conducted a Petition Analysis to determine whether to grant the petition.

The subject fan is a 7-blade, flexible blade engine cooling fan commonly referred to as a ''flex fan,'' which was used on approximately 2.6 million GM vehicles that were produced *without* air conditioning and *with* heavy duty cooling systems. The model years and models in which the fans were used are model year (MY) 1973 through 1979 Chevrolet and GMC C/K 10, 20, and 30 series light duty trucks and the MY 1975 Chevrolet and GMC ''G'' van (subject vehicles). The flex fan concept was used by many vehicle manufacturers as a way to improve fuel efficiency. Like all flex fans, the subject fan has flexible metal blades, which are attached to the fan hub or ''spider'' by rivets, and are designed to flex or ''flatten out'' as the engine speed is increased, thus reducing the load on the engine. However, the subject fans may be susceptible to fatigue failure of the blade resulting from uncontrolled flexing (bending) due to a resonant condition.

Prior to this petition, NHTSA analyzed failures of the 336032 flex fan in response to a similar petition, DP96–007. In a letter dated May 17, 1996, Mary Walsh-Dempsey, an attorney in Scranton, Pennsylvania, petitioned NHTSA to initiate a defect investigation regarding MY 1976 Chevrolet C10 trucks concerning blade separation of the same engine cooling fan (Part No. 336032). On December 3, 1996, NHTSA denied the Walsh-Dempsey petition based on evidence showing a low failure rate, along with some consideration of the subject vehicles' age and remaining useful life.

After receiving the Ballow petition, NHTSA requested certain information from GM, requested additional information from the Petitioner, searched its database for reports of fan blade separations, and reviewed the experts' reports and credentials.

The subject fan was originally produced for GM by Canadian Fram,[1] which ceased production in approximately 1993. It was at this time that GM made a one-time purchase to maintain an inventory for future service parts. New replacements of the subject fan are available only from GM dealerships, although used units may still be available from automotive salvage businesses. At the time of this writing, GM estimates its inventory to be approximately 500 units. Part sales of the subject fan from GM dealers over the last four calendar years (1997–2000) averaged 211 units per year.

NHTSA has identified four reports of alleged failure of the subject fan since December 3, 1996, when DP96–007 was denied. Each report alleges an injury. These incidents occurred between January 1998 and September 2000. Reports on two of these incidents were provided by GM with the remaining two coming from NHTSA's database and the petitioner. One of the GM reports includes color photographs indicating the owner was struck in the neck and shoulder, requiring hospitalization.

GM's response also included two reports prepared by Canadian Fram for Chevrolet Engineering following its analysis of failed subject fans. Each of the reports, dated June 1978 and February 1979 respectively, documents findings that:

[1] Canadian Fram, Ltd., was acquired by Bendix Engine Components, Ltd., which was acquired by Allied Signal, Inc., which was acquired by Siemans Automotive, Ltd.

• The failure was due to fatigue cracking;

• The crack initiated near the third rivet on the concave (engine side) of the blade under the deflection limiting cap (below the visible surface); and

• There was no evidence of prior mechanical damage.

The author of each report concluded that the failure resulted from ''a resonant condition in the particular vehicle.'' Experts working on behalf of the Petitioner offered similar findings after examining failed subject fans. One of the experts, a recognized authority in the fan industry and author/editor of the 6th, 7th, and 8th editions of *Fan Engineering,* examined the remains of three failed subject fans. The expert reported the same findings as Canadian Fram, differing only in his belief that the resonant condition is inherent in *all* 336032 flex fans.

ODI reviewed documents submitted by GM which clearly indicate that fatigue failure was an issue of concern to GM engineers. Numerous tests were performed on the subject flex fan by Canadian Fram and GM Engineering between 1973 and 1979 to both validate fan performance and to measure strains imparted to the fan assembly. However, the testing methods employed by and for GM were questionable. For example, in order to measure strain on the fan blade, GM engineers instrumented the fan blades with strain gauges while rotating the subject fan on an apparatus to simulate the rotational inputs of the engine. The location of the strain gauges was determined by coating the visible surface of the subject fan blade with stresscoat [2] and observing the location and magnitude of cracks in the stresscoat resulting from rotating the fan at various speeds. However, as mentioned earlier, field experience has shown cracks in the subject fan blades tend to develop at a location on the blade below the visible surface. According to documents submitted by GM, all strain measurements with respect to the blade were taken only on the visible blade surface. Moreover, there is no indication that GM test engineers disassembled test specimens to inspect for the presence of cracks below the cap.

The subject fan is not the only flexible blade fan installed as original equipment by GM. In fact, it is one of a total of 38 unique part numbers for flexible blade fans representing more than 7,100,000 fans in addition to the 2,600,000 subject fans. However, the subject fan is over-represented with respect to the number of lawsuits brought against GM. ODI requested information from GM describing all lawsuits, out-of-court settlements, and offers of goodwill where GM is a party and which pertain to the performance of any GM fan, including fixed-pitch fans. GM's response includes information on 55 lawsuits alleging separation of a fan blade. Of this number, at least 49 (89%) identify the subject fan, two are unidentified, and four are other GM flex fans. None of the lawsuits, or any reports submitted by GM, allege a fan blade separation of a fixed-pitch fan.

In its response to ODI, GM attributed fan blade separation to the following:

• Reuse of fans with bent or broken blades;

• Preexisting, collision-induced damage;

• Interference with other engine compartment components;

• Water pump malfunctions; and

• Misapplication of the fan with drive train components not intended by GM.

As mentioned above, there have been four injury reports related to blade separation in the subject fan since December 3, 1996, when DP96–007 was denied. The estimated exposure based on the *registered* vehicle population of the subject vehicles for calendar years 1997 through May 2001 is 2.8 million vehicle years, yielding a failure rate of 0.14 per one hundred thousand vehicle years of exposure. It should be noted that this number does not represent the rate of flex fan blade separation but only the rate of reports.

Due to the potential for fatal or debilitating injuries associated with flex fan blade separation, ODI decided to enter into discussions with GM in which it urged GM to provide vehicle owners and mechanics with a warning about the safety risks. As a result of those discussions, GM agreed that it would send notification letters to owners of vehicles with the subject flex fan warning them of the potential for serious or fatal injuries resulting from flex fan blade separation and suggesting that they obtain a replacement fan.

Beginning the week of April 16, 2001, GM began mailing letters to affected owners warning of the potential for injury if failure were to occur and urging them to replace the fan regardless of its condition. The letter includes a picture and detailed description of the subject fan and reiterates that initial fatigue cracks may not be visible. In order to provide owners with some options for fan replacement, GM initiated production of a 4-blade, fixed-pitch fan (GM part number 461317) for distribution to GM dealerships and also suggested that owners consider purchasing such fans from after-market suppliers. GM also agreed to notify its dealers to stop sale of the subject fan and return any remaining inventory to GM.

In order to further minimize the potential for future injuries related to the subject fan, ODI contacted the Governmental and Industry Relations Office of the American Recyclers Association (ARA) to increase awareness of this issue and request their assistance in informing their membership. The ARA represents approximately 2,000 member companies through direct membership and over 3,000 other companies through 52 affiliated chapters. In response to ODI's request, the ARA notified its membership via electronic mail of GM's efforts with respect to the subject flex fan and suggested that they also stop the sale of the subject flex fan. Although the GM action is not a formal safety recall, it will help to make owners aware of the potential safety problem and encourage them to replace this fan.

After reviewing the petition and its supporting materials, as well as information furnished by GM and information within the agency's possession from previous investigations and other related actions, NHTSA has concluded that further investigation of the subject vehicles concerning the alleged fan failure is not likely to lead to a decision that the vehicles contain a safety defect. This is primarily based on the very large number of exposure years and the low failure rate, the age of the vehicles (22 to 28 years old), and the actions taken by GM and ARA.

For the foregoing reasons, further expenditure of the agency's investigative resources on the allegation in the petition does not appear to be warranted. Therefore, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at 49 CFR 1.50 and 501.8.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 01–23686 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–59–P

[2] Also known as brittle lacquer, stresscoat is a liquid coating applied to a test surface and allowed to harden. As the surface is stressed during operation, cracks form in the stresscoat indicating areas of deformation (strain).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34072]

Southwestern Railroad Company, Inc.—Acquisition, Lease, and Operation Exemption—The Burlington Northern and Santa Fe Railway Company

Southwestern Railroad Company, Inc. (SWRR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire and operate approximately 5.7 miles of rail line and to lease and operate approximately 54 miles of rail line owned by The Burlington Northern and Santa Fe Railway Company. The line being acquired is located between milepost 5+3763 feet, near Peruhill, NM, and milepost 0.0, at Deming, NM. The line being leased is located between milepost 1134, at Deming, and milepost 1080, at Rincon, NM.[1]

The transaction was expected to be consummated on or shortly after September 7, 2001, the effective date of the exemption.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34072, 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 Karl Morell, Ball Janik, LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: September 14, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23499 Filed 9–20–01; 8:45 am]

BILLING CODE 4915–00–M

[1] SWRR certifies that its projected revenues as a result of this transaction will not result in its becoming a Class II or Class I rail carrier, and further certifies that its projected annual revenues will not exceed $5 million.

DEPARTMENT OF THE TREASURY

Customs Service

Fees for Customs Services at User Fee Airports

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This document advises the public of an increase in the fees charged by Customs to user fee airports for providing Customs services at these designated facilities. The fees are based on the actual costs incurred by Customs in purchasing equipment and providing training and one Customs inspector on a full-time basis, and, thus, merely represent reimbursement to Customs for services rendered. The fees to be increased are the initial fee charged for a user fee airport's first year after it signs a Memorandum of Agreement with Customs to become a user fee airport, and the annual fee subsequently charged user fee airports.

EFFECTIVE DATE: The new fees will be effective October 1, 2001, and will be reflected in quarterly, user fee airport billings issued on or after that date.

FOR FURTHER INFORMATION CONTACT: Cynthia Sargent, Budget Division, Office of Finance, (202) 927–0609.

SUPPLEMENTARY INFORMATION

Background

Section 236 of the Trade and Tariff Act of 1984 (Pub. L. 98–573, 98 Stat. 2992) (codified at 19 U.S.C. 58b), as amended, authorizes the Secretary of the Treasury to make Customs services available at certain specified airports and at any other airport, seaport, or other facility designated by the Secretary pursuant to specified criteria, and to charge a fee for providing such services. (The list of user fee airports is found at § 122.15 of the Customs Regulations (19 CFR 122.15).) The fee that is charged is in an amount equal to the expenses incurred by the Secretary in providing Customs services at the designated facility, which includes purchasing equipment and providing training and inspectional services, i.e., the salary and expenses of individuals employed by the Secretary to provide the Customs services, and, thus, merely represents reimbursement to Customs for services rendered. The fees being raised are the initial fee charged a user fee airport after it signs a Memorandum of Agreement with Customs so that it can begin operations (currently set at $117,600), and the annual fee subsequently charged so that user fee airports can continue to offer Customs services at their facilities (currently set at $84,500). The notice announcing the current user fee rates was published in the **Federal Register** on September 13, 2000 (65 FR 55327).The user fees charged a user fee airport are typically set forth in a Memorandum of Agreement between the user fee facility and Customs. While the amount of these fees are agreed to be at flat rates, they are periodically adjusted, as costs and circumstances change.

Adjustment of User Fee Airport Fees

Customs has determined that, in order for the user fee charged to actually reimburse Customs for expenses incurred in providing requested services, the initial fee must be increased from $117,600 to $118,000, and the recurring annual fee subsequently charged must be increased from $84,500 to $88,500. The new fees will be effective October 1, 2001, and will be reflected in quarterly, user fee airport billings issued on or after that date.

Dated: September 17, 2001.

Wayne Hamilton,

Assistant Commissioner, Office of Finance.

[FR Doc. 01–23579 Filed 9–20–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–67; Customs Delegation Order No. 01–006]

Customs Succession and Performance of Essential Functions in the Event of a National Security Emergency

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Delegation order.

SUMMARY: This document sets forth Customs Delegation Order No. 01–006, signed by the Acting Commissioner of Customs on August 7, 2001, providing the order of succession of officers of the Customs Service to act as Commissioner of Customs in the event of a national emergency and delegating to various field officers the authority to perform essential functions in the event of a national security emergency.

EFFECTIVE DATE: August 7, 2001.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 2001, Acting Commissioner of Customs Charles W. Winwood issued Customs Delegation Order Number 01–006, effective on that date, entitled ''Customs Succession and Performance of Essential Functions in

the Event of a National Security Emergency.''

The sources of the authority being delegated are Treasury Order 165 and Executive Order 12656, dated November 18, 1988.

Delegation Order 65, dated September 28, 1982, is superseded by Delegation Order Number 01–006.

The text of the delegation order is set forth below.

Dated: September 17, 2001.

Douglas M. Browning,

Acting Assistant Commissioner, Office of Regulations and Rulings.

Customs Succession and Performance of Essential Functions in the Event of a National Security Emergency

1. Order of Commissioner of Customs Succession

Under the authority of Treasury Department Order No. 165, and in compliance with Executive Order 12656, dated November 18, 1988, it is hereby ordered that the following officers of the U.S. Customs Service, in the order of succession enumerated, shall act as Commissioner, in the event of a national security emergency, which is defined as any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national security of the United States, or during the absence or disability of the Commissioner, or when there is a vacancy in such office. The order of succession is as follows:

The Deputy Commissioner of Customs
The Assistant Commissioner, Field Operations
The Assistant Commissioner, Investigations
The Assistant Commissioner, Finance
The Assistant Commissioner, Information and Technology
The Assistant Commissioner, Strategic Trade
The Assistant Commissioner, International Affairs
The Assistant Commissioner, Regulations and Rulings
The Assistant Commissioner, Internal Affairs
The Assistant Commissioner, Human Resources Management
The Assistant Commissioner, Training and Development
The Assistant Commissioner, Public Affairs
The Assistant Commissioner, Congressional Affairs
The Trade Ombudsman
The Director, Field Operations, New York Customs Management Center
The Director, Field Operations, South Florida Customs Management Center

2. Authority To Continue To Perform Essential Localized Functions

By virtue of the authority vested in the Commissioner by Treasury Department Order No. 165, and in compliance with Executive Order 12656, dated November 18, 1988, it is hereby delegated to the Directors of Field Operations; Port Directors; and Special Agents-in-Charge, the authority to perform any function of the Commissioner of Customs which is necessary to ensure continuous performance of essential local functions otherwise assigned to such officers, thereby assuring the continuity of the Federal Government in a national security emergency, as defined in (1) above. This delegation of authority will remain in effect until notice has been received from proper authority that it has been terminated.

Additional guidance may be found under Federal Preparedness Circular FPC–61 dated August 2, 1991 (Appendix K).

Charles W. Winwood,

Acting Commissioner of Customs.

[FR Doc. 01–23580 Filed 9–20–01; 8:45 am]

BILLING CODE 4820–02–P

Federal Register

Friday,
September 21, 2001

Part II

National Credit Union Administration

12 CFR Parts 703 and 704
Investment and Deposit Activities; Corporate Credit Unions; Proposed Rule

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 703 and 704

Investment and Deposit Activities; Corporate Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: NCUA is issuing proposed revisions to the rule governing corporate credit unions (corporates). The rule was completely revised in 1997. The proposed amendments are based on NCUA's three-year experience with the rule and two advance notices of proposed rulemaking. The major revisions to the rule are in the areas of capital and credit concentration limits, with an emphasis on making these provisions more comparable to those of the other financial regulators while still taking into account the unique nature of corporates. The major changes to these two areas necessitate some substantive changes to other provisions of the rule. Several other minor revisions are generally either a clarification or a modernization of the existing rule.

DATES: Comments must be received on or before December 20, 2001.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. E-mail comments to *regcomments@ncua.gov. Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Kent Buckham, Deputy Director, Office of Corporate Credit Unions, at the above address or telephone (703) 518-6640; or Mary Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

On July 28, 1999, NCUA issued an advance notice of proposed rulemaking that requested comment on several issues the Board identified as areas of the corporate rule it was interested in clarifying or revising. 64 FR 40787, July 28, 1999. In addition, the Board welcomed comment on other sections of part 704 not addressed in the advanced notice. *Id.* As a result of those comments, the Board identified additional areas of part 704 it was interested in revising or clarifying and issued a second advance notice of proposed rulemaking. 65 FR 70319, November 22, 2000. The comments to both advance notices have greatly assisted the Board in drafting the proposed rule and will be discussed in the relevant section of the section-by-section analysis of the proposal.

B. Section-by-Section Analysis

Capital Section 704.3, Section 703.100

The Board requested comment on amending the various capital definitions so that they are more analogous to those used by other financial regulators.

Additionally, the Board sought specific comment on changes that would result in one measure of capital. Currently, the regulation provides two capital measures. One measure includes all the various components of capital. The second measure, which is utilized for credit concentration limits, is based on specific capital components. 12 CFR 704.6(c).

Sixteen of the 23 commenters that responded on this issue supported aligning capital requirements with other financial regulators but stressed the alignment must take into account the uniqueness of corporates. Only two commenters supported an alignment as proposed and five objected to any alignment.

The sixteen qualified commenters, as well as the negative commenters, emphasized there are currently no safety and soundness problems in the corporate system, corporates have significantly lower risk than commercial banks, and corporates are unique in their mission, ownership, and structure. The majority of assets owned by commercial banks are loans made to businesses or individuals. Corporates' assets are generally investment-grade quality investments. In addition, the assets of a corporate generally mature much sooner than the assets of a bank. For these reasons, the commenters noted corporates have significantly lower risk than banks.

The sixteen commenters, although not wanting identical capital requirements, note that some form of comparability would be helpful in promoting a clearer understanding of corporates by other regulators and Congress.

Several of these commenters noted that other financial regulators are looking at different, simplified capital requirements for smaller, non-complex institutions. A determination that an institution is non-complex would be based on structure, size, and complexity of operations. These commenters contended that corporates are most like the Federal Home Loan Bank System. The Federal Home Loan Bank System has new leverage and risk-based capital requirements. 12 CFR part 932.

Those opposed to any revision noted that nothing has changed since the last rewrite of the corporate rule to warrant a change and, while it is a worthwhile goal to have comparable capital requirements, the issues of which regulator to align with and how to take into account a corporate's reduced risk outweigh the benefits of changing the capital requirements.

The National Association of State Credit Union Supervisors (NASCUS) and the American Bankers Association (ABA) supported the proposed change. NASCUS stated that the proposed change would assist the 38 out of 48 state-chartered credit union supervisory authorities that also regulate banks. The ABA states the proposed changes would bring credit unions closer to banks, but did not go far enough.

The majority of those that responded to the issue of membership capital (MC) and paid-in-capital (PIC) strenuously objected to adding additional requirements to these accounts in order for them to qualify as capital. The proposal counted as capital only PIC that qualified as capital under generally accepted accounting principles (GAAP), that being, non-cumulative dividend, perpetual maturity PIC. The proposal would have changed the minimum withdrawal period for MC from three years to five years. The proposal was intended to make MCs more analogous to Tier 2 capital utilized by other financial institution regulators. The practical effect of the change would be that corporates could only count 60 percent of every dollar of three year MC in the net economic value (NEV) calculation. Some of the reasons for opposing this change were that: it isn't warranted because MC is at 100 percent risk until maturity; it could send the wrong message to the industry, namely, that corporates are in trouble; based on a change to NCUA's regulations, corporates just four years ago asked their members to extend their MC accounts from one year to three years; and it would make corporates less competitive with other financial institutions that don't require a capital commitment.

The commenters generally supported treating all MC, PIC, and reserves and undivided earnings (RUDE) as capital throughout the regulation.

The Board recognizes the unique nature of the credit union system and the vital role that corporates play. The risks inherent in corporates are different than found in most other financial institutions. However, the Board is also cognizant that the regulation must provide a sound capital structure that

helps maintain the confidence of members, the public, and Congress.

The Board is not proposing to change the current definitions of MC and PIC to require those accounts to follow GAAP in order to qualify as capital. The Board recognizes the high credit quality and liquidity of most corporate assets provide reasonable assurance that MC and PIC will be available to absorb losses.

The Board concurs that the various components of capital in the regulation should all be included in the definition of capital. The Board has eliminated the separate limitations based on ''the sum of reserves and undivided earnings and paid-in capital'' existing in the current regulation. 12 CFR 704.6, 704.7, 704.8 and 12 CFR part 704, Appendix B. In the proposed regulation, all references to capital include membership capital, paid-in capital, and RUDE.

The Board believes a corporate should have the regulatory flexibility to use the alternatives best fitting its specific needs in building a strong capital position. The current regulation limits the amount of PIC a corporate may issue to no more than the total of RUDE. The existing limitation was adopted as a means of building RUDE and due to the lack of any historical experience on the part of corporates in issuing PIC. Since the revised part 704 became effective in 1998, corporates have been successful in building RUDE and their PIC offerings. 62 FR 12929, March 19, 1997. Therefore, the Board is no longer requiring PIC to be no greater than total RUDE.

Additionally, the Board is changing the requirement that all nonmember PIC be approved by NCUA to provide regulatory relief. Nonmember PIC having terms and conditions identical to member PIC will not require prior NCUA approval. Nonmember PIC with different terms and conditions than member PIC will continue to require prior NCUA approval.

NCUA asked for comment on whether the rule should require the measure for adjusted balance MC accounts be based on a 12-month average, rather than the current practice of basing the measure on a particular point in time. The current rule is silent on this issue.

Seventeen of the 18 commenters responding to this issue objected to a 12-month average. Some of the reasons given in opposition to a 12-month average were that: it would be difficult operationally because members only prepare these figures quarterly or semi-annually; a corporate shouldn't be requiring more information from its members than the regulator; it would be a huge burden on small credit unions; some credit unions may leave the system because of the added burden; and the method and frequency of the adjustment should be left to the discretion of the corporate not the regulator.

The Board concurs with the commenters that tracking a 12-month average adjusted balance measure could place additional burden on corporates and on small natural person credit unions. However, the Board believes clarification of the requirements of adjusted balance accounts is necessary. Although not specifically stated in § 704.2, it was intended that the adjustment period would be annual and the adjustment measure would be a natural person credit union's assets. The Board is wary of an adjustment measure that could fluctuate rapidly, resulting in an outflow of MC if the measure declines. In a scenario where investments in a corporate are the measure and the adjustment period is monthly, a member credit union could potentially withdraw its investments and be refunded its entire MC balance within a matter of days. The Board's overriding goal is that MC has a level of ''permanence'' while allowing corporates the latitude to structure the accounts to best suit their needs, as well as the needs of their members. To that end, the Board is proposing the adjustment period may be no more frequent than once every six months. In addition, if a corporate uses a measure other than a member's assets, it must address the measure's permanence in its capital plan.

NCUA requested comment on whether there should be a minimum RUDE ratio of two percent for all corporates. RUDE ratio is defined as RUDE divided by moving daily average net assets (DANA).

Fifteen of the 21 commenters commenting on this issue objected to a minimum RUDE ratio of two percent. Those in opposition stated that there was no evidence it would have any impact on ensuring the stability of a corporate's capital. Those commenters stated it is not useful and the total capital ratio, coupled with minimum risk-based capital and NEV ratios, is a more appropriate way of determining capital adequacy. Several commenters questioned why it is necessary.

Some of the comments in support of this requirement stated it provides a meaningful measure to compare corporates to other financial institutions because most other regulators have similar minimum core capital requirements.

The Board remains convinced that a minimum RUDE ratio of two percent is useful in the overall determination of capital adequacy. Given the proposal to use one capital measure including all capital components, use the broader definition of capital for credit concentration limits, and lower the minimum credit rating requirements, the Board is convinced a minimum RUDE ratio of two percent will be beneficial. A minimum RUDE ratio requirement will provide a core capital level comparable to other financial institutions and ensure a level of protection to the holders of MC and PIC.

The Board believes the introduction of a minimum RUDE ratio negates the need for a minimum reserve ratio or the need for mandated reserve transfer levels. Corporates will be required to maintain a minimum RUDE ratio on an ongoing basis and make operational adjustments as necessary to meet that goal. As such, the proposed regulation eliminates the reserve ratio and reserve transfer requirements.

NCUA requested comment on whether there should be a credit-risk weighted capital requirement since corporates have capital in relation to risk that is comparable to the risked-based total capital of other financial institutions. This comparability may not be evident because of current definitions and the lack of a required measurement. The majority of commenters responding to this issue did not object to a requirement.

Although the Board gave strong consideration to adopting a credit-risk weighted capital requirement for corporates to enhance comparability with other financial institutions, the proposed rule does not have this requirement. The Board believes the adoption of a credit-risk weighted capital requirement is not warranted because of the high credit quality of corporates' assets. In addition, it would significantly increase the size of the existing rule and add a regulatory burden. Comparability with other financial institutions can be attainted through some of the other proposed capital revisions. The Board notes corporates may voluntarily choose to calculate and monitor credit-risk weighted capital.

A number of corporates responding to the issue of a credit-risk weighted capital requirement suggested reducing the qualifying portion of MC by 33⅓ percent each year after notice is given or before the term expires. Additionally, they recommended that PIC be reduced by 33⅓ percent each year of its last three years to maturity. The commenters indicated that these adjustments would make the capital ratio more comparable to that used by other financial institutions. The Board is desirous of a

periodic, rather than annual reduction in qualifying MC and PIC, once notice is given or the last three years to maturity is reached. As such, the Board proposes MC placed on notice, term MC that is three years from expiring, or PIC with three years to maturity be amortized on a monthly basis with no portion of the balance counting as qualifying capital during the last 12 months. To achieve that result, the Board proposes an amortization of those accounts of 1/24th per month so that the amount is fully amortized 12 months before the scheduled release of the funds.

The Board is also adding wording to the definition of PIC that was inadvertently left out of the current regulation. Specifically, the revision states PIC cannot be pledged against borrowings. This provision currently exists for MC. The provision is equally important for PIC as it absorbs losses before MC.

The proposal also clarifies that funds in MC and PIC accounts are not automatically releasable due to the merger, charter conversion, or liquidation of the natural person credit union member account holder. Further, in the event of the merger of the corporate, the MC and PIC accounts transfer to the continuing corporate.

Finally, the Board proposes taking the requirements for MC and PIC out of the definitions in § 704.2 and moving them to the capital requirements provision in § 704.3(b) and (c). Section 704.2 still has definitions of MC and PIC. The definitions of ''member PIC'' and ''nonmember PIC'' have been deleted from the definition section and the requirements for each are now included in proposed § 704.3(c).

The Board requested comment on amending § 703.100(c) to increase the limit of the aggregate purchase of member PIC and MC in one corporate from one percent to two percent. Additionally, the Board sought comment on adding an aggregate limit of PIC and MC in all corporates of four percent. Fifteen commenters supported both proposals, one commenter only supported the increase to two percent aggregate in one corporate, and one commenter objected to both proposals.

The NCUA Board believes the ability of natural person credit unions to purchase the capital instruments of corporates has been a positive force in bringing about capital redistribution within the credit union system. Many natural person credit unions rely heavily on corporates for liquidity, investment products, and other financial services. Historically, while capital in natural person credit unions has been very strong, corporate capital was not considered to be at desired levels. Since 1992, many natural person credit unions have committed their funds to build capital in the corporate credit union system.

The Board is persuaded both the corporate and the natural person credit unions receive a benefit if a greater level of capital acquisition in one corporate is allowed. However, the Board is also cognizant that any excessive concentration of natural person credit union funds in corporate credit union capital offers the potential for additional risk in the system. Currently, the regulation does not place a limit on the number of corporates from which a natural person credit union may purchase MC or member PIC. As such, a natural person credit union could theoretically purchase up to one percent of its assets in the MC or member PIC of more than 30 corporates. The Board believes there is a need to balance the ability of natural person credit unions to purchase higher levels of capital in the one or two corporates in which they primarily obtain services with the need to place a reasonable limitation on the total corporate capital one natural person credit union can acquire.

The existing regulation only limits ''member'' PIC. However, as a natural person credit union may acquire PIC of a corporate in which it is not a member, the regulation has been revised to set limitations on PIC as a whole.

The Board proposes raising the limitation on the aggregate purchase of MC and PIC in one corporate from one percent to two percent of assets. Further, the Board proposes adding a limitation on the aggregate purchase of MC and PIC in all corporates to four percent of assets.

The Board believes there is a need to clarify the existing wording on the limitations in § 703.100. Purchases of MC and PIC are limited to a percentage of the assets of the natural person credit union. As assets are a fluid rather than a static measure, a natural person credit union could be deemed in compliance with the regulatory limitation on one day, and out of compliance the next as assets grow and contract. Therefore, the Board is proposing to clarify the limitation is a percentage of the natural person credit union's assets measured at the time of purchase.

Board Responsibilities Section 704.4

This section of the regulation requires a corporate's board to approve and maintain comprehensive written strategic plans and operating policies and ensure senior management carries them out. One commenter expressed concern that use of the term ''operating policies'' may be construed to require a corporate board to develop operational policies or procedures. This is not the Board's intent. To clarify this, the Board proposes changing the term ''operating policies'' to ''policies'' throughout this section of the rule.

This commenter also expressed concern that using the word ''procedures'' in subsection (c) could be interpreted to require a corporate's board to approve operational procedures. This section was not intended to turn directors into operating managers. To clarify this, the Board proposes changing the title of this section to ''Other requirements.''

Investments Section 704.5

The Board proposes several changes to the investment related definitions in § 704.2. The Board proposes deleting the definitions of: Commercial mortgage related security; Market price; Mortgage servicing; Non secured obligation; Prepayment model; and Real Estate Mortgage Investment Conduit (REMIC). These terms are no longer used in the regulation.

The Board proposes amending the definitions of:

Asset-backed security (ABS). The Board proposes eliminating the overlap between the definitions of mortgage related securities and ABS and conforming the definition to the current instructions for the 5310 Call Report. The proposal excludes only mortgage related securities from the definition of ABS, rather than all mortgage backed securities.

Collateralized mortgage obligation (CMO). Currently, the definition of a CMO includes all multi-class bonds collateralized by mortgages or mortgage-backed securities. The Board proposes to narrow this definition to a multi-class mortgage related security. This conforms to the amended definition of an ABS.

Forward settlement. The Board proposes replacing ''settlement on a date other than the trade date'' with ''settlement on a date later than regular-way settlement.'' This change conforms the definition of forward settlement to the usage in § 704.5(g).

Quoted market price. The Board proposes defining a quoted market price as a recent sales price or a price based on current bid and asked quotations. This definition replaces the definition of market price, which is defined as the price at which a security can be bought or sold. Because market price is used to refer to the value of more than just securities, the Board proposes to omit the reference to a security. The

proposed definition is consistent with the definition of a quoted market price in accounting standards. Statement of Financial Accounting Standards No. 133, as amended and interpreted (FASB Statement No. 133).

Mortgage related security. The Board proposes replacing the phrase ''*i.e.*'' with the phrase ''*e.g.*'' The Board did not intend to limit the definition to the one stated example, privately-issued securities. This change makes the definition consistent with the definition in the Securities Exchange Act of 1934.

Regular-way settlement. The current definition refers to the specific number of days established for a type of security. The Board proposes to clarify this refers to the time frame the securities industry has established for immediate delivery. This change is consistent with the definition in § 703.100(a) and FASB Statement No. 133. The Board proposes examples of regular-way delivery to further clarify its intent.

Repurchase transaction. The current definition refers to resale of a security ''at a later date.'' The proposed definition refers to resale of a security ''at a specified future date and at a specified price.'' This is a non-substantive clarification that is consistent with the definition in § 703.100(i).

Residual interest. This proposed change deletes the reference to REMIC, which is redundant with CMO, and includes ABS residuals within the definition.

In conjunction with the changes to the investment definitions in § 704.2, the Board is proposing several changes to the investment provision of the rule. 12 CFR 704.5.

Policies section 704.5(a). The Board proposes combining the policy requirements in this section and deleting ''if any'' from § 704.5(a)(1) to clarify that a corporate must have ''appropriate tests and criteria'' to evaluate the investments it makes on an ongoing basis, as well as new types of investments.

Section 704.5(a)(2). Since the marketing of liabilities to members is not an investment or investment transaction, the Board proposes deleting that provision from the investment policy requirements. The Board proposes requiring a corporate's investment policy to address reasonable concentration limits for limited liquidity investments. To ensure safety and soundness prior to purchase, a corporate must identify characteristics of an investment that may place restrictions on the sale of an investment (such as privately placed securities) or limit the appeal of an investment to other potential investors. A corporate's board must assess its liquidity position and establish appropriate aggregate limits on such limited liquidity investments.

Authorized Activities

Section 704.5(c)(5). The Board proposes clarifying that ABS must be domestically issued. The Office of Corporate Credit Unions (OCCU) issued a guidance letter to all corporates dated May 19, 2000, noting many domestically issued ABS have some type of foreign exposure. As stated in that letter, the Board notes that any undue concentrations or safety and soundness issues arising from investments in domestically-issued ABS with foreign exposure will be addressed as a supervision issue. Examiners will evaluate the ability of corporate staff to analyze ABS structures containing significant foreign exposure. The degree of foreign credit analysis expertise required at a corporate will depend on the extent of foreign exposure. For example, if a corporate relies on a domestic mono-line insurance wrap of foreign receivables, examiners will review a corporate's credit analysis of the insurance company and determine whether credit concentration limits to the insurance company are appropriate.

Section 704.5(c)(6). This provision specifically authorizes investments in CMOs. Several corporates have noted CMOs are either within the meaning of mortgage related security or asset-backed security. Accordingly, the Board proposes to delete this provision. Investments in CMOs, as the Board proposes to amend that term, would continue to be authorized under § 704.5(c)(1), the mortgage related security provisions of 12 U.S.C. 1757(15). Investments in other real-estate related securities would continue to be authorized under § 704.5(c)(5), domestically-issued asset-backed securities.

Repurchase Agreements section 704.5(d). The Board proposes several changes to the requirements for repurchase agreements. The first amendment clarifies that a corporate must obtain a perfected first priority security interest in repurchase securities, either directly or through its agent. This change is consistent with the provisions in § 704.5(e), for economically similar securities lending transactions. The second amendment deletes the requirement to sell a security in the event of a default. This change conforms to cash market practice and provisions of the Bond Market Association's Master Repurchase Agreement that permit a corporate to retain the securities. The third amendment clarifies a corporate may obtain daily assessment of the market value of the repurchase securities either directly or through its agent. This change conforms to the cash market practices of a third-party custodian acting as agent in a tri-party agreement between the corporate, the repurchase counterparty, and the safekeeping agent. Fourth, the Board proposes deleting the phrase ''including a market quote or dealer bid indication and any accrued interest'' because the cash market practice is to use ''market value'' as defined in the Bond Market Association's Master Repurchase Agreement. Fifth, the rule clarifies a corporate must ensure compliance with the contract terms. The Board notes a corporate using an agent must ensure its agent adequately ensures compliance. Finally, the rule deletes the requirement to have sufficient market relationships established in advance to timely execute the disposition of repurchase securities. This regulatory provision is unnecessary, as the prevailing cash market practice requires sale or deemed sale in a commercially reasonable manner.

Securities Lending section 704.5(e). The Board proposes several changes to the requirements for securities lending transactions. The proposed rule clarifies that a corporate may act directly or through its agent. The requirement to assess collateral is currently based on a ''market quote or dealer bid indication.'' The Board proposes deleting the phrase ''including a market quote or dealer bid indication and any accrued interest'' because the cash market practice is to use ''market value'' as defined in the Bond Market Association's Master Securities Loan Agreement. The proposal requires a written contract with all agents and requires the corporate or its agent to ensure compliance with the loan and security agreements. The Board proposes to delete as redundant the requirements to approve any form of agreement attached to the written loan and security agreement and the right to approve any material modification to such agreement. These proposed changes are consistent with the proposed changes for repurchase transactions.

Investment companies Section 704.5(f). The Board proposes to clarify in § 704.5(f) that the prospectus is the document restricting the portfolio of an investment company. This change is non-substantive and is consistent with the provisions of § 703.100(d).

Prohibitions Section 704.5(h). This section prohibits pair-off transactions,

when-issued trading, adjusted trading, and short sales. These prohibitions restrict a corporate from effectively engaging in trading securities. Accordingly, the Board proposes adding ''trading securities'' to the list of prohibited activities. Trading securities means buying and selling ''securities that are bought and held principally for the purpose of selling them in the near term (thus held for only a short period of time).'' FASB Statement No. 115.

The Board proposes retaining the prohibition on investments in residual interests in CMOs, adding a prohibition on investment in residual interests in ABS, including real-estate related ABS, and eliminating the redundant prohibition on investments in REMICs. The purpose of these revisions is to continue the prohibition on residual interests in multi-class bond issues collateralized by mortgages or mortgage-backed securities that are not within the revised definition of CMO. The prohibition on investments in the residual interests in ABS is being added for safety and soundness reasons.

The Board proposes deleting the prohibition against commercial mortgage related securities. The market for privately-issued commercial mortgage related securities is established. There does not appear to be undue risk relative to other debt obligations if a corporate can reasonably determine the value and price sensitivity of a commercial mortgage related security. The Board notes corporates currently may purchase certain commercial mortgage related securities, such as those issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association.

The prohibition against the purchase of mortgage servicing rights is being moved from the investment section, to the retitled Permissible Services section, because their classification as a service is more appropriate.

Credit Risk Management Section 704.6

The Board proposes adding a definition of ''obligor'' to the § 704.2 definition section to clarify the meaning of the term. The Board proposes to define ''obligor'' as the primary party obligated to repay an investment. The definition clarifies obligor does not include the originator of receivables underlying an asset-backed security, the servicer of such receivables, or an insurer of an investment.

Policies section 704.6(a). The Board proposes amending the policy requirements in this section to comply with the proposed new requirement in § 704.6(c) that credit limits be based on capital.

Section 704.6(a)(3). The Board proposes deleting the requirement that the credit risk management policy address loan credit limits, since these are addressed in the lending section.

Section 704.6(a)(4). The Board proposes adding to the examples of concentrations of credit risk an ''originator of receivables'' and an ''insurer.'' An ''originator of receivables'' includes a seller/servicer of receivables and an ''insurer'' includes a monoline insurance company.

Exemption Section 704.6(b). The Board proposes removing investments in subordinated debt of government sponsored enterprises from the exemption section. The issuance of subordinated debt is a recent market initiative. Subordinated debt ranks lower in payout priority than other debt issued or insured by a government sponsored enterprise. The Board believes minimum credit rating requirements and credit concentration limits should apply to lower ranking debt.

Concentration limits section 704.6(c). The Board proposes setting concentration limits in relation to capital. Twenty of the 21 commenters were in favor of setting credit concentration limits as a percentage of capital. Currently, credit concentration limits are based on percentages of RUDE and PIC, rather than the broader measure of capital. The only negative commenter in response to the Board's request for comment was the ABA. Most of the positive commenters qualified their support with the caveat that the definition of capital must give full credit to three-year MC and 20-year PIC. The Board's proposal adopts those comments.

NCUA requested comment on whether credit concentration limits should vary depending upon the credit rating of an investment, in other words, the lower the credit rating, the more restrictive the credit concentration limit. Although the majority of commenters agree there should be limits in relation to risk, they believe a corporate should determine the limits, rather than being controlled by the limits specified in regulations according to ratings of a nationally recognized statistical rating organization (NRSRO or rating agency). They state that a corporate's concentration limits should be a supervisory issue and not a regulatory one. Some commenters noted that NCUA in the past has admonished corporates not to rely solely on ratings from a ratings agency. One commenter stated there is no need for a regulation because, through a combination of expanded authorities, a risk-based capital requirement, and a maximum individual credit exposure limit to any one issuer, there are sufficient safeguards.

NCUA requested comment on establishing a limit for the aggregate credit exposure to a single obligor that has issued debt obligations across multiple rating categories. The majority of commenters responding to this issue believed there should be aggregate limits, but not as proposed. Most of these commenters suggested that the limit be a multiple of total capital, rather than tied to debt obligations across multiple rating categories. Many commenters gave examples of how, under the proposal, their ability to invest in AAA rated securities would be significantly curtailed, some as much as 80 percent. Those commenters noted that they would be forced to invest more heavily in U.S. Central Corporate Credit Union and United States government investments because they are exempt from the restrictions. This, they contend, could create additional risk problems for the whole corporate system. Several commenters noted that the proposal would severely limit their ability to invest in relatively safe, low risk repurchase agreements.

The credit exposure limit suggested by several commenters is one times capital and, for repurchase agreements, two times capital.

The Board is abandoning its proposal to set concentration limits depending upon an NRSRO's credit rating of an investment. The Board proposes to reorganize and streamline requirements for concentration limits, and to establish limits for the aggregate credit exposure to a single obligor.

First, in § 704.6(c)(1) the Board proposes a general concentration limit of 50 percent of capital or a *de minimis* limit of $5 million for the aggregate of all investments in any single obligor, whichever is greater. The 50 percent limit provides corporates with substantial flexibility in comparison to other depository institutions. The Board believes this limit is the most credit exposure a corporate should prudently take in investment-grade quality investments. NCUA requested comment on whether there should be a *de minimis* exemption from the general credit concentration limits, and if so, what amount. Fifteen of the 16 commenters that responded to this question supported a *de minimis* exemption, and most of those commenters suggested $5 million as an appropriate amount. The one negative commenter was the ABA. Accordingly,

and to permit smaller corporates to engage in block size transactions, investments in a single obligor may exceed 50 percent of capital up to a *de minimis* limit of $5 million.

This general concentration limitation is applicable to all investments and investment transactions. The current rule is divided into categories of investments and has different limitations, depending on the category. Certain classes of marketable debt obligations of domestic corporations were inadvertently omitted from the categories. These are now covered under the general limitation that includes all investments. The current rule allows a higher limit for mortgage back securities and ABS than for nonsecured obligations of any single domestic issuer. The Board sees no basis for this distinction since there can be substantial credit risk in privately issued mortgage-backed and asset-backed securities.

Second, in § 704.6(c)(2) the Board proposes exceptions to the general rule for repurchase and securities lending transactions, investments in corporate CUSOs, and investments in other corporates. The Board adopts the commenters suggestion to set the limit for repurchase and securities lending transactions at 200 percent of capital. This limit generally reflects the lower credit risk in these short-term, secured transactions. The inclusion of an exception for investments in corporate CUSOs is a clarification that those investments are subject to the limitations in § 704.11. NCUA requested comment on whether corporates should be exempt from credit concentration limits when investing in other corporates. Ten of the 15 commenters that responded to this question said they should not. These negative commenters believe that it would increase systemic risk and is, therefore, unjustifiable. Several commenters suggested that corporates should maintain a credit risk file for investments greater than $100,000 in any other corporate. To allow additional alternatives for moving liquidity within the corporate system and, therefore, the credit union movement, the Board proposes to remove the regulatory concentration limits on investments in any corporate. The Board believes the requirements for capital and RUDE for the receiving corporate will serve to limit the amount of investments any corporate may place in another corporate. The Board notes a corporate's credit risk management policy must address the risks of investments in corporates that are not fully insured by the National Credit Union Share Insurance Fund.

As stated above, the Board proposes basing credit concentration limits on capital. Currently, they are based on RUDE and PIC and a reduction in the sum of RUDE and PIC after the purchase of an investment triggers a suspension of additional transactions. The Board proposes amending this provision to apply the divestiture requirements in § 704.10 when a reduction in capital after the purchase of an investment results in a credit concentration that is higher than permitted by the regulation. The Board's intent is that a corporate consider the permanence of its MCs when evaluating its investment opportunities.

Credit ratings section 704.6(d). The Board proposes to clarify each investment must have an applicable credit rating. For example, a corporate must ensure investments in commercial paper are from an issuer that has received an acceptable commercial paper program rating. Similarly, a financial strength rating for deposits may be appropriate for uninsured deposits or the sale of federal funds. Investments in a corporate or corporate CUSO are exempt from this requirement.

The Board proposes lowering the minimum applicable rating for a long-term investment (including asset-backed securities) from AAA and AA to AA–(or equivalent). The market for asset-backed securities has matured since this rule was last amended. The Board is retaining the A–1 requirement for short-term investments and intends that this category include short-term ABS. The current rule inadvertently excludes them.

There has been some confusion regarding multiple credit ratings and the conditions for triggering the divesture requirements of § 704.10. The Board does not want to discourage a corporate from using multiple credit ratings in meeting the requirements of the regulation. Accordingly, the Board proposes the divestiture requirements of § 704.10 apply only if at least two ratings were downgraded when a corporate has relied on more than one rating to meet the minimum credit rating requirements at the time of purchase. This requirement is consistent with the guidance issued by OCCU in a letter dated October 5, 1999, to all corporates.

Reporting and documentation Section 704.6(e). The requirements for annual approval are clarified to apply to each credit limit with each obligor or transaction counterparty, rather than the undefined ''each credit line.''

Lending Section 704.7

Section 704.7(c)(1) and (2). These sections establish the maximum aggregates for secured and unsecured loans to one member. Currently, the aggregate limits are based on the higher of a percentage of capital or a percentage of RUDE and PIC. As with other provisions of the proposed rule, the Board proposes basing loan limits on capital. The proposed rule eliminates the option of basing secured and unsecured loan limits on a percentage of RUDE and PIC. In conjunction with this change, the Board proposes clarifying in these provisions and in § 704.7(d) that the aggregate limits are based on both revocable and irrevocable lines of credit. Currently, the rule only states ''irrevocable lines of credit.'' 12 CFR 704.7(c) and (d). The Board proposes deleting the modifier ''irrevocable'' from these sections to clarify this.

Section 704.7(d). This section addresses loans to members, but excludes member credit unions and corporate CUSOs. This provision provides a partial exemption from part 723. A number of commenters suggested the criteria for exemption be expanded. The Board agrees that there are other situations where a loan is guaranteed that are appropriate to include as part of the exemption. The Board proposes expanding the language in this provision to include not only loans guaranteed by credit unions but also loans fully secured by US Treasury or agency securities. This expansion will reduce the burden for corporates providing loans to members that are not credit unions. The rule is also being clarified to address the fact that the aggregate limits of § 723.16 are statutory and a corporate is not exempt from those unless it is a loan to a member credit union.

Section 704.7(g). The Board proposes revising the provision governing loan participations, to include a requirement that a corporate execute a master participation loan agreement prior to the purchase or the sale of a participation loan. This requirement mirrors the requirement in the natural person loan participation rule and is appropriate to ensure the interests of a corporate engaging in this activity are adequately protected. 12 CFR 701.22(b)(2). Although the Board believes corporates presently engaging in this activity are voluntarily executing a master participation loan agreement, the Board believes use of this agreement must be mandatory due to safety and soundness concerns.

The Board is deleting the language that a participation loan agreement may

be executed at any time prior to, during, or after the disbursement. The Board believes it is unnecessary to state this because this language could be confused with the requirements of a master participation loan agreement prior to the purchase or sale of a participation loan interest.

Several commenters suggested corporates be permitted to participate with natural person credit unions in making loans to natural person members. They urged NCUA to permit participation lending with and without recourse. Some of these commenters specifically stated this activity should be permissible without expanded authority. Another commenter believed participation lending should be allowed only as an expanded authority because a corporate must be able to demonstrate an appropriate level of infrastructure and financial capacity to engage in this activity.

The NCUA Board asked the OCCU to address the issue of permitting corporates to participate with natural person credit unions in making loans to natural person members. 62 FR 12929, 12934 (March 19, 1997). Based on OCCU's recommendation, the Board is proposing that corporates participate in loans with member natural person credit unions only as an expanded authority. This position is based on the need for corporates to demonstrate they have the ability to identify, measure, monitor, and control the risks associated with participation lending. Since a number of corporates do not exhibit a level of infrastructure commensurate with the risks associated with this activity, the Board will require corporates to apply for this authority through Appendix B, proposed Part V.

Finally, the Board is reorganizing this section. Subsection (c) is retitled ''Loans to members.'' Within this subsection are subsections: (1) The aggregate limits for loans to credit unions; (2) the aggregate limits for loans to CUSOs by reference to § 704.11; and (3) the aggregate limits for loans to other members. Subsection (d) is retitled ''Loans to nonmembers'' and sets forth the requirements for loans to nonmember credit unions. Within this subsection are subsections: (1) The requirements for loans to nonmember credit unions; and (2) the requirements for loans to nonmember CUSOs by referencing § 704.11.

To avoid confusion about the applicability of the member business loan rule to corporates, the Board is clarifying in the proposal that the statutory aggregate limits on member business loans apply to all corporate loans, except the statutorily excluded loans to credit union members. 12 U.S.C. 1757a and 12 CFR 723.16. Subsection (e) is retitled ''Member business loan rule'' and explains in subsection: (1) That part 723 does not apply to loans to member credit unions; (2) that the aggregate loan limits and some of the due diligence requirements of part 723 apply to corporate CUSOs as stated in § 704.11; and (3) that part 723 applies to loans to other members, unless it falls within the exception discussed above, and then it must comply with the aggregate loan limits but is exempt from the other requirements of part 723.

The Board proposes deleting subsection (f) ''Loans to corporate CUSOs'' because these loans are now addressed in proposed subsections (c), (d) and (e). Current subsections (g) and (h), with the changes to subsection (g) discussed above, are redesignated subsections (f) and (g).

Asset and Liability Management Section 704.8

In conjunction with several proposed amendments to the asset and liability management section, the Board proposes deleting from the § 704.2 definition section, the term ''Net interest income'' because it is no longer used in the regulation. The Board proposes amending the definition of ''Net economic value (NEV)'' and ''Fair Value.'' NEV means the fair value of assets minus the fair value of liabilities. Currently, the definition of NEV treats MC as a liability, and excludes PIC from liabilities, for purposes of the NEV calculation. The Board requested comment on amending the definition of NEV to exclude from liabilities both MC and PIC that are included in capital. All 22 commenters that responded to this issue supported a change to the definition of NEV. Most of those commenters believed that three-year MC and 20-year PIC should be part of the exclusion.

The Board proposes amending the definition of NEV to state that PIC and MC not qualifying as capital are included as liabilities for purposes of the NEV calculation. Therefore, PIC and MC qualifying as capital are excluded from liabilities for purposes of the NEV calculation.

The proposed change to the definition of NEV will have the effect of increasing the base case NEV ratio. For the quarters ending June 2000 through March 2001, corporates reported base case NEV ratios ranging from 1.98 percent to 7.89 percent, with a simple average ratio of 4.24 percent. For the same quarters the base NEV ratios under the proposed rule, which eliminates MCs from liabilities, would have ranged from 3.76 percent to 18.17 percent, with a simple average ratio of 8.87 percent.

The Board also proposes to delete from the definition of NEV the reference to off-balance sheet derivatives, since accounting standards now require material financial derivatives to be reported on the balance sheet.

Fair value. The Board proposes a number of changes to the current definition of fair value. The reference to a financial instrument is deleted. The phrase ''forced liquidation sale'' is clarified by stating a ''forced or liquidation sale.'' ''Market price'' is replaced with ''quoted market price.'' An estimate of fair value based on a valuation technique is required to be reasonable and supportable. An estimate of fair value may also be based on a quoted market price in an active market for a similar instrument or a current appraised value. The definition is amended to clarify examples of valuation techniques. Valuation techniques are required to incorporate assumptions that market participants would use in their estimates of values, future revenues, and futures expenses. These proposed changes more closely reflect the definition of fair value in accounting standards. FASB Statement No. 133, Appendix F.

The Board proposes the following amendment to § 704.8:

Policies. Section 704.8(a)(2). Several corporates requested that NCUA eliminate redundancies between the policy requirements of this section and § 704.5(a). Since appropriate tests and criteria for evaluating investment and investment transactions are required under investment policies, the Board is deleting that requirement but clarifying in proposed § 704.8(a)(6) that the asset and liability management policy provisions must address the test used to evaluate the impact of investments on the percentage decline in NEV, compared to the base case NEV. The Board proposes changing the term ''current NEV'' to ''base case NEV.'' This change provides uniform usage throughout the regulation.

Section 704.8(a)(5). The Board proposes to delete the requirement for a policy limit on decline in net income. It may be beneficial for a corporate to measure and establish limits on earnings exposures, such as projections of potential decline in net income in alternative interest rate scenarios. However, because the balance sheet of a corporate frequently is highly liquid and short term, earnings forecasts may necessitate many assumptions. These assumptions may limit the utility of earnings exposure measures for regulatory purposes.

Penalty for early withdrawals section 704.8(c). Currently, this section requires a corporate to impose a market-based penalty for early withdrawal, if early withdrawal is permitted. The Board proposes to limit such penalty to the estimated replacement cost of the certificate/share redeemed that is reasonably related to current offering rates of that corporate. This would permit a corporate to impose reasonable fees to cover the cost of the redemption, but would protect a withdrawing credit union from excessive penalties. In response to suggestions to provide flexibility to avoid market-based penalties, the Board notes a market-based penalty for early withdrawal is a critical factor in the confidence it places in the accuracy of the measurement of NEV. As an alternative to early withdrawal, corporates may consider providing share secured loans to members needing liquidity in advance of share maturity.

Interest rate sensitivity analysis section 704.8(d). The Board proposes deleting the requirement to conduct periodic net interest income simulations. As noted above, while earnings exposure measurements may be beneficial, the balance sheet of a corporate frequently is highly liquid and short term, necessitating many assumptions for an earnings forecast. These assumptions may limit the utility of earnings exposure measures.

NCUA requested comment on whether the minimum, base case NEV ratio that triggers monthly interest rate sensitivity analysis testing should be increased from two percent to three percent. Twelve of the 15 commenters supported the increase. The majority of those commenters premised their support on the exclusion of three-year MC from liabilities. As noted above, the proposed change to the definition of NEV will have the effect of increasing the base case NEV ratio. In light of the estimated increases in the base case NEV ratios discussed above, the Board proposes to set the minimum, base case ratio that triggers monthly testing at a level of three percent.

NCUA also requested comment on increasing the minimum NEV ratio from one to two percent. Eighteen of the 21 commenters that responded to this question approved of this change, but the majority of those commenters only support it if three-year MC is excluded from liabilities. One of the positive commenters believes the same limitations should apply to wholesale corporates. The negative commenters believe the change will drive deposits from the corporate system. Again, in light of the estimated increases in the base case NEV ratios, the Board proposes increasing the minimum NEV ratio to two percent.

The Board proposes explicitly stating in the rule that a corporate must limit its risk exposure to minimum NEV ratio levels based on a base case NEV ratio or any NEV ratio resulting from the tests set forth in § 704.8(d)(1)(i). This will eliminate confusion about the applicability of the minimum NEV ratio.

The current NEV decline limit for a base corporate (a corporate with no expanded authorities) is 18 percent of the base case NEV ratio. In conjunction with the proposed change to the definition of NEV, the Board proposes decreasing that limit to 10 percent. Base corporates reported base case NEV ratios ranging from 2.32 percent to 7.89 percent, with a simple average ratio of 4.34 percent, for the quarters ending June 2000 through March 2001. For the same quarters, the base case NEV ratios under the proposed rule would have ranged from 4.75 percent to 18.17 percent, with a simple average ratio of 9.58 percent.

The Board estimates the proposed NEV decline limits would have resulted in an average permissible NEV decline of 0.96 percent (9.58 percent × 10 percent, expressed as a percentage of the fair value of total assets) for the quarters ending June 2000 through March 2001. This is larger than the average permissible decline of 0.78 percent (4.34 percent × 18 percent) for the same period under the current rule. All base corporates reflected NEV decline limits under adverse rate shocks within the proposed NEV decline limits. Summary information from the analysis is presented in Table 1.

TABLE 1.—ANALYSIS OF PROPOSED PERMISSIBLE DECLINES IN NEV FOR BASE CORPORATES FOR THE QUARTERS ENDING JUNE 2000 THROUGH MARCH 2001

	Current base case NEV ratio for all corporates (in percent)	Permitted decline (as percent of fair value of assets)	Base case NEV ratio under the proposal	Proposed permitted decline (as percent of fair value of assets)
Simple average over 4 quarters	4.34	0.78	9.58	0.96
Minimum of all quarters	2.32	0.42	4.75	0.47
Maximum of all quarters	7.89	1.42	18.17	1.82

The Board proposes moving the base-plus expanded authorities requirements to Appendix B, so that all expanded authorities are in one place. In conjunction with that change, all references to base-plus in § 704.8 are deleted.

The Board proposes requiring all corporates to assess annually whether it is appropriate to conduct periodic, additional, interest rate risk tests. The amendment deletes the requirement to conduct tests based on unmatched embedded options. The tracking of unmatched embedded options may not be cost effective for credit unions that adhere strictly to a matched book of business approach.

The Board believes all corporates should assess whether there are indications of material risks, including interest rate risk and credit risk that may not be related to unmatched embedded options. For example, a corporate may not adhere to a matched book of business approach requiring a significant match between the maturity of assets and liabilities. In that case, measures of the NEV may have a significant exposure to changes in the shape of the Treasury yield curve. In contrast, another corporate may not hold material amounts of mortgage-backed securities and, therefore, may reasonably assert its NEV measures would be relatively insensitive to changes in prepayment projections. In both cases, there may be a significant exposure to widening spreads due to the credit risk inherent in the investment portfolios.

Regulatory Violations and Policy Violations section 704.8(e) and (f). The Board proposes non-substantive grammatical amendments to the provisions for regulatory and policy violations.

Corporate Credit Union Service Organizations (Corporate CUSOs) Section 704.11

The Board requested comment on amending the definition of a corporate CUSO to require that a CUSO be considered a corporate CUSO only if any corporate owns a minimum of 25 percent interest or the aggregate interest by all corporates exceeds 50 percent. 65 FR at 70322. Currently, the rule requires partial ownership by a corporate but does not specify a minimum ownership requirement. 12 CFR 704.11(a)(1).

Fifteen of the 17 commenters that responded objected to the proposed change. Some of the reasons given in opposition were that: the proposal will have the unintended effect of limiting a corporate's role as a liquidity provider in the credit union system; it will jeopardize the exemption in § 704.7(d) from portions of the business loan rule for loans made to corporate CUSOs; and, if the reason for the proposed change is that corporates are not doing due diligence in loans to corporate CUSOs, this should be handled as a supervisory issue, not as a regulation.

The Board agrees with the commenters' concern that a minimum investment requirement could have a negative impact on a corporate's role as a liquidity provider in the credit union system and, therefore, the Board will not impose a minimum investment requirement. But, because of safety and soundness concerns associated with a high concentration of loans with one borrower, the Board is adding some due diligence requirements to the corporate CUSO lending provision.

These due diligence requirements, taken from the member business loan rule, require that the corporate establish a specific loan policy that addresses loans to corporate CUSOs and review it annually. 12 CFR 723.5. The proposed rule will also require that the policy address, at a minimum, the applicable factors listed in the member business loan rule. 12 CFR 723.6(f)–(l). Loans that are fully secured by shares in the corporate making the loan or in other financial institutions are exempt from these requirements.

The Board has added a provision to clarify that the statutory limits on member business loans, as stated in § 723.16 of the member business loan rule, apply to corporate CUSOs. 12 U.S.C. 1757a.

The Board has also added a provision to clarify that GAAP is to be used in accounting for a corporate's investments in and loans to a CUSO for the regulatory limitations under § 704.11(b). By using the equity GAAP method, a situation could develop in which a corporate's initial investment is within the regulatory limitation but, as the CUSO operates with continued profitability and the corporate absorbs its proportionate share of the profits through no additional cash outlay, the corporate could exceed its regulatory limitation. Because divestiture at this point could be contrary to prudent business practice, the Board will require the corporate to account for the investment according to GAAP, but it will not require divestiture or prohibit future investments if the regulatory limit is exceeded under the equity GAAP method without any additional cash outlay. This change mirrors a change made to the natural person CUSO rule. 64 FR 33184, June 22, 1999.

The Board proposes some cosmetic changes to this section, so that it is easier to read. Proposed subsection (b) will only address the investment and loan limitations. The rest of current subsection (b), as well as the new due diligence requirements, are now in proposed subsections (c) through (e). Subsection (c) addresses due diligence; subsection (d) addresses separate structures; and subsection (e) addresses prohibited activities. Prior subsections (c) through (e) are redesignated (f) through (h).

Permissible Services Section 704.12

The Board requested comment on eliminating this provision currently titled ''Services.'' 64 FR 40788. This section states that a corporate: may provide services to its members; may provide services through a correspondent services agreement to nonmember natural person credit union branch offices operating in the corporate's geographic field of membership; and may not perform services for nonmember natural person credit unions through agreements with other corporates or pursuant to § 701.26 of NCUA's rules except with the permission of NCUA. Fourteen of the 16 commenters that responded to this issue suggested eliminating this provision because, in practice, the geographic area defined in a corporate's charter is likely to be a national one. One of the commenters that opposed eliminating the section identified itself as a small corporate and stated that the current process of requiring corporates to apply for expanded fields of membership should be preserved in order to ascertain that the applicant has the ability and structure to serve a larger geographic area.

The Board agrees that, based on current national fields of membership for most corporates, the rationale for limiting a corporate's authority to provide correspondent services no longer exists. The Board proposes eliminating this limitation on correspondent services.

Before 1998, services were defined to include investments, liquidity management, payment systems and correspondent services. 53 FR 20122, June 2, 1986. The current rule and its preamble do not define services, but the preamble to the proposed rule indicated that the Board intended to limit services. The proposal stated that the prior list of services had been interpreted too broadly and that the intent was that services be limited to ''traditional loan, deposit and payment services.'' 61 FR 28085, 28096 (June 4, 1996).

Upon further reflection, the Board believes that limiting services to ''traditional loan, deposit and payment services'' is too restrictive. As stated in the preamble to a prior corporate rule, ''[t]he purpose of this section is to grant [c]orporate [f]ederal credit unions the power to offer innovative programs and services to their members in the areas of investments, liquidity management, payment systems and correspondent services subject to applicable provisions of law, regulation, bylaws and any orders of the NCUA Board.'' 53 FR 20122, 20123.

The Board proposes retitling this section ''Permissible Services'' and permitting eight broad categories of financial services. The four broad categories of financial services included in the prior rule's definition will be reinstated as permissible financial services. The Board is adding to the 1986 definition four additional categories of financial services. They are: asset and liability management; electronic financial services; sale or lease of excess physical or information system capacity; and operational services associated with administering or providing financial products or services. Again, as in 1986, the Board will not issue a specifically authorized list of activities, but rather a list of broad categories, because ''technology, regulation and various financial groupings and networks are all changing rapidly.'' *Id.* With this approach, ''the staff believes corporates can be most responsive in a dynamic environment.'' *Id.*

The list of permissible financial services is intended to establish broad categories of permissible financial services. If a corporate believes a financial service falls within a broad category it is not required to seek an opinion from NCUA. The test a corporate should use to determine if a

financial service falls within one of the specifically authorized broad categories is whether it is the functional equivalent or logical outgrowth of a broad category and whether the financial service involves risks similar in nature to those already assumed as part of the business of corporates. An opinion from NCUA is recommended if there is doubt as to whether a specific financial service falls within one of the broad categories.

The Board also asked for comment on clarifying the definition of correspondent services. 12 CFR 704.2. Currently, correspondent services are defined as ''services provided by one financial institution to another and includes check clearing, credit and investment services, and any other banking services.'' *Id.* Thirteen of the fourteen commenters that commented opposed changing the definition. The reasons given were that, if the services are listed, they may become outdated and limiting and that the existing definition provides the appropriate balance of flexibility and guidance. The Board proposes defining correspondent services in the provision governing permissible financial services to members and allowing the same types of services to nonmembers through a correspondent services agreement as are permitted to members.

In addition to the issue of permissible financial services offered under a correspondent services agreement, the definition needs to clarify that a correspondent agreement is an agreement between two corporates for one of the corporates to provide services to the members of the other. Usually, the reason for the agreement is because the recipient corporate does not provide the services or the member's geographic location makes it impractical to do so.

Finally, the proposal moves the current prohibition on the purchase of mortgage servicing rights from the investment section of the rule to this section because servicing rights are more closely aligned with services than investments. In addition, the term ''mortgage servicing rights'' is replaced with ''loan servicing rights'' to reflect the intent behind the prohibition that the purchase of all loan servicing rights is prohibited.

Fixed Assets Section 704.13

The Board recognizes the ongoing need to evaluate the significance and relevance of existing rules. The current fixed asset requirement for corporates does not appear to offer any added value to the safety and soundness of corporates. None of the corporates have fixed assets at levels that approach the existing regulatory limit of 15 percent of capital.

Corporates operate on a very small net margin. An excessive investment in fixed assets will have a noticeable impact on earnings. The Board believes monitoring of fixed assets in corporates is best accomplished through ongoing supervision rather than through regulation. As such, the Board proposes eliminating this section.

Representation Section 704.14

The Board intended the definition of a credit union trade association to include its affiliates. The preamble to the final rule explains that '''[c]redit union trade association' includes but is not necessarily limited to, state credit union leagues and league service corporations, national credit union trade associations and their affiliates and service organizations, and local, state, and national special interest credit union associations and organizations.'' 59 FR 59357, 59358, November 17, 1994 (emphasis added). There is some confusion because § 704.14(a)(3) includes the term ''affiliates'' in limiting directors' ties to the same credit union trade association but § 704.14(a)(2) does not include the term ''affiliates'' in its prohibition of the chair of the board serving as an officer, director or employee of a credit union trade association. Although the definition of credit union trade association includes affiliates, it is necessary to include the term in § 704.14(a)(3) because for purposes of that provision, the trade association and its affiliate are considered one and the same.

To eliminate the confusion, the Board proposes deleting the definition of ''trade association'' from the definition's section of the rule and replacing it with the definition of a ''credit union trade association'' since this is the only way the term is used. The Board proposes using the definition in the 1994 preamble to the final rule quoted above. 59 FR 59358.

In addition, the Board is amending the requirement in § 704.14(a) that both federal and state-chartered corporates comply with the federal corporate bylaws governing election procedures. The intent behind this requirement is that all corporates' election procedures comply with § 704.14(a), not that state-chartered corporates must adopt the Federal Corporate Bylaws. The rule is being amended to reflect this.

Wholesale Corporate Credit Unions Section 704.19

The Board requested comment on whether the need for separate wholesale corporate regulatory requirements still exists and, if so, the appropriateness of the existing wholesale corporate regulatory requirements. Currently, separate wholesale corporate rules apply for minimum capital ratio, calculation of reserve transfers, minimum NEV ratio, maximum NEV volatility, and validation of the asset and liability management modeling system. 12 CFR 704.19(b) and (c).

Nine of the 13 commenters supported separate regulatory requirements for wholesale corporates. Some of the reasons in support were: their size; their unique role in the corporate credit union system; risks inherent in their portfolios; and scope of services offered. Most of the supporting commenters believed the existing rules are adequate. Some of the commenters suggested revising the rules to provide wholesale corporates more flexibility.

Commenters opposing separate wholesale corporate regulatory requirements noted the risks are similar regardless of whether or not the corporate is designated as a wholesale corporate. They questioned both the appropriateness and the need to differentiate between the two.

Although the Board agrees with the commenters that risks inherent in corporate balance sheets are similar regardless of whether or not the corporate is a wholesale corporate, there is one area, RUDE ratio, where the Board believes a separate rule is necessary. Providing a lower minimum RUDE ratio for wholesale corporates recognizes their unique position in the two tier corporate system. Wholesale corporate credit union members provide one level of RUDE. The Board does not believe a second level of RUDE, at the same level as corporate members, is warranted for wholesale corporates. The lower RUDE ratio is also justified because wholesale corporates have a greater ability to raise other forms of capital, including from non-credit union sources, if needed. Accordingly, the Board is establishing a 1 percent minimum RUDE ratio requirement for wholesale corporates, as opposed to the 2 percent minimum RUDE ratio requirement for other corporates.

As explained below, in all other areas, the Board sees no basis for maintaining different regulatory requirements for wholesale corporates. Capital should be commensurate with the risks taken. The Board proposes eliminating the requirement that wholesale corporates must maintain a minimum capital ratio of 5 percent. 12 CFR 704.19(b)(1). The Board proposes requiring wholesale corporates to maintain the same 4 percent minimum capital ratio as other corporates.

As with other corporates, the Board is eliminating the reserve ratio and reserve transfer requirements for wholesale corporates. 12 CFR 704.19(b)(2).

The Board believes exposures associated with interest rate risk are the same regardless of the type of corporate. Therefore, the Board proposes eliminating separate regulatory requirements for the minimum base case NEV ratio and the maximum decline in NEV for wholesale corporates. The existing rule for wholesale corporates establishes .75 percent as the minimum base case NEV ratio and limits the decline in NEV to no more than 35 percent when conducting the interest rate sensitivity analysis in § 704.8(d)(1)(i). 12 CFR 704.19(c). For the reasons cited for other corporates, the Board proposes requiring the same minimum base case NEV ratio of 2 percent for wholesale corporates. The Board also proposes establishing the same rules limiting the maximum decline in NEV to no more than 10 percent or as approved under Appendix B of this part.

The Board proposes eliminating the requirement that wholesale corporates must obtain an annual third-party review of their asset and liability management modeling system. 12 CFR 704.19(c)(2). The issue of whether a third-party review is required should not be based upon whether the corporate is a wholesale corporate, but rather, review should be undertaken by all corporates periodically, in accordance with industry standards, or when changes are made to their modeling system. The Board believes § 704.4(c)(5) and (7) adequately address audits and reviews of systems and that asset and liability management system review is best left as a supervision issue.

Appendix A to Part 704—Model Forms

The Board proposes additional wording to the model disclosure forms for MC and PIC accounts. The purpose of the disclosure forms is to establish the minimum terms and conditions. The Board desires that corporates have flexibility in designing capital accounts that best suit their needs and the needs of their members. Additional disclosure may be required based on the specific characteristics of a corporate's capital accounts. As such, the form no longer states corporates that utilize the minimum standard wording will be in compliance with the regulation. Any additional material terms and conditions must be disclosed.

The additional wording in the proposal clarifies that funds in MC and PIC accounts are not automatically releasable due to the merger, charter conversion or liquidation of the natural person credit union member account holder. Further, in the event of the merger of the corporate, the MC and PIC accounts transfer to the continuing corporate. The sample disclosure forms have also been revised to require disclosure on whether MC is a term certificate or an adjusted balance account. In the case of an adjusted balance account, the adjustment period and adjustment measure must be disclosed. In the case of PIC, the disclosure must note if the account is either term or perpetual.

Appendix B to Part 704—Expanded Authorities and Requirements

Currently, Appendix B provides corporates with incrementally greater authorities if additional infrastructure and capital requirements are met. The Board proposes introducing a more flexible approach to expanded authorities. The proposed changes to this section: move all expanded authorities to Appendix B; expand permissible credit ratings on investments; provide more options for the use of expanded powers; and allow more corporates the opportunity to participate in risk reducing derivative activities.

In addition, the proposed rule establishes minimum standards for any corporate participating in expanded authorities. The minimum standards require monthly NEV modeling and an annual updating of the self-assessment plan. NEV modeling is currently required for all expanded authority parts and so, including this as a minimum requirement is not a substantive change. The addition of the requirement to update the self-assessment plan annually is being proposed to ensure corporates operating with expanded authorities maintain the systems, controls and policies in place on an ongoing basis. This requirement is being incorporated into Appendix B, since the annual review requirements currently in § 704.4(a) have been interpreted as not applying to the expanded authorities self-assessment plan.

As part of its overall change to expanded authorities, the Board proposes tying mandatory capital levels to NEV volatility. The more volatile the NEV measure during instantaneous, permanent, and parallel shocks of the Treasury yield curve, the greater the risk. Recognizing that all corporates do not operate at the same levels of risk, the Board is proposing to reduce mandatory capital levels if NEV volatility is maintained at lower levels. As volatility increases, additional capital levels will be required.

Several commenters suggested changing the expanded authorities provision of the rule to a menu-driven approach, rather than bundling several activities under one category. Often, the corporate only wants to engage in one activity but it must get approval for all the activities in a given category. The commenters advocated the menu approach would reduce burden on corporates and the NCUA. The Board agrees with the commenters and proposes a modified, menu-driven approach, as explained below.

The current NEV decline limit for a base-plus corporate is 25 percent of the base case NEV ratio. The current NEV decline limits for Part I and II corporates are 35 percent and 50 percent, respectively.

The Board proposes decreasing the NEV decline limit for a base-plus corporate to 15 percent, as illustrated in Table 2. The Board also proposes a menu-driven approach for NEV decline limits for corporates requesting Part I or Part II Expanded Authorities. A corporate seeking Part I approval could request one of two NEV decline limits: 15 percent; or 20 percent, provided the corporate maintains a minimum capital ratio of 5 percent. A corporate seeking Part II approval could request one of three NEV decline limits: 15 percent; 20 percent, provided the corporate maintains a minimum capital ratio of 5 percent; or 30 percent, provided the corporate maintains a minimum capital ratio of 6 percent.

TABLE 2.—PROPOSED NEV DECLINE LIMITS

Current level of expanded authorities	Current NEV decline limit	Proposed level of expanded authorities	Proposed minimum capital requirement	Proposed NEV decline limit
Base plus	25	Base plus	4	15
Part I	35	Part I NEV 15	4	15
		Part I NEV 20	5	20

TABLE 2.—PROPOSED NEV DECLINE LIMITS—Continued

Current level of expanded authorities	Current NEV decline limit	Proposed level of expanded authorities	Proposed minimum capital requirement	Proposed NEV decline limit
Part II	50	Part II NEV 15	4	15
		Part II NEV 20	5	20
		Part II NEV 30	6	30

The Board's analysis of the effect of the proposed NEV decline limits on corporates with expanded authorities is summarized in Table 3. Although the proposed permissible NEV declines are smaller for some corporates with expanded authorities, no corporate's reported NEV declines under adverse rate shocks would violate the proposed NEV decline limits.

TABLE 3.—ANALYSIS OF PROPOSED PERMISSIBLE NEV DECLINES FOR BASE-PLUS, PART I, AND PART II CORPORATE CREDIT UNIONS SIMPLE AVERAGES FOR THE QUARTERS ENDING JUNE 2000 THROUGH MARCH 2001

[Percent]

	NEV ratio	NEV decline limit	Permitted decline as % of FV of assets
Base plus:			
Current rule	4.23	25	1.06
Proposed rule	9.24	15	1.39
Part I:			
Current rule	3.62	35	1.27
Proposed rule	8.44	20	1.69
Part II:			
Current rule	3.53	50	1.76
Proposed rule	6.51	30	1.95

The Board proposes permitting any corporate currently approved for Part I or Part II Expanded Authorities to request to lower its NEV decline limit in conjunction with a request to lower its minimum capital requirement from 5 percent or 6 percent, respectively.

The Board proposes moving Base-Plus Expanded Authorities from § 704.8(e) to Appendix B to include all expanded authorities in Appendix B. As previously discussed, the NEV testing requirements are being moved to the Minimum Requirements section of the proposed rule. The remaining authority relating to maximum NEV decline remains under the applicable expanded authority. The current NEV decline limit for a Base-Plus corporate is 25 percent of the base case NEV ratio. In light of the proposed change to the definition of NEV, the Board proposes to decrease that limit to 15 percent.

As discussed above in § 704.6 Credit Risk Management analysis, the Board proposes to establish limits for the aggregate credit exposure to a single obligor at 50 percent of capital. This limit provides corporates with substantial flexibility in comparison to other depository institutions. The Board believes that this limit is the most credit exposure a corporate should prudently take in investment-grade quality investments. This 50 percent limit would apply to all corporates.

Proposed § 704.6(c)(2)(i) increases the 50 percent limit to 200 percent for base and base-plus corporates for repurchase and securities lending transactions. The Board proposes expanding this increase for Part I and II corporates. Due to the increased infrastructure requirements for Parts I and II corporates, the Board proposes establishing a 300 percent limit for Part I corporates, and a 400 percent limit for Part II corporates.

Currently, corporates with Part I authority may purchase long-term investments rated no lower than AA–. The Board proposes lowering the minimum rating requirement for a long-term investment (including asset-backed securities) to A–. Currently, corporates may purchase a short-term investment rated no lower than A–1. For Part I corporates, the Board proposes lowering the minimum rating requirement for a short-term investment (including asset-backed securities) to A–2, provided that the issuer has a long-term rating no lower than A–. The Board believes these changes in permissible ratings represent reasonable increases in risk given the additional infrastructure requirements of a Part I corporate.

The Board proposes deleting the authority for Part I corporates to enter into repurchase transactions where the collateral securities are rated no lower than A (or equivalent). This authority is no longer necessary because the Board proposes permitting Part I corporates to purchase long-term investments rated no lower than A– (or equivalent).

The current rule permits Part I and II corporates to engage in when issued trading, when accounted for on a trade date basis. The Board proposes amending this provision to also permit pair-off transactions, when accounted for on a trade date basis. Although not specifically stated, the current rule by its absence of a prohibition, impliedly permits trading securities. The Board proposes prohibiting trading securities for base and base-plus corporates. Due to the increased infrastructure requirements for Part I and II corporates, the Board proposes permitting them to engage in this activity but will require trade date accounting to ensure all transactions are reflected in the accounting records of the corporate. This requirement parallels the requirement in § 703.100(l).

In both Part I and II, the Board proposes clarifying that the aggregate loan limits apply to both revocable and irrevocable lines of credit. Currently, the rule only states ''irrevocable lines of credit.'' The Board proposes deleting the modifier ''irrevocable'' to clarify this.

Currently, corporates with Part II authority may purchase long-term investments rated no lower than A– (or equivalent). The Board proposes lowering the minimum rating requirement for a long-term investment (including asset-backed securities) to BBB (flat). Currently, corporates may purchase a short-term investment rated no lower than A–1 (or equivalent). For Part II corporates, the Board proposes lowering the minimum rating requirement for a short-term investment (including asset-backed securities) to A–2 (or equivalent), provided that the issuer has a long-term rating no lower than BBB (flat). The Board believes these changes in permissible ratings represent reasonable increases in risk given the additional infrastructure requirements of a Part II corporate.

Currently, corporates with Part II authority must establish limits for secured and unsecured loans as a percentage of their capital plus pledged shares. The Board proposes limiting unsecured loans to 100 percent of capital. This proposed unsecured loan limit is the same as the current and proposed limit for a Part I corporate. The Board does not believe it is appropriate for any corporate to risk more than 100 percent of its capital to any one member credit union on an unsecured basis.

The Board proposes a number of changes to Part III expanded authorities. The Board proposes relaxing the long-term investment rating from AA– (or equivalent) to AA– (or equivalent). This change represents only a minor increase in risk, and provides Part III corporates with additional investment alternatives.

Currently, Part III requires for foreign investments, that the foreign country be rated no lower than AA (or equivalent) for political and economic stability. The Board proposes replacing this requirement with a requirement for a long-term foreign currency (non-local currency) debt rating no lower than AA– (or equivalent). The long-term foreign currency rating is based on a broader analysis than that of the political and economic stability rating. The Board believes this is a more appropriate rating for US dollar denominated investments.

The Board proposes relaxing the bank issuer/guarantor rating from AA (or equivalent) to AA– (or equivalent). This change represents only a minor increase in risk, and provides Part III corporates with additional investment alternatives.

The current rule limits non-secured obligations of any single foreign issuer to 150 percent of RUDE and PIC. The Board proposes to limit all obligations of any single foreign issuer/guarantor to 50 percent of capital. The Board believes that the limits for foreign issuers/guarantors should be parallel to those of domestic obligors and based on capital rather than RUDE and PIC.

The current rule limits non-secured obligations of any single foreign country to 500 percent of RUDE and PIC. The Board proposes to limit all obligations of any single foreign country to 250 percent of capital. This change equates the existing limit based on RUDE and PIC to a limit using the new definition of capital. The Board notes that sovereign risk is present in foreign debt obligations, whether secured or unsecured.

The Board proposes restructuring Part IV expanded authorities to provide more flexibility for corporates to use the authorities to reduce risk. The current rule requires corporates to have either Part I or II expanded authorities to qualify for Part IV. The proposal removes this requirement. The Board believes that all corporates demonstrating and possessing the resources, knowledge, systems, and procedures necessary to measure, monitor, and control the risks associated with derivative transactions should be permitted to use these powers. As with all expanded authorities, a corporate in its application must detail the specific types of activities it may utilize. The Board believes that, used properly, derivative activities can reduce risk to the institution and its members. For this reason, the Board is proposing this change.

The current rule states that a corporate may use derivatives only for ''creating structured instruments and hedging its own balance sheet and the balance sheets of its members.'' 12 CFR part 704, Appendix B, Part IV. The proposed rule restates those requirements, but in slightly different terms, to clarify the Board's intent. The Board believes corporates should be allowed to use derivatives to manage their own balance sheets, which may at times add risk, but that the use of derivatives for their members is still limited to hedging their members' balance sheets, which should only reduce risk.

The current rule is silent as to counterparty rating for derivative transactions with foreign and domestic counterparties. The Board proposes adding language to Part IV to clarify its intent that the rating requirements for counterparties be comparable to the ratings for the corporate's other parallel permissible activities.

As discussed in the lending section, new Part V gives corporates the authority to enter into loan participations with their member natural person credit unions. The Board proposes limiting the maximum aggregate amount of participation loans with one member credit union to 25 percent of capital and the maximum aggregate amount of participation loans with all member credit unions to 100 percent of capital. A corporate is not required to have any other expanded authority to qualify for Part V.

The proposed requirements for Part V that will be included in the *Guidelines for Submission of Requests for Expanded Authority* will require a corporate to submit: (1) An economic viability assessment of the participation lending program; (2) Proposed staffing, revised organizational charts and positions descriptions, and the qualifications and experience of participating staff; (3) Discussion of the inherent risks associated with the proposed program and how the corporate will identify, measure, monitor, and control these risks; (4) Proposed participation lending policies and procedures addressing limits on the aggregate amount of credit limits for participation loans purchased from any one credit union, an aggregate limit of participation lending based on capital (with a maximum up to 100 percent of capital), due diligence (off- and on-site) reviews to be performed by the corporate or its authorized agent, and practices relating to loan underwriting, loan documentation, collateral performance, loan servicing, and loan loss reserving; (5) Plans for a periodic independent review of the corporate's participation loan program; and (6) Due diligence requirements the corporate will follow prior to engaging in the sale or transfer of participation loan pools to third parties including: accounting issues, risk management, and legal issues.

Request for Comment

The Board is interested in receiving comment on all of the issues raised in this proposal, as well as any other issues the commenters believe will assist the Board in issuing its final rule.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (those under $1 million in assets). The rule only applies to

corporates, all of which have assets well in excess of $1 million. The proposed amendments will not have a significant economic impact on a substantial number of small credit unions and, therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that the proposed regulation does not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The executive order states that: ''National action limiting the policymaking discretion of the states shall be taken only where there is constitutional and statutory authority for the action and the national activity is appropriate in light of the presence of a problem of national significance.'' The risk of loss to federally insured credit unions and the NCUSIF caused by actions of corporates are concerns of national scope. The proposed rule, if adopted, will help assure that proper safeguards are in place to ensure the safety and soundness of corporates.

The proposed rule, if adopted, applies to all corporates that accept funds from federally insured credit unions. NCUA believes that the protection of such credit unions, and ultimately the NCUSIF, warrants application of the proposed rule to all corporates, including nonfederally insured. The proposed rule does not impose additional costs or burdens on the states or affect the states' ability to discharge traditional state government functions. NCUA has determined that this proposal may have an occasional 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. However, the potential risk to the NCUSIF without the proposed changes justifies them.

The Treasury and General Government Appropriations Act, 1999—-Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive if implemented as proposed.

List of Subjects

12 CFR Part 703

Credit unions, Investments.

12 CFR Part 704

Credit unions, Reporting and record keeping requirements, Surety bonds.

By the National Credit Union Administration Board on September 13, 2001.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR parts 703 and 704 as follows:

PART 703—INVESTMENT AND DEPOSIT ACTIVITIES

1. The authority citation for part 703 will continue to read as follows:

Authority: 12 U.S.C. 1757(7), 1757(8), and 1757(15).

2. Amend § 703.100 paragraph (c) by revising the second and third sentences and adding a fourth sentence to read as follows:

§ 703.100 What investments and investment activities are permissible for me?

* * * * *

(c) * * * Your aggregate purchase of paid-in capital and membership capital in one corporate credit union is limited to two percent of your assets measured at the time of purchase. Your aggregate purchase of paid-in capital and membership capital in all corporate credit unions is limited to four percent of your assets measured at the time of purchase. Paid-in capital and membership capital are defined in part 704 of this chapter.

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PART 704—CORPORATE CREDIT UNIONS

3. The authority citation for part 704 will continue to read as follows:

Authority: 12 U.S.C. 1762, 1766(a), 1781, and 1789.

4. Amend § 704.2 as follows:

a. Remove the definition of ''*commercial mortgage related security*'', ''*correspondent services*'', ''*market price*'', ''*member paid-in capital*'', ''*mortgage servicing*'', ''*net interest income*'', ''*non member paid-in capital*'', ''*non secured obligation*'', ''*prepayment model*'', ''*real estate mortgage investment conduit (REMIC)*'', ''*reserve ratio*'', and ''*trade association*'';

b. Revise the definitions of ''*collateralized mortgage obligation (CMO)*'', ''*fair value*'', ''*forward settlement*'', ''*membership capital*'', ''*mortgage related security*'', ''*paid-in capital*'', ''*regular-way settlement*'', ''*repurchase transaction*'', and ''*residual interest*'';

c. Amend the definitions of ''*asset-backed security*'' by revising the last sentence, and ''*net economic value (NEV)*'' by revising the second and third sentences; and

d. Add new definitions for ''*obligor*'', ''*quoted market price*'' and ''*RUDE ratio*''.

§ 704.2 Definitions.

* * * * *

Asset-backed security * * * This definition excludes mortgage related securities.

* * * * *

Collateralized mortgage obligation (CMO) means a multi-class mortgage related security.

* * * * *

Fair value means the amount at which an instrument could be exchanged in a current, arms-length transaction between willing parties, other than in a forced or liquidation sale. Quoted market prices in active markets are the best evidence of fair value. If a quoted market price in an active market is not available, fair value may be estimated using a valuation technique that is reasonable and supportable, a quoted market price in an active market for a similar instrument, or a current appraised value. Examples of valuation techniques include the present value of estimated future cash flows, option-pricing models, and option-adjusted spread models. Valuation techniques should incorporate assumptions that market participants would use in their estimates of values, future revenues, and future expenses, including assumptions about interest rates, default, prepayment, and volatility.

* * * * *

Forward settlement of a transaction means settlement on a date later than regular-way settlement.

* * * * *

Membership capital means funds contributed by members that: are adjustable balance with a minimum withdrawal notice of 3 years or are term

certificates with a minimum term of 3 years; are available to cover losses that exceed reserves and undivided earnings and paid-in capital; are not insured by the NCUSIF or other deposit insurers; and cannot be used to pledge against borrowings.

Mortgage related security means a security as defined in Section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)), *e.g.,* a privately-issued security backed by mortgages secured by real estate upon which is located a dwelling, mixed residential and commercial structure, residential manufactured home, or commercial structure.

* * * * *

Net economic value (NEV) * * * All fair value calculations must include the value of forward settlements and embedded options. Membership capital not qualifying as capital and paid-in capital not qualifying as capital are treated as liabilities for purposes of this calculation. * * *

Obligor means the primary party obligated to repay an investment, *e.g.,* the issuer of a security, the taker of a deposit, or the borrower of funds in a Federal funds transaction. Obligor does not include an originator of receivables underlying an asset-backed security, the servicer of such receivables, or an insurer of an investment.

* * * * *

Paid-in capital means accounts or other interests of a corporate credit union that: have an initial maturity of at least 20 years; are available to cover losses that exceed reserves and undivided earnings; are not insured by the NCUSIF or other share or deposit insurers; and cannot be used to pledge against borrowings.

* * * * *

Quoted market price means a recent sales price or a price based on current bid and asked quotations.

Regular-way settlement means delivery of a security from a seller to a buyer within the time frame that the securities industry has established for immediate delivery of that type of security. For example, regular-way settlement of a Treasury security includes settlement on the trade date (''cash''), the business day following the trade date (''regular way''), and the second business day following the trade date (''skip day'').

Repurchase transaction means a transaction in which a corporate credit union agrees to purchase a security from a counterparty and to resell the same or any identical security to that counterparty at a specified future date and at a specified price.

* * * * *

Residual interest means the remainder cash flows from a CMO or ABS transaction after payments due bondholders and trust administrative expenses have been satisfied.

RUDE ratio means the corporate credit union's reserves and undivided earnings divided by its moving daily average net assets.

* * * * *

5. Amend § 704.3 as follows:

a. Redesignate paragraphs (d) through (g) as paragraphs (f) through (i) and paragraph (b) as paragraph (d);

b. Remove paragraph (c);

c. Add paragraphs (b), (c), and (e); and

d. Revise redesignated paragraphs (f) heading, (f)(1) introductory text, (f)(2) and (f)(3)(iii), (g), (h)(1), (h)(2) introductory text, (h)(2)(i) through (h)(2)(iii), (i)(1) and (i)(2)(i)(A).

§ 704.3 Corporate credit union capital.

* * * * *

(b) *Requirements for membership capital*—(1) *Form.* Membership capital funds may be in the form of a term certificate or an adjusted balance account.

(2) *Disclosure.* The terms and conditions of a membership capital account must be disclosed to the recorded owner of the account at the time the account is opened and at least annually thereafter.

(3) *Three-year remaining maturity.* When a membership capital account has been placed on notice or has a remaining maturity of three years, the amount of the account that can be considered membership capital is reduced by a constant monthly amortization that ensures membership capital is fully amortized one year before the date of maturity or the end of the notice period. The full balance of a membership capital account that is being amortized, not just the remaining non-amortized portion, is available to absorb losses in excess of the sum of reserves and undivided earnings and paid-in capital until the funds are released by the corporate credit union at the time of maturity or the conclusion of the notice period.

(4) *Release.* Membership capital may not be released due solely to the merger, charter conversion or liquidation of a member credit union. In the event of a merger, the membership capital transfers to the continuing credit union. In the event of a charter conversion, the membership capital transfers to the new institution. In the event of a liquidation, the membership capital may be released to facilitate the payout of shares with the prior written approval of NCUA.

(5) *Sale.* A member may sell its membership capital to a credit union in the corporate credit union's field of membership, subject to the corporate credit union's approval.

(6) *Liquidation.* In the event of liquidation of a corporate credit union, membership capital is payable only after satisfaction of all liabilities of the liquidation estate, including uninsured share obligations to shareholders and the National Credit Union Share Insurance Fund (NCUSIF), but excluding paid-in capital.

(7) *Merger.* In the event of a merger of a corporate credit union, membership capital shall transfer to the continuing corporate credit union. The three-year notice period for withdrawal of membership capital shall remain in effect.

(8) Adjusted balance accounts:

(i) May be adjusted no more frequently than once every six months; and

(ii) Must be adjusted in relation to a measure (*e.g.,* one percent of a member credit union's assets) established and disclosed at the time the account is opened without regard to any minimum withdrawal period. If the measure is other than assets, the corporate credit union must address the measure's permanency characteristics in the capital plan.

(iii) *Notice of Withdrawal.* Upon three years written notice of intent to withdraw membership capital, the balance of the account will be frozen (no further adjustments) until the conclusion of the notice period.

(c) *Requirements for Paid-in capital*—(1) *Disclosure.* The terms and conditions of any paid-in capital instrument must be disclosed to the recorded owner of the instrument at the time the instrument is created.

(2) *Three-year remaining maturity.* When a paid-in capital instrument has a remaining maturity of 3 years, the amount of the instrument that may be considered paid-in capital for this part is reduced by a constant monthly amortization that ensures the paid-in capital is fully amortized 1 year before the date of maturity. The full balance of a paid-in capital instrument that is being amortized, not just the remaining non-amortized portion, is available to absorb losses in excess of the sum of reserves and undivided earnings until the funds are released by the corporate credit union at maturity.

(3) *Release.* Paid-in capital may not be released due solely to the merger, charter conversion or liquidation of a member credit union. In the event of a merger, the paid-in capital transfers to the continuing credit union. In the event of a charter conversion, the paid-in capital transfers to the new institution.

In the event of a liquidation, the paid-in capital may be released to facilitate the payout of shares with the prior written approval of NCUA.

(4) *Callability.* Paid-in capital accounts are callable on a pro-rata basis across an issuance class only at the option of the corporate credit union and only if the corporate credit union meets its minimum level of required capital and NEV ratios after the funds are called.

(5) *Liquidation.* In the event of liquidation of the corporate credit union, paid-in capital is payable only after satisfaction of all liabilities of the liquidation estate, including uninsured share obligations to shareholders, the NCUSIF, and membership capital holders.

(6) *Merger.* In the event of a merger of a corporate credit union, paid-in capital shall transfer to the continuing corporate credit union.

(7) Paid-in capital includes both member and nonmember paid-in capital.

(i) Member paid-in capital means paid-in capital that is held by the corporate credit union's members. A corporate credit union may not condition membership, services, or prices for services on a credit union's ownership of paid-in capital.

(ii) Nonmember paid-in capital means paid-in capital that is not held by the corporate credit union's members. Nonmember paid-in capital does not require NCUA approval if all terms and conditions are identical to member paid-in capital. Nonmember paid-in capital with unlike terms and conditions requires NCUA approval. In determining whether or not to approve a nonmember paid-in capital instrument, NCUA will consider features such as maturity, capital amortization schedule, participation, voting, acceleration, redemption, or other rights of the holder. NCUA will also consider the purpose and financial impact of the proposed paid-in capital issuance and the corporate credit union's financial condition and management capabilities.

* * * * *

(e) *RUDE ratio.* A corporate credit union will maintain a minimum RUDE ratio of 2 percent. A corporate credit union must calculate its RUDE ratio monthly.

(f) *Individual capital ratio requirement.* (1) When significant circumstances or events warrant, NCUA may require a different minimum capital ratio for an individual corporate credit union based on its circumstances. Factors that may warrant a different minimum capital ratio include, but are not limited to, for example:

* * * * *

(2) When NCUA determines that a different minimum capital ratio is necessary or appropriate for a particular corporate credit union, NCUA will notify the corporate credit union in writing of the proposed capital ratio and, if applicable, the date by which the capital ratio should be reached. NCUA also will provide an explanation of why the proposed capital ratio is considered necessary or appropriate for the corporate credit union.

(3) * * *

(iii) After the close of the corporate credit union's response period, NCUA will decide, based on a review of the corporate credit union's response and other information concerning the corporate credit union, whether a different minimum capital ratio should be established for the corporate credit union and, if so, the capital ratio and the date the requirement will become effective. The corporate credit union will be notified of the decision in writing. The notice will include an explanation of the decision, except for a decision not to establish a different minimum capital ratio for the corporate credit union.

(g) *Failure to maintain minimum capital ratio, RUDE ratio requirement.* When either a corporate credit union's capital ratio or RUDE ratio falls below the minimum required by paragraphs (d), (e), or (f) of this section, or appendix B to this part, as applicable, operating management of the corporate credit union must notify its board of directors, supervisory committee, and NCUA within 10 calendar days.

(h) *Capital restoration plan.* (1) A corporate credit union must submit a plan to restore and maintain its capital ratio or its RUDE ratio at the minimum requirement if either of the following conditions exists:

(i) The capital ratio or RUDE ratio falls below the minimum requirement and is not restored to the minimum requirement by the next month end; or

(ii) Regardless of whether the capital ratio or RUDE ratio is restored by the next month end, the capital ratio or RUDE ratio falls below the minimum requirement for three months in any 12-month period.

(2) The capital restoration plan must include the following, at a minimum:

(i) Reasons why the capital ratio or RUDE ratio fell below the minimum requirement;

(ii) Descriptions of steps to be taken to restore the capital ratio or RUDE ratio to the minimum requirement within specific time frames;

(iii) Actions to be taken to maintain the capital ratio or RUDE ratio at the minimum required level and increase it thereafter;

* * * * *

(i) * * *

(1) If a corporate credit union fails to submit a capital restoration plan; or the plan submitted is not deemed adequate to either restore capital and/or RUDE or restore capital and/or RUDE within a reasonable time; or the credit union fails to implement its approved capital restoration plan, NCUA may issue a capital directive.

(2) * * *

(i) * * *

(A) Increase the amount of capital and/or RUDE to specific levels;

* * * * *

6. Amend § 704.4 by removing the word ''operating'' wherever it appears in paragraphs (a) and (b) and revising paragraph (c) introductory text to read as follows:

§ 704.4 Board responsibilities.

* * * * *

(c) *Other requirements.* The board of directors of a corporate credit union must ensure:

* * * * *

7. Amend § 704.5 as follows:

a. Revise paragraphs (a)(1) and (2), (c)(5), (d)(1), (e)(1), (3) and (4), (f), and (h)(2) and (3);

b. Remove paragraphs (c)(6), (d)(3) and (d)(6);

c. Redesignate paragraphs (d)(4) and (d)(5) as paragraphs (d)(3) and (d)(4); and

d. Revise redesignated paragraphs (d)(3) and (4).

§ 704.5 Investments.

(a) * * *

(1) Appropriate tests and criteria for evaluating investments and investment transactions prior to purchase; and

(2) Reasonable concentration limits for limited liquidity investments (*e.g.,* private placements and funding agreements).

* * * * *

(c) * * *

(5) Domestically-issued asset-backed securities.

(d) * * *

(1) The corporate credit union, directly or through its agent, receives written confirmation of the transaction, obtains a perfected first priority security interest in the repurchase securities and either takes physical possession or control of the repurchase securities or is recorded as owner of the repurchase securities through the Federal Reserve Book-Entry Securities Transfer System;

* * * * *

(3) The corporate credit union, directly or through its agent, receives daily assessment of the market value of the repurchase securities and maintains adequate margin that reflects a risk assessment of the repurchase securities and the term of the transaction; and

(4) The corporate credit union has entered into signed contracts with all approved counterparties and agents, and ensures compliance with the contracts.

* * * * *

(e) * * *

(1) The corporate credit union, directly or through its agent, receives written confirmation of the loan, obtains a perfected first priority security interest in the collateral and either takes physical possession or control of the collateral or is recorded as owner of the collateral through the Federal Reserve Book-Entry Securities Transfer System;

(2) * * *

(3) The corporate credit union, directly or through its agent, receives daily assessment of the market value of collateral and maintains adequate margin that reflects a risk assessment of the collateral and terms of the loan; and

(4) The corporate credit union has entered into signed contracts with all agents and, directly or through its agent, has executed a written loan and security agreement with the borrower. The corporate or its agent ensures compliance with the agreements.

(f) *Investment companies.* A corporate credit union may invest in an investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a), provided that the prospectus of the company restricts the investment portfolio to investments and investment transactions that are permissible for that corporate credit union.

* * * * *

(h) * * *

(2) Engaging in pair-off transactions or trading securities, including when-issued trading, adjusted trading, or short sales; and

(3) Purchasing stripped mortgage-backed securities, small business related securities, or residual interests in CMOs or asset-backed securities.

* * * * *

8. Amend § 704.6 by revising paragraphs (a) introductory text and paragraphs (a)(3), (a)(4), and (6) through (e) to read as follows:

§ 704.6 Credit risk management.

(a) *Policies.* A corporate credit union must operate according to a credit risk management policy that is commensurate with the investment risks and activities it undertakes. The policy must address at a minimum:

* * * * *

(3) Maximum credit limits with each obligor and transaction counterparty, set as a percentage of capital. In addition to addressing deposits and securities, limits with transaction counterparties must address aggregate exposures of all transactions, including, but not necessarily limited to, repurchase agreements, securities lending, and forward settlement of purchases or sales of investments; and

(4) Concentrations of credit risk (*e.g.*, originator of receivables, insurer, industry type, sector type, and geographic).

(b) *Exemption.* The requirements of this section do not apply to investments that are issued or fully guaranteed as to principal and interest by the U.S. government or its agencies or enterprises (excluding subordinated debt) or are fully insured (including accumulated interest) by the National Credit Union Share Insurance Fund or Federal Deposit Insurance Corporation.

(c) *Concentration limits*—(1) *General rule.* The aggregate of all investments in any single obligor is limited to 50 percent of capital or $5 million, whichever is greater.

(2) *Exceptions.* Exceptions to the general rule are:

(i) Aggregate investments in repurchase and securities lending agreements with any one counterparty are limited to 200 percent of capital;

(ii) Investments in corporate CUSOs are subject to the limitations of § 704.11; and

(iii) Aggregate investments in corporate credit unions are not subject to the limitations of paragraph (c)(1) of this section.

(3) For purposes of measurement, each new credit transaction must be evaluated in terms of the corporate credit union's capital at the time of the transaction. A subsequent reduction in capital that results in noncompliance with this section will require compliance with § 704.10.

(d) *Credit ratings.* (1) All investments, other than in a corporate credit union or CUSO, must have an applicable credit rating from at least one nationally recognized statistical rating organization (NRSRO).

(2) At the time of purchase, long-term investments must be rated no lower than AA- (or equivalent) and short-term investments must be rated no lower than A–1 (or equivalent).

(3) Any rating(s) relied upon to meet the requirements of this part must be identified at the time of purchase and must be monitored for as long as the corporate owns the investment.

(4) Any rating relied upon to meet the requirements of this part at the time of purchase that is downgraded below the minimum rating requirements of this part must be reviewed by the board or an appropriate committee within 30 calendar days of the downgrade.

(5) Investments are subject to the requirements of § 704.10 if:

(i) One rating was relied upon to meet the requirements of this part and that rating is downgraded below the minimum rating requirements of this part; or

(ii) Two or more ratings were relied upon to meet the requirements of this part and at least two of those ratings are downgraded below the minimum rating requirements of this part.

(e) *Reporting and documentation.* (1) A written evaluation of each credit limit with each obligor or transaction counterparty must be prepared at least annually and formally approved by the board or an appropriate committee. At least monthly, the board or an appropriate committee must receive a watch list of existing and/or potential credit problems and summary credit exposure reports, which demonstrate compliance with the corporate credit union's risk management policies.

(2) At a minimum, the corporate credit union must maintain:

(i) A justification for each approved credit limit;

(ii) Disclosure documents, if any, for all instruments held in portfolio.

Documents for an instrument that has been sold must be retained until completion of the next NCUA examination; and

(iii) The latest available financial reports, industry analyses, internal and external analyst evaluations, and rating agency information sufficient to support each approved credit limit.

9. Amend § 704.7 by removing paragraphs (c) through (g), adding paragraphs (c) through (f) and redesignating paragraph (h) as paragraph (g) to read as follows:

§ 704.7 Lending.

* * * * *

(c) *Loans to members*—(1) *Credit unions.* (i) The maximum aggregate amount in unsecured loans and lines of credit to any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 50 percent of capital.

(ii) The maximum aggregate amount in secured loans and lines of credit to any one member credit union, excluding those secured by shares or marketable securities and member reverse

repurchase transactions, must not exceed 100 percent of capital.

(2) *Corporate CUSOs.* Any loan or line of credit must comply with § 704.11.

(3) *Other members.* The maximum aggregate amount of loans and lines of credit to any other members must not exceed 15 percent of the corporate credit union's capital plus pledged shares.

(d) *Loans to nonmembers*—(1) *Credit unions.* A loan to a nonmember credit union, other than through a loan participation with another corporate credit union, is only permissible if the loan is for an overdraft related to the providing of correspondent services pursuant to § 704.12. Generally, such a loan will have a maturity of one business day.

(2) *Corporate CUSOs.* Any loan or line of credit must comply with § 704.11.

(e) *Member business loan rule.* Loans or lines of credit to:

(1) Member credit unions are exempt from part 723 of this chapter;

(2) Corporate CUSOs must comply with § 704.11; and

(3) Other members must comply with part 723 of this chapter unless the loan or line of credit is fully guaranteed by a credit union or fully secured by US Treasury or agency securities. Those guaranteed and secured loans must comply with the aggregate limits of § 723.16 but are exempt from the other requirements of part 723.

(f) *Participation loans with other corporate credit unions.* A corporate credit union is permitted to participate in a loan with another corporate credit union provided the corporate retains an interest of at least 5 percent of the face amount of the loan and a master participation loan agreement is in place before the purchase or the sale of a participation. A participating corporate credit union must exercise the same due diligence as if it were the originating corporate credit union.

* * * * *

10. Amend § 704.8 as follows:

a. Remove paragraphs (a)(2), (a)(5) and (e);

b. Redesignate (a)(3) and (a)(4) as (a)(2) and (a)(3), (a)(6) and (a)(7) as (a)(4) and (a)(5), and (f) and (g) as (e) and (f);

c. Add paragraph (a)(6);

d. Revise redesignated paragraphs (a)(2), (e) and (f); and

e. Revise paragraphs (c), (d)(1)(i) through (iii) and (d)(2) introductory text.

§ 704.8 Asset and liability management.

(a) * * *

(2) The maximum allowable percentage decline in net economic value (NEV), compared to base case NEV;

* * * * *

(6) The tests that will be used, prior to purchase, to evaluate the impact of investments on the percentage decline in NEV, compared to base case NEV.

* * * * *

(c) *Penalty for early withdrawals.* A corporate credit union that permits early certificate/share withdrawals must assess a market-based penalty equal to the estimated replacement cost of the certificate/share redeemed. The market-based penalty must be reasonably related to current offering rates of that corporate credit union.

(d) * * *

(1) * * *

(i) Evaluate the risk in its balance sheet by measuring, at least quarterly, the impact of an instantaneous, permanent, and parallel shock in the Treasury yield curve of plus and minus 100, 200, and 300 basis points on its NEV, and NEV ratio. If the base case NEV ratio falls below 3 percent at the last testing date, these tests must be calculated at least monthly until the base case NEV ratio again exceeds 3 percent;

(ii) Limit its risk exposure to levels that do not result in a base case NEV ratio or any NEV ratio resulting from the tests set forth in paragraph (d)(1)(i) of this section below 2 percent; and

(iii) Limit its risk exposures to levels that do not result in a decline in NEV of more than 10 percent.

(2) A corporate credit union must assess annually if it should conduct periodic additional tests to address market factors that potentially can materially impact that corporate credit union's NEV. These factors should include, but are not limited to, the following:

* * * * *

(e) *Regulatory violations.* If a corporate credit union's decline in NEV, base case NEV ratio or any NEV ratio resulting from the tests set forth in paragraph (d)(1)(i) of this section violates the limits established by this rule and is not brought into compliance within 10 calendar days, operating management of the corporate credit union must immediately report the information to the board of directors, supervisory committee, and NCUA. If any violation persists for 30 calendar days, the corporate credit union must submit a detailed, written action plan to NCUA that sets forth the time needed and means by which it intends to correct the violation. If NCUA determines that the plan is unacceptable, the corporate credit union must immediately restructure the balance sheet to bring the exposures back within compliance or adhere to an alternative course of action determined by NCUA.

(f) *Policy violations.* If a corporate credit union's decline in NEV, base case NEV ratio, or any NEV ratio resulting from the tests set forth in paragraph (d)(1)(i) of this section violates the limits established by its board, it must determine how it will bring the exposure within policy limits. The disclosure to the board of the violation must occur no later than its next regularly scheduled board meeting.

11. Amend § 704.11 by revising paragraph (b), redesignating paragraphs (c) through (e) as paragraphs (f) through (h) and adding paragraphs (c), (d) and (e) to read as follows:

§ 704.11 Corporate Credit Union Service Organizations (Corporate CUSOs).

* * * * *

(b) *Investment and loan limitations.* (1) The aggregate of all investments in and loans to member and nonmember corporate CUSOs must not exceed 15 percent of a corporate credit union's capital. A corporate credit union may loan to member and nonmember corporate CUSOs an additional 15 percent of capital if the loan is collateralized by assets in which the corporate has a perfected security interest under state law.

(2) If the limitations in paragraph (b)(1) of this section are reached or exceeded because of the profitability of the CUSO and the related GAAP valuation of the investment under the equity method without an additional cash outlay by the corporate, divestiture is not required. A corporate credit union may continue to invest up to the regulatory limit without regard to the increase in the GAAP valuation resulting from the corporate CUSO's profitability.

(3) The aggregate of all loans to corporate CUSOs must comply with the aggregate limits of § 723.16 of this chapter.

(c) *Due diligence.* A corporate credit union must comply with the due diligence requirements of §§ 723.5 and 723.6(f) through (l) of this chapter for all loans to corporate CUSOs. This requirement does not apply to loans fully secured by shares in the corporate credit union making the extension of credit or in other financial institutions.

(d) *Separate entity.* (1) A corporate CUSO must be operated as an entity separate from a corporate credit union.

(2) The corporate credit union investing in or lending to a corporate CUSO must obtain a written legal

opinion that the corporate CUSO is organized and operated in a manner that the corporate credit union will not reasonably be held liable for the obligations of the corporate CUSO. This opinion must address factors that have led courts to ''pierce the corporate veil'' such as inadequate capitalization, lack of corporate identity, common boards of directors and employees, control of one entity over another, and lack of separate books and records.

(e) *Prohibited activities.* A corporate credit union may not use this authority to acquire control, directly or indirectly, of another financial institution, or to invest in shares, stocks, or obligations of another financial institution, insurance company, trade association, liquidity facility, or similar organization.

* * * * *

12. Revise § 704.12 to read as follows:

§ 704.12 Permissible services.

(a) A corporate credit union may provide the following financial services to its members: credit and investment services; liquidity and asset and liability management; payment systems; electronic financial services; sale or lease of excess physical or information system capacity; and operational services associated with administering or providing financial products or services.

(b) A corporate credit union may only provide financial services to nonmembers through a correspondent services agreement. A correspondent services agreement is an agreement between two corporate credit unions, whereby one of the corporate credit unions agrees to provide services to a member of the other corporate credit union.

(c) A corporate credit union is prohibited from purchasing loan servicing rights.

§ 704.13 [Removed and Reserved]

13. Remove and reserve § 703.13.

14. Amend § 704.14 by revising paragraph (a) introductory text, redesignating paragraphs (b) through (d) as (c) through (e), and adding a new paragraph (b) to read as follows:

§ 704.14 Representation.

(a) *Board representation.* The board will be determined as stipulated in its bylaws governing election procedures, provided that:

* * * * *

(b) *Credit union trade association.* As used in this section, it includes but is not limited to, state credit union leagues and league service corporations, national credit union trade associations and their affiliates and service organizations, and local, state, and national special interest credit union associations and organizations.

* * * * *

15. Amend § 704.19 by revising paragraph (b) and removing paragraph (c) as follows:

§ 704.19 Wholesale corporate credit unions.

* * * * *

(b) *Capital.* A wholesale corporate credit union will maintain a minimum RUDE ratio of 1 percent.

16. Revise appendix A to part 704 as follows:

Appendix A to Part 704—Model Forms

This appendix contains sample forms intended for use by corporate credit unions to aid in compliance with the membership capital account and paid-in capital disclosure requirements of § 704.2.

SAMPLE FORM 1

Terms and Conditions of Membership Capital Account

(1) A membership capital account is not subject to share insurance coverage by the NCUSIF or other deposit insurer.

(2) A membership capital account is not releasable due solely to the merger, charter conversion or liquidation of the member credit union. In the event of a merger, the membership capital account transfers to the continuing credit union. In the event of a charter conversion, the membership capital account transfers to the new institution. In the event of liquidation, the membership capital account may be released to facilitate the payout of shares with the prior written approval of NCUA.

(3) A member credit union may withdraw membership capital with three years' notice.

(4) Membership capital cannot be used to pledge borrowings.

(5) Membership capital is available to cover losses that exceed reserves and undivided earnings and paid-in capital.

(6) Where the corporate credit union is liquidated, membership capital accounts are payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF.

(7) Where the corporate credit union is merged into another corporate credit union the membership capital account shall transfer to the continuing corporate credit union. The three-year notice period for withdrawal of the membership capital account will remain in effect.

(8) {**If an adjusted balance account**}**:** The membership capital balance will be adjusted __(1 or 2)__ time(s) annually in relation to the member credit union's ____(assets or other measure)____ as of __(date(s))____. {**If a term certificate**}**:** The membership capital account is a term certificate that will mature on __(date)__.

When an account is opened, the notice must also contain the following statement:

I have read the above terms and conditions and I understand them.

I further agree to maintain in the credit union's files the annual notice of terms and conditions of the membership capital account.

The notice form must be signed by either all of the directors of the member credit union or, if authorized by board resolution, the chair and secretary of the board of the credit union.

The annual disclosure notice form must be signed by the chair of the corporate credit union. The chair must then sign a statement that certifies that the notice has been sent to member credit unions with membership capital accounts. The certification must be maintained in the corporate credit union's files and be available for examiner review.

SAMPLE FORM 2

Terms and Conditions of Paid-In Capital

(1) A paid-in capital account is not subject to share insurance coverage by the NCUSIF or other deposit insurer.

(2) A paid-in capital account is not releasable due solely to the merger, charter conversion or liquidation of the member credit union. In the event of a merger, the paid-in capital account transfers to the continuing credit union. In the event of a charter conversion, the paid-in capital account transfers to the new institution. In the event of liquidation, the paid-in capital account may be released to facilitate the payout of shares with the prior written approval of NCUA.

(3) The funds are callable only at the option of the corporate credit union and only if the corporate credit union meets its minimum required capital and NEV ratios after the funds are called.

(4) Paid-in capital cannot be used to pledge borrowings.

(5) Paid-in capital is available to cover losses that exceed reserves and undivided earnings.

(6) Where the corporate credit union is liquidated, paid-in capital accounts are payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF, and membership capital holders.

(7) Where the corporate credit union is merged into another corporate credit union the paid-in capital account shall transfer to the continuing corporate credit union.

(8) Paid-in capital is perpetual maturity {**or**} Paid-in capital is a term account with a maturity of ____(at least 20)____ years.

When a paid-in capital instrument is created, the notice must also contain the following statement:

I have read the above terms and conditions and I understand them.

I further agree to maintain in the credit union's files the annual notice of terms and conditions of the paid-in capital instrument.

The notice form must be signed by either all of the directors of the credit union or, if authorized by board resolution, the chair and secretary of the board of the credit union.

The annual disclosure notice form must be signed by the chair of the corporate credit union. The chair must then sign a statement that certifies that the form has been sent to credit unions with paid-in capital accounts. The certification must be maintained in the corporate credit union's files and be available for examiner review.

17. Revise appendix B to part 704 as follows:

Appendix B to Part 704—Expanded Authorities and Requirements

A corporate credit union may obtain all or part of the expanded authorities contained in this section if it meets all of the requirements of this part 704, fulfills additional management, infrastructure, and asset and liability requirements, and receives NCUA's written approval. The additional requirements and authorities are set forth in this Appendix and in the NCUA publication *Guidelines for Submission of Requests for Expanded Authority.*

A corporate credit union seeking expanded authorities must submit to NCUA a self-assessment plan supporting its request. A corporate credit union may adopt expanded authorities when NCUA has provided final approval. If NCUA denies a request for expanded authorities, it will advise the corporate of the reasons for the denial and what it must do to resubmit its request. NCUA may revoke these expanded authorities at any time if an analysis indicates a significant deficiency. NCUA will notify the corporate credit union in writing of the identified deficiency. A corporate credit union may request, in writing, reinstatement of the revoked authorities by providing a self-assessment plan detailing how it has corrected the deficiencies.

Minimum Requirements

In order to participate in any of the authorities set forth in Base-Plus, Part I, Part II, Part III, Part IV, and Part V of this Appendix, a corporate credit union must:

(a) Evaluate monthly the changes in NEV and the NEV ratio for the tests set forth in § 704.8(d)(1)(i); and

(b) Update its self-assessment plan for approved expanded authorities annually.

Base-plus

A corporate which has met the minimum requirements for this Base-plus may in performing the rate stress tests set forth in § 704.8(d)(1)(i), allow its NEV to decline as much as 15 percent.

Part I

(a) A corporate credit union which has met the minimum requirements for this Part I may:

(1) Purchase long-term investments rated no lower than A– (or equivalent);

(2) Purchase short-term investments rated no lower than A–2 (or equivalent), provided that the issuer has a long-term rating no lower than A– (or equivalent);

(3) Engage in short sales of permissible investments to reduce interest rate risk;

(4) Purchase principal only (PO) stripped mortgage-backed securities to reduce interest rate risk;

(5) Enter into a dollar roll transaction; and

(6) Engage in trading securities including pair-off transactions and when-issued trading, when accounted for on a trade date basis.

(b) Aggregate investments in repurchase and securities lending agreements with any one counterparty are limited to 300 percent of capital.

(c) In performing the rate stress tests set forth in § 704.8(d)(1)(i), the NEV of a corporate credit union which has met the requirements of this Part I may decline as much as:

(1) 15 percent; or

(2) 20 percent if the corporate credit union has a 5 percent minimum capital ratio and is specifically approved by NCUA.

(d) The maximum aggregate amount in unsecured loans and lines of credit to any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 100 percent of the corporate credit union's capital. The board of directors will establish the limit, as a percent of the corporate credit union's capital plus pledged shares, for secured loans and lines of credit.

Part II

(a) A corporate credit union, which has met the minimum requirements for this Part II, may:

(1) Purchase long-term investments rated no lower than BBB (flat) (or equivalent);

(2) Purchase short-term investments rated no lower than A–2 (or equivalent), provided that the issuer has a long-term rating no lower than BBB (flat) (or equivalent);

(3) Engage in short sales of permissible investments to reduce interest rate risk;

(4) Purchase principal only (PO) stripped mortgage-backed securities to reduce interest rate risk;

(5) Enter into a dollar roll transaction; and

(6) Engage in trading securities including pair-off transactions and when-issued trading, when accounted for on a trade date basis.

(b) Aggregate investments in repurchase and securities lending agreements with any one counterparty are limited to 400 percent of capital.

(c) In performing the rate stress tests set forth in § 704.8(d)(1)(i), the NEV of a corporate credit union, which has met the requirements of this Part II, may decline as much as:

(1) 15 percent;

(2) 20 percent if the corporate credit union has a 5 percent minimum capital ratio and is specifically approved by NCUA; and

(3) 30 percent if the corporate credit union has a 6 percent minimum capital ratio and is specifically approved by NCUA.

(d) The maximum aggregate amount in unsecured loans and lines of credit to any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 100 percent of the corporate credit union's capital. The board of directors must establish the limit, as a percent of the corporate credit union's capital plus pledged shares, for secured loans and lines of credit.

Part III

(a) A corporate credit union, which has met the minimum requirements of either Part I or Part II of this Appendix and the additional requirements for Part III, may invest in:

(1) Debt obligations of a foreign country; and

(2) Deposits in, the sale of federal funds to, and debt obligations of foreign banks or obligations guaranteed by these banks.

(b) All foreign investments are subject to the following requirements:

(1) Short-term investments must be rated no lower than A–1 (or equivalent);

(2) Long-term investments must be rated no lower than AA– (or equivalent);

(3) A sovereign issuer, and/or the country in which a bank issuer/guarantor is organized, must have a long-term foreign currency (non-local currency) debt rating no lower than AA– (or equivalent);

(4) A bank issuer/guarantor must be rated no lower than AA–;

(5) For each approved foreign bank line, the corporate credit union must identify the specific banking centers and branches to which it will lend funds;

(6) Obligations of any single foreign issuer/guarantor may not exceed 50 percent of capital; and

(7) Obligations in any single foreign country may not exceed 250 percent of capital.

Part IV

(a) A corporate credit union, which has met the requirements for this Part IV, may enter into derivative transactions specifically approved by NCUA to:

(1) Create structured products;

(2) Manage its own balance sheet; and

(3) Hedge the balance sheet of its credit union members.

(b) All derivative transactions are subject to the following requirements:

(1) If the counterparty is domestic, the counterparty rating can be no lower than the minimum rating for comparable term permissible investments.

(2) If the counterparty is foreign, the counterparty rating can be no lower than the minimum rating for comparable term permissible investments under Part III Authority.

Part V

A corporate credit union, which has met the requirements for this Part V, may participate in loans with member natural person credit unions as approved by NCUA and subject to the following limitations:

(a) The maximum aggregate amount of participation loans with any one member credit union shall not exceed 25 percent of capital; and

(b) The maximum aggregate amount of participation loans with all member credit unions shall not exceed 100 percent of capital.

[FR Doc. 01–23290 Filed 9–20–01; 8:45 am]

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Federal Register

Friday,
September 21, 2001

Part III

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 1280
Lamb Promotion, Research, and Information Order; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1280

[No. LS–01–12]

RIN 0581–AC06

Lamb Promotion, Research, and Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is seeking comments regarding the establishment of an industry-funded promotion, research, and information program for lamb and lamb products including pelts but excluding wool and wool products. In response to an invitation published in the **Federal Register** to submit proposals for a Lamb Promotion, Research, and Information Order (Order), the AMS received an entire industry proposal as well as two other partial proposals. With modifications, the full industry proposal and two partial proposals are set forth below for public comment. All comments will be considered before we issue a final rule establishing an Order.

Under the proposed program lamb producers, seedstock producers, feeders, and exporters would pay an assessment of one-half cent ($.005) per pound when live lambs are sold. The first handler, primarily packers, would pay an additional 30 cents per head of lambs purchased by the first handler for slaughter. The first handler would remit the total amount of assessment due to the proposed Lamb Promotion, Research, and Information Board (Board). The proposed program would be implemented under the Commodity Promotion, Research, and Information Act of 1996 and would apply to all sales of sheep and lambs.

DATES: Comments must be received by November 20, 2001.

ADDRESSES: Send a copy of your comments to Ralph Tapp, Chief; Marketing Programs Branch, Room 2627–S; Livestock and Seed Program, AMS, USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250–0251. Comments will be submitted and made available for public inspection at the above address during regular business hours. Comments may also be submitted electronically to: *Ralph.tapp@usda.gov* or by fax at 202/720–1125. All comments should reference the docket number (LS–01–12), the date, and the page number of this issue of the **Federal Register**.

Pursuant to the Paperwork Reduction Act (PRA), send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information to the above address. Comments concerning the information collection under the PRA also should be sent to the Desk Officer for Agriculture; Office of Information and Regulatory Affairs; Office of Management and Budget (OMB); Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch; telephone 202/720–1115, fax 202/720–1125, or e-mail at *Ralph.Tapp@usda.gov.*

SUPPLEMENTARY INFORMATION: This proposed Order is issued pursuant to the Commodity Promotion, Research, and Information Act of 1996, 7 U.S.C. 7401–7425; Public Law 104–127, enacted April 4, 1996, hereinafter referred to as the Act.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the Act provides that the Act shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the Act, a person subject to the Order may file a petition with the Secretary stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with the law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed within 2 years after the effective date of the Order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Secretary of Agriculture (Secretary) will issue a ruling on a petition. The Act provides that the district court of the United States for any district in which the petitioner resides or carries on business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's final ruling.

Executive Order 12866

This proposed rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency is required to examine the impact of the proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

The Act authorizes generic programs of promotion, research, and information for agricultural commodities. Congress found that it is in the national public interest and vital to the welfare of the agricultural economy of the United States to maintain and expand existing markets and develop new markets and uses for agricultural commodities through industry-funded, Government-supervised, generic commodity promotion programs.

This Order is intended to develop and finance an effective and coordinated program of promotion, research, and information to maintain and expand the markets for lamb and lamb products. In response to invitations to submit proposals published in the **Federal Register** November 23, 1999 (64 FR 65665) and January 12, 2000 (65 FR 1825), a proposed Order developed by the Lamb Industry Checkoff Exploration Team was submitted by the American Sheep Industry Association (ASI) (Proponent I). Proponent I proposed a program assessing lamb producers, feeders, first handlers, and seedstock producers.

While the proposed Order would impose certain recordkeeping and reporting requirements on persons subject to the Order, the information required under the proposed Order could be compiled from records currently maintained. First handlers and exporters would collect and remit the assessments on lambs to the Board. Their responsibilities would include accurate recordkeeping and accounting of the number of lambs purchased, the names of the producers, seedstock producers, and feeders, and the purchase date. Required reporting forms require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the Act. Such records and reports shall be retained for at least 2 years beyond the fiscal year of their applicability. These requirements are already being

conducted as a normal business practice. In addition, a person who is a market agency; *i.e.* commission merchant, auction market, or livestock market in the business of receiving lambs for sale on commission for or on behalf of a producer, seedstock producer, or feeder would be required to collect an assessment and pass the collected assessments on to the subsequent purchaser. There would be a minimal burden on persons who are market agencies. It is not anticipated that they would be required to submit records of their transactions involving lamb purchases and the required assessment collection to the Board. Information on such transactions could be obtained through an audit of the market agencies' records. Such records are already being maintained as a normal business practice. This would include such records or documents that evidence payment of an assessment pursuant to the requirements in § 1280.225(b).

In addition, first handlers of lambs who seek nomination to serve on the Board would be required to complete a nomination form that would be submitted to the Secretary.

The added burden to first handlers and exporters for a lamb promotion, research, and information program is therefore minimal.

There is also a minimal burden on producers, seedstock producers, and feeders. The burden relates to those producers, seedstock producers, and feeders who would seek nomination to serve on the Board, request a refund of assessments paid, and vote in referenda. In addition, the proposed Order would require producers, seedstock producers, and feeders to provide information to the Board or the Secretary when requested and to keep records to qualify for a refund. However, it is not anticipated that producers, seedstock producers, and feeders would be required to regularly submit assessment forms to the Board. In some instances, as part of the Board's compliance operation, the information would be obtained through an audit of producer's, seedstock producer's, or feeder's records to confirm information provided by a first handler or if a first handler did not file the required reports. When seeking nomination to serve on the Board, producers, seedstock producers, feeders, and first handlers would be required to complete one form that would be submitted to the Secretary by a certified organization to make nominations.

The estimated annual cost of providing the required information to the Board by an estimated 71,039 respondents (51,800 producers, 15,000 seedstock producers, 3,318 market agencies, 571 first handlers, 100 feeders, and 15 exporters) would be $993,388 or $13.98 per respondent.

If the program is implemented, the Department would oversee program operations and conduct a referendum not later than 3 years after assessments first begin under this part. Subsequent referenda would be conducted (1) not later than 7 years after assessments first begin to determine whether lamb producers, seedstock producers, feeders, first handlers, and exporters support continuation of the program, (2) at the request of the Board established under the Order, or (3) at the request of 10 percent or more of the number of persons eligible to vote in referenda. Additionally, the Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the Order or a provision of the Order is favored by those eligible to vote in the referendum.

There are approximately 51,800 producers, 15,000 seedstock producers, 100 feeders, 571 first handlers, and 15 exporters of lamb who would be subject to the program. Most of the lamb producers, seedstock producers, feeders, and exporters would be classified as small businesses under the criteria established by the Small Business Administration (SBA) (13 CFR 121.201). Most first handlers would not be classified as small businesses. SBA defines small agricultural handlers as those whose annual receipts are less than $5 million and small agricultural producers are defined as those having annual receipts of less than $750,000 annually.

To compete against rising foreign imports and flat domestic demand, the domestic lamb industry has proposed a promotion and research checkoff program to improve production efficiency and promote consumption.

The domestic lamb industry is composed of two groups: lamb producers and lamb packers and processors. Domestic lamb producers can be further divided into three groups: (1) breeders of purebred sheep and lambs used for breeding purposes, (2) commercial market producers who maintain sheep flocks to produce lambs for feeding and slaughter, and (3) commercial feed lot operators who feed lambs until ready for slaughter. The groups overlap and firms often perform two or more operations. Although many sheep production operations are located in the east, the majority of sheep are concentrated in the western and corn belt States. In the west and southwest, sheep production can be the most productive use of the land in some areas.

Packers and processors are the second component of the domestic lamb industry. Lamb packers are companies that slaughter lambs. Most packers also slaughter one or more other types of livestock. This part of the industry includes eight federally inspected firms accounting for 96 percent of the domestically slaughtered sheep and lambs. Processors, along with some packers, break lamb carcasses in to different cuts. There are less than 10 major processing firms and, like the packers, only a small portion of their operations are devoted to processing lamb.

Domestic lamb producers have been competing with surging foreign lamb imports. Between 1993 and 1997, lamb imports increased by 49.3 percent from 56.5 million pounds to 84.4 million pounds. The greatest increase in imports occurred during the period 1996 through 1997, when imports rose by 18.5 percent. Imports in 1998 were 30 percent above those in 1997, and imports in the first quarter of 1999 were 10 percent above those in the first quarter of 1998. As measured by quantity, imports captured 23.3 percent of the domestic market in January through September 1998, up from 11.2 percent in 1993. The loss of market share is magnified by the fact that domestic per capita lamb meat consumption dropped from 1.3 pounds in 1993 to 1.1 pounds in 1995 where it remained through 1997.

Increasingly, imports have shifted away from frozen, unprocessed carcasses to value-added product categories. In 1993, fresh or chilled lamb meat accounted for only 20 percent of imports. By 1997, the figure had doubled to 40 percent. Processed lamb, particularly boneless cuts, have replaced lamb carcasses. Carcasses represented only 3 percent of 1997 imports whereas bone-in and boneless boxed lamb cuts accounted for 66.8 percent and 30.2 percent, respectively, of the carcass-equivalent volume of imported lamb meat. Between January 1993 and June 1998, prices on imported Australian and New Zealand lamb, which account for virtually all imported lamb, were anywhere from 9.4 percent to 70.3 percent less expensive than domestic products.

With the increase in lamb imports, the domestic production, packing and processing of lamb has dropped significantly. Domestic lamb meat production declined by 26 percent from 326.7 million pounds in 1993 to 243 million pounds in 1999. Production was down 3 percent in May of 2000

compared to the same period in 1999. Domestic producers share of the net sales value on lamb has also declined with imports representing 30.7 percent in January through September 1998, up from 11.2 percent in 1993. The number of domestic lamb producers has decreased from 93,280 in 1993 to 74,710 in 1997, a 20 percent decline. With an estimated 2.2 workers per operation, the decline in lamb producers translates into a drop in workers from 205,216 in 1993 to 164,362 in 1997. Federally inspected sheep and lamb slaughtering plants have declined from 711 to 571. Only 9 plants can slaughter more than 100,000 sheep and lambs annually. One was closed in 1995 and another was closed in 1998.

Imports have also affected prices and sales. Direct prices for slaughter lambs dropped by 25 percent between the first quarter of 1997 and the first quarter of 1998. During the second quarter of 1998, direct prices were 17.6 percent lower than prices during the same period in 1997. Similarly, for the same periods, auction prices fell by 20.5 percent and 14.9 percent, respectively. For packers, prices on carcasses dropped 30.8 percent between September 1997 and April 1998.

In response to the surge in imports, domestic producers along with packers and processors filed a petition with the International Trade Commission (ITC) seeking import relief. ITC conducted an investigation (Investigation No. TA 201–68) and found that imports have depressed prices and sales of domestic lamb causing serious harm to domestic producers' financial conditions (ITC Publication 3176, April 1999). It also found that although there is evidence that U.S. consumers prefer domestically produced lamb, domestic producers engage in little or no promotion. In recommending relief, a majority of the commissioners stressed the need for an industry marketing program supported by checkoff funds to improve production and efficiency and increase demand.

Because of the decline in the domestic lamb industry caused by imports and flat demand, domestic producers are seeking ways to reverse this trend. A checkoff program to promote and market domestic lamb products is one way this could be accomplished. A coordinated promotion and marketing effort would help domestic producers compete more effectively against imports while increasing demand for lamb. It would also permit domestic producers to fund projects to develop more effective and efficient production processes. More efficient production along with increased demand would lead to higher, more stable prices for producers, packers, and processors.

The proposed Order would authorize a fixed assessment paid by producers, seedstock producers, exporters, and feeders at a rate of one-half cent ($.005) per pound of live lamb sold. In addition to the $.005 per pound assessment on live lambs, first handlers would remit to the Board $.30 per head on all slaughter lambs.

At the proposed rate of assessment of one-half cent ($.005) per pound of live lamb sold and the additional $.30 paid by packers on slaughter lambs, the Board would collect approximately $3 million annually. It is expected that the assessment would represent less than 1 percent of producers' average return.

The program would be administered by a Lamb Promotion, Research, and Information Board appointed by the Secretary from industry nominations. The Secretary would certify industry organizations that would nominate producers, seedstock producers, feeders, and first-handlers to serve as members on the Board. The Board would recommend the assessment rate, programs and projects, budgets, and any rules and regulations that might be necessary for the administration of the program.

The Board would consist of 12 members: six producer representatives (three from each of the two regions), three feeder representatives, two first handlers, and one seedstock producer. The members primarily would be nominated by eligible regional, State, and national organizations within the respective regions that are certified by the Secretary.

Proposed recordkeeping and reporting requirements for the lamb promotion, research, and information program would be designed to ensure compliance and generate the data necessary for the effective conduct of the program.

The estimated annual cost of providing information to the Board by an estimated 71,039 respondents (51,800 producers, 15,000 seedstock producers, 3,318 market agencies, 571 first handlers, 100 feeders, and 15 exporters) would be $993,388 or $13.98 per respondent.

With regard to alternatives to this proposed rule, the Act itself provides authority to tailor a program according to the individual needs of an industry. Section 514 of the Act provides for orders applicable to producers, first handlers, and other persons in the marketing chain as appropriate. Provision is made for permissive terms in an order in § 516 of the Act and authorizes an Order to provide for coverage of research, promotion, and information activities to expand, improve, or make more efficient the marketing or use of an agricultural commodity in both domestic and foreign markets; provision for assessing imports; provision for reserve funds; and provision for credits for generic and branded activities. In addition, § 518 of the Act provides for a referendum to ascertain approval of an Order to be conducted either prior to its going into effect or within 3 years after assessments first begin under the Order. An Order also may provide for its approval in a referendum to be based upon (1) a majority of those persons voting; (2) persons voting for approval who represent a majority of the volume of the agricultural commodity; or (3) a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity. Section 515 of the Act provides for establishment of a board from among producers, first handlers, feeders, and others in the marketing chain as appropriated.

This proposal includes provisions for domestic expansion and improvement, reserve funds, and a delayed referendum. Approval would be based upon the majority of those persons voting for approval who also represent a majority of the volume of lambs produced, slaughtered, or exported during the representative period established by the Secretary.

We have not identified any relevant Federal rules that are currently in effect that duplicate, overlap, or conflict with this rule. While we have performed this Initial Regulatory Flexibility Analysis regarding the impact of this proposed Order on small entities, in order to obtain all the data necessary for a comprehensive analysis, we invite comments concerning potential effects of the proposed Order. In particular, we are seeking information on the number of first handlers, producers, seedstock producers, feeders, and exporters that would be covered by the program. In addition, we are interested in more information on the number and kind of small entities that may incur benefits or costs from implementation of the proposed Order and information on expected benefits or cost.

Paperwork Reduction Act

In accordance with OMB regulation (5 CFR part 1320) that implements the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that may be imposed by this Order have been submitted to OMB for approval.

Title: Lamb Promotion, Research and Information Order.

OMB Number for Background Form (Number 1 Below): 0505–0001.

Expiration Date of Approval: July 31, 2002.

OMB Number for Other Information Collections: New collection.

Expiration Date of Approval: 3 years from date of approval.

Type of Request: Approval of new information collection.

Abstract: The information collection requirements in the request are essential to carry out the intent of the Act.

Under the proposed program, first handlers and exporters would be required to collect assessments from producers and submit the required reports and remit assessments to the Board. Persons who are market agencies would be required to collect an assessment and pass the collected assessments on to the subsequent purchaser. It is not anticipated that they would be required to submit records of their transactions involving lamb purchases and the required assessment collection to the Board. While the proposed Order would impose certain recordkeeping requirements on persons subject to the Order, information required under the proposed Order could be compiled from records currently maintained. Such records would be retained for at least 2 years beyond the fiscal year of their applicability. The estimated annual cost of providing the information to the Board by an estimated 71,039 respondents (51,800 producers, 15,000 seedstock producers, 3,318 market agencies, 571 first handlers, 100 feeders, and 15 exporters) would be $993,388 or $13.98 per respondent. Each first handler and exporter responsible for the collection of assessments and remittance of the assessments to the Board, would do so by the 15th day of the month following the month in which lambs were purchased for slaughter, exported, or lambs or lamb products were marketed directly to a consumer. It is anticipated that the bulk of assessments would be submitted to the Board by first handlers who purchased lambs for slaughter. A person such as a producer or feeder is considered a first handler when that person markets lamb or lamb products of their own production directly to a consumer.

The proposed Order's provisions have been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements.

The proposed forms would require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the Act. Such information can be supplied without data processing equipment or outside technical expertise. In addition, there are no additional training requirements for individuals filling out reports and remitting assessments to the Board. The forms would be simple, easy to understand, and place as small a burden as possible on the person required to file the information.

The timing and frequency of collecting information are intended to meet the needs of the industry while minimizing the amount of work necessary to fill out the required reports. In addition, the information to be included on these forms is not available from other sources because such information relates specifically to individual producers and first handlers who are subject to the provisions of the Act.

Therefore, there is no practical method for collecting the required information without the use of these forms.

Information collection requirements that are included in this proposal include:

(1) *Background Information Form.*

Estimate of Burden: Public reporting for this collection of information is estimated to average 0.5 hours per response for each producer, feeder, seedstock producer, and first handler nominated to serve on the Board.

Respondents: Producers, seedstock producers, feeders, and first handlers.

Estimated number of Respondents: 8 (24 for initial nominations to the Board, 8 in the second year, and 8 in the third year).

Estimated number of Responses per Respondent: 1 every 3 years.

Estimated Total Annual Burden on Respondents: 12 hours for the initial nominations to the Board and 4 hours annually thereafter.

Total Cost: $240 initial, $80 thereafter.

(2) *Requirement To Maintain Records Sufficient to Verify Reports and Requests for Refunds Submitted Under the Order.*

Estimate of Burden: Public recordkeeping burden for keeping this information is estimated to average 0.6 hours per record keeper maintaining such records.

Recordkeepers: Producers, seedstock producers, feeders, market agencies, first handlers, and exporters.

Estimated number of Recordkeepers: 71,039.

Estimated Total Recordkeeping Hours: 42,623.4 hours.

Total Cost: $852,468.

(3) *Monthly Remittance Report Form.*

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per first handler and exporter.

Respondents: First handlers and exporters.

Estimated Number of Respondents: 586.

Estimated Number of Responses per Respondent: 12.

Estimated Total Annual Burden on Respondents: 7,032 hours.

Total Cost: $140,640.

(4) *Application for Refund Form.*

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: Producers, seedstock producers, first handlers, feeders, and exporters.

Estimated number of Respondents: 67,486.

Estimated Total Annual Burden: 16,871.5 hours.

Total Cost: $337,430.

(5) *Application for Certification of Organization Form.*

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: National, State, or regional lamb associations or organizations.

Estimated number of Respondents: 20.

Estimated number of Responses per Respondent: 1.

Estimated Total Annual Burden: 10 hours.

Total Cost: $200.

(6) *Nomination for Appointment to the Lamb Board Form.*

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: National, State, or regional lamb associations and organizations.

Estimated number of Respondents: 20.

Estimated number of Responses per Respondent: 1 per year.

Estimated Total Annual Burden: 10 hours.

Total Cost: $200.

(7) *Statement of Certification (Lamb Promotion, Research, and Information Order) (LS–83).*

Estimate of Burden: The Deputy Administrator or designee of AMS' Livestock and Seed Program will sign this form certifying eligible organizations to make nominations to

the Board. Because only AMS employees will complete this form, the estimated average reporting burden would not apply to the public.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the Order and the Department's oversight of the program, including whether the information will have practical utility; (b) the accuracy of Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments concerning the information collection requirements contained in this action should reference the Docket Number LS–01–12, together with the date and page number of this issue of the **Federal Register**. Comments should be sent to Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2627-S; Livestock and Seed Program, AMS, USDA; STOP 0251, 1400 Independence Avenue, SW., Washington, DC 20250–0251; by fax at 202/720–1125, or by e-mail at *Ralph.Tapp@usda.gov.* Comments should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, OMB, Washington, DC 20503. All comments received will be available for public inspection during regular business hours, 8 a.m. to 4:30 p.m. Eastern Time, Monday through Friday, at the same address.

OMB is required to make a decision concerning the collection of information contained in this rule between 30 days and 60 days after publication. Therefore, a comment to OMB is best assured of being considered if OMB receives it within 30 days after publication.

Background

The Act authorizes the Secretary to establish agricultural commodity research and promotion orders. The Act provides for the submission of proposals for a lamb promotion, research, and information order by industry organizations or any other interested persons affected by the Act. Section 516 of the Act provides permissive terms for orders, and other sections provide for alternatives. For example, § 514 of the Act provides for orders applicable to (1) Producers, (2) first handlers, (3) feeders and others in the marketing chain as appropriate. Section 516 authorizes an order to provide for exemption of de minimis quantities of an agricultural commodity; different payment and reporting schedules; coverage of research, promotion, and information activities to expand, improve, or make more efficient the marketing or use of an agricultural commodity in both domestic and foreign markets; provision for reserve funds; provision for credits for generic and branded activities; and assessment of imports. In addition, § 518 of the Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within 3 years after assessments first begin under the order. The Act authorizes three different voting methods for approving an order in a referendum. Section 515 provides for establishment of a board from among producers, seedstock producers, first handlers, feeders, and others in the marketing chain as appropriate.

This proposed Order includes provisions for both domestic and foreign market expansion and improvement, reserve funds, and a delayed referendum to be conducted within 3 years after assessments begin. The Order would be continued if approved the referendum by a majority of those persons voting who also represent a majority of the volume of lambs represented in the referendum.

Proponent I has requested the establishment of a national Lamb Promotion, Research, and Information Order pursuant to the Act. The Act authorizes the establishment and operation of generic promotion programs that may include a combination of promotion, research, and information activities funded by mandatory assessments. These programs are designed to maintain and expand markets and uses for agricultural commodities. This proposal would provide for the development and financing of an effective and coordinated program of research, promotion, and information for lamb and lamb products. The purpose of the program would be to strengthen the position of lamb and lamb products in domestic and foreign markets, and to develop, maintain, and expand markets for lamb and lamb products. The program would become effective following issuance of a final order with continuance subject to its approval in a delayed referendum conducted by the Department. Section 518 of the Act provides for the Department (1) to conduct a required referendum, preceding a proposed Order's effective date, among persons who would be subject to assessments under the program or (2) to implement a proposed Order, pending the conduct of a referendum, among persons subject to assessments, within 3 years after assessments first begin. In accordance with § 518(e) of the Act, an Order may provide for its approval in a referendum based upon (1) a majority of those persons voting; (2) persons voting for approval who represent a majority of the volume of the agricultural commodity; or (3) a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity. Proponent I has recommended that a delayed referendum be conducted using the third approval option. Thus, the Secretary would conduct a referendum within 3 years after assessments first begin, in which approval of the Order would be determined by a majority of persons voting for approval who also represent a majority of the volume of lamb production represented in the referendum. The Act also requires the Secretary to conduct subsequent referenda: (1) Not later than 7 years after assessments first begin under the Order; (2) at the request of the Board established under the Order; or (3) at the request of 10 percent or more of the number of persons eligible to vote. In addition to these criteria, the Act provides that the Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the Order or a provision of the Order is favored by persons eligible to vote.

The proposed Order also contains provisions that would allow persons to request a refund of assessments paid during the period beginning on the effective date of the Order and ending on the date the Secretary announces the results of the required referendum. The refunds would be paid from an escrow account established by the Board as provided for in § 1280.214(c). Persons who filed a request for refunds during the specified time period would be entitled to a refund of assessments paid from the effective date of the Order until the Secretary announces the results of the referendum. If the amount in the escrow fund is less than the total refunds demanded, persons entitled to a refund would receive a pro rata share.

A national research and promotion program for lamb would help the industry to address the many market problems it currently faces. Domestic lamb producers have been competing with surging foreign lamb imports, competition from other meat and poultry, and changing consumer meat buying preferences. Between 1993 and

1997, lamb imports increased by 49.3 percent from 56.5 million pounds to 84.4 million pounds. Imports in 1996 through 1997, which had the largest increase, rose by 18.5 percent. Imports in 1998 were 30 percent above those in 1997, and imports in the first quarter of 1999 were 10 percent above those in the first quarter of 1998. As measured by quantity, imports captured 23.3 percent of the domestic market in January through September 1998, up from 11.2 percent in 1993. The loss of market share is magnified by the fact that domestic per capita lamb meat consumption dropped from 1.3 pounds in 1993 to 1.1 pounds in 1995 where it remained through 1997.

Increased funding would allow the industry to expand its current consumer, food service, and food manufacturer promotion efforts. Also it would allow for increased participation in the Department's Market Access Program and the opportunity to develop stronger markets overseas. In addition, such a program would create the opportunity to explore tie-in promotional activities with nationally branded food products that would help the lamb industry gain advertising and in-store exposure.

The assessment levied on domestically-produced lamb would be used to pay for promotion, research, and information as well as administration, maintenance, and functioning of the Board. Expenses incurred by the Secretary in implementing and administering the Order, including referenda costs, also would be paid from assessments.

Sections 516(e)(1) and (2) of the Act states that the Secretary may provide credits of assessments for generic and branded activities. The proponents have elected not to propose credits for generic or branded activities. Therefore, the terms generic activities and branded activities are not defined in the Order.

First handlers and exporters would be responsible for the collection of assessments and remittance of assessments to the Board. First handlers and exporters would be required to maintain records of lambs purchased from each producer, seedstock producer, and feeder, by the first handler or exporter, including lambs produced or fed by the first handler or exporter. First handlers and exporters would be required to file reports regarding the collection, payment, and remittance of the assessments. In addition, a person who is a market agency; i.e. commission merchant, auction market, or livestock market in the business of receiving lambs for sale on commission for or on behalf of a producer, seedstock producer, or feeder would be required to collect the assessment and pass the collected assessments on to the subsequent purchaser.

All information obtained from persons subject to this Order as a result of recordkeeping and reporting requirements would be kept confidential by all officers, employees, and agents of the Department and of the Board. This information may be disclosed only if the Secretary considers the information relevant, and the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party. Other exceptions for disclosure of confidential information would include the issuance of general statements based on reports or on information relating to a number of persons subject to an order if the statements do not identify the information furnished by any person, or the publication, by direction of the Secretary, of the name of any person violating the Order, and a statement of the particular provisions of the Order violated by the person.

The Act requires that a proposed Order provide for the establishment of a board to administer the program under Department supervision. Proponent I's proposal provided for a 12-member Board to ensure fair and equitable representation of the lamb industry on the Board. The Act requires membership on the Board to reflect the geographical distribution of the production of lamb and lamb products. To that end, the proposed Order would divide the United States into two geographic regions with three lamb producers on the Board from each region. There would be three lamb feeder members on the Board. One feeder would feed less than 5,000 lambs annually and two would feed more than 5,000 lambs annually. Two first handlers and one seedstock producer would be appointed as members of the Board. Members would serve for 3-year terms, except that the members appointed to the initial Board would serve proportionately for 1, 2, and 3 years. No member would serve more than two consecutive 3-year terms.

Upon implementation of the Order and pursuant to the Act, the Board would at least once in each 5-year period, but not more frequently than once in each 3-year period, review the geographical distribution of lamb in the United States and make a recommendation to the Secretary after considering the results of its review and other information it deems relevant regarding the reapportionment of the Board.

In response to the invitation to submit proposals, Proponent I submitted a proposed Order. In addition, two partial proposals were submitted—one partial proposal from the National Lamb Feeders Association and one from the U.S. Seedstock Alliance.

Proponent I submitted a comprehensive Order. It contains sections embodying the provisions discussed above as well as provisions required by the statute and administrative provisions similar to those found appropriate or necessary under other promotion or marketing orders.

Proposal I

The proposed Order submitted by the American Sheep Industry Association is summarized as follows: Sections 1280.101 through 1280.129 of the proposed Order define certain terms such as lamb, producer and first handler, which are used in the proposed Order.

Sections 1280.201 through 1280.211 include provisions relating to the Board. These provisions cover establishment and membership, nominations, nominee's agreement to serve, appointment, vacancies, certification of organizations, term of office, compensation, removal, prohibited activities, and powers and duties of the Board, which is the governing body authorized to administer the Order through the implementation of programs, plans, projects, budgets, and contracts to promote and disseminate information about lamb and lamb products, subject to oversight of the Secretary.

Sections 1280.212 through 1280.216 cover budget and expenses; require the Board to submit a budget for the fiscal year covering anticipated expenses and disbursements, investment of funds, escrow accounts, refunds, and procedures for obtaining a refund.

Sections 1280.217 through 1280.221 cover lamb purchases and authorize the collection of assessments; specify limitations on the use of funds; and specify who pays the assessment and how.

Sections 1280.222 through 1280.227 cover maintaining books and records, accounting for the receipt and disbursement of all funds; reports from each first handler to the Board including the number of lambs purchased and amount remitted, and use and confidentiality of information. Also, every 5 years, the Board funds an independent evaluation of the program.

Sections 1280.228 through 1280.236 discuss the rights of the Secretary; personal liability; separability; patents, copyrights, inventions, product formulations, and publications; amendments; referenda, which would be delayed (required referenda); suspension or termination; proceedings after termination; and effects of termination or amendment.

The Department has modified the proposal in order to (1) make it consistent with the Act and other similar national research and promotion programs supervised by the Department, (2) simplify the language and format of some provisions, and (3) add certain sections necessary for proper administration of the Order by the Department.

A definition of lamb products was added for clarity and consistency with other similar programs. Definitions for Order, Suspend and Terminate were added to maintain consistency with the Act. A definition of conflict of interest was added for clarity. The definition for collecting person was deleted as it was not necessary given the specificity in other provisions of the order. In the definition for ''Promotion'' some minor adjustments were made for clarity.

Section 1280.201 Establishment and membership, has an additional subsection (c), ''Adjustment of membership,'' which provides for reapportionment of the Board.

Section 1280.202 ''Nominations'' was edited to mirror the language in the Act, for consistency with other national research and promotion programs, and for clarity.

Section 1280.205, ''Initially established Board,'' from the proposed Order was deleted and combined with § 1280.202 ''Nominations'' in the modified proposed Order.

Section 1280.208 ''Term of office,'' from the submitted proposed Order was modified to conform to language in the Act.

Section 1280.210 ''Powers and duties of the board'' was edited, organized, and modified to be more consistent with other national research promotion programs and the Act.

In the table of contents and the regulatory text, ''Assessments'' was included as the undesignated center heading for § 1280.217 through § 1280.221. ''Expenses'' was included as the undesignated center heading for § 1280.212 through § 1280.216.

Section 1280.215, from the proposed Order, ''Use of assessments'' was deleted because it is covered in ''Powers and duties of the Board.''

Section 1280.216 ''Refund Escrow Accounts'' from the proposed Order was divided into two sections to enhance and clarify the escrow requirements in § 1280.214 ''Refund escrow accounts'' and the refund requirements in § 1280.215 ''Refunds.'' The refund requirements were adjusted to provide consistency in the payment of refunds whether the Order is approved or defeated in the referendum.

Section 1280.217 ''Lamb purchases'' was revised by adding paragraph (b) to exclude from assessment those persons who facilitate the transfer of ownership of lambs from the seller to a third party.

Section 1280.211 ''Prohibited activities'' was added to be consistent with the Act.

Section 1280.212 ''Budget and expenses'' was substituted for the separate sections ''Budgets'' and ''Expenses'' from the proposed Order for clarity and consistency with the Act.

Section 1280.222 ''Books and records of the board'' was added prior to ''Reports'' to be more consistent with the Act.

Section 1280.227 ''Confidentiality,'' was revised to be more consistent with other national research and promotion programs.

Proposal II

The National Lamb Feeders Association (NLFA) proposed definitions for feeder, producer, and seedstock producer. We have accepted this proposal for comment and identified it in § 1280.107, § 1280.116, and § 1280.122 in the regulatory section under Proposal II.

NLFA proposed that further explanation of certified organizations be incorporated to bring clarity to the process through which the Secretary certifies various organizations as qualified to make nominations to the Lamb Board. We have not accepted this proposal because Proposal I adequately addresses the process through which the Secretary would certify such organizations.

NLFA proposed that eligibility to vote in a referendum include proof of participation via an assessment deduction within the prior 12 months. We have not accepted this proposal because the Act gives the Secretary flexibility in determining the length of the representative period and eligibility to vote applies to the production or handling of the agricultural commodity covered by the order or the importation of the agricultural commodity.

NLFA proposed that under the establishment and membership of the Board, the Secretary be authorized to appoint only one feeder representative who annually feeds 5,000 or more head of lambs and to appoint two feeders who annually feed less than 5,000 head of lamb. We have accepted this proposal for comment and identified it in § 1280.201(a)(2)(i) and (ii) in the regulatory section under Proposal II.

NLFA proposed language that the collecting person would report the name of any person refusing to allow assessments to be collected and that the collecting person shall not be liable for the assessment. We have not accepted this proposal because § 517(a)(1) of the Act requires the first handler to remit assessments and this section does not provide for relieving first handlers of their responsibility to pay assessments.

NLFA proposed that to ensure adequate diversity and breadth of representation, the Secretary should not appoint more than four members nominated by a single organization. We did not accept this proposal because this could unduly restrict the Secretary from making appointments of Board members.

NLFA proposed that a subsequent referenda be held no later than 7 years after assessment begin and every 5th year thereafter. We have not accepted this proposal because the Act contains sufficient provisions for additional referenda. After the initial referendum, the Act allows for subsequent referenda at the request of the Board, at the request of 10 percent or more of the number of persons eligible to vote, or as the Secretary may direct.

Proposal III

The U.S. Sheep Seedstock Alliance proposed that the Order be approved in a referendum by a majority of those persons voting. We have accepted this proposal for comment and identified it in § 1280.233(a)(2) in the regulatory section under Proposal III.

The Department has also received letters from other interested parties. The Department did not consider these letters to be proposals because they primarily addressed information relating to sections already established under the Act. Copies of these letters, the three proposals, and the comments received in response to this proposed Order, will be available for public inspection.

On June 25, 2001, the United States Supreme Court issued a decision in the case of *United States* v. *United Foods, Inc.* (*United Foods*), that held that the imposition of mandatory assessments to fund generic mushroom advertising violated the First Amendment insofar as it required the mushroom industry to subsidize commercial speech with which they disagreed. The Court expressly declined to reach the question whether the generic advertising

conducted under the mushroom program constitutes government speech.

The Department will analyze all written views received to date as well as written comments on the three proposals published below before issuing a final Order.

List of Subjects in 7 CFR Part 1280

Administrative practice and procedure, Advertising, Lamb and Lamb product, Consumer information, Marketing agreements, Reporting and recordkeeping requirements.

The full proposal and two partial proposals set forth below have not received the approval of the Secretary.

For the reasons set forth in the preamble, it is proposed that Title 7 of Chapter XI of the Code of Federal Regulations be amended as follows:

PART 1280—LAMB PROMOTION, RESEARCH, AND INFORMATION ORDER

Proposal I

Subpart A—Lamb Promotion, Research, and Information Order

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Subpart D—[RESERVED]

Subpart E—[RESERVED]

Authority: 7 U.S.C. 7401–7425.

Subpart A—Lamb Promotion, Research, and Information Order

Definitions

§ 1280.101 Act.

Act means the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7401–7425; Pub. L. 104–127; 110 Stat. 1029, as amended), or any amendments thereto.

§ 1280.102 Board.

Board means the Lamb Promotion, Research, and Information Board established pursuant to § 1280.201.

§ 1280.103 Certified organization.

The term *certified organization* means any organization which has been certified by the Secretary pursuant to this part as being eligible to submit nominations for membership on the Board.

§ 1280.104 Conflict of Interest.

The term *conflict of interest* means a situation in which a member or employee of a board has a direct or indirect financial interest in a person that performs a service for, or enters into a contract with, a board for anything of economic value.

§ 1280.105 Department.

Department means the United States Department of Agriculture.

§ 1280.106 Exporter.

The term *exporter* means any person who exports domestic live lambs from the United States.

§ 1280.107 Feeder.

The term *feeder* means any person who acquires ownership of lambs and feeds such lambs in the U.S. until they reach slaughter weight.

§ 1280.108 First handler.

First handler means the packer or other person who buys or takes possession of lambs from a producer or feeder for slaughter, including custom slaughter. If a producer or feeder markets lamb products directly to consumers, the producer or feeder shall be considered to be a first handler with respect to such lambs produced by the producer or feeder.

§ 1280.109 Fiscal period and marketing year.

Fiscal period and marketing year means the 12-month period ending on December 31 or such other consecutive 12-month period as shall be recommended by the Board and approved by the Secretary.

§ 1280.110 Information.

Information means information and programs that are designed to increase efficiency in producing lambs, to maintain and expand existing markets, and to develop new markets, marketing strategies, increased market efficiency, and activities that are designed to enhance the image of lamb and lamb products on a national or international basis. These include: (a) Consumer information, which means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, and nutritional attributes of lamb and lamb products; and (b) Industry information, which means information and programs that will lead to the development of new markets, new marketing strategies, or increased efficiency for the lamb industry, and activities to enhance the image of lamb.

§ 1280.111 Lamb.

For purposes of this part, the term *lamb* means ovine animals of any age, including ewes and rams.

§ 1280.112 Lamb products.

The term *lamb products* means products produced in whole or in part from lamb, including pelts, and excluding wool and wool products.

§ 1280.113 Order.

Order means an order issued by the Secretary under § 514 of the Act that provides for a program of generic promotion, research, and information regarding agricultural commodities authorized under the Act.

§ 1280.114 Part and subpart.

Part means the Lamb Promotion, Research, and Information Order and all rules and regulations issued pursuant to the Act and the Order. The Order shall be a *subpart* of the Part.

§ 1280.115 Person.

The term *person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1280.116 Producer.

The term *producer* means any person who owns and produces lambs in the United States for sale.

§ 1280.117 Producer information.

The term *producer information* means activities designed to provide producers, feeders, and first handlers with information relating to production or marketing efficiencies, development of new markets, program activities, or other information that would facilitate an increase in the demand for lambs or lamb products.

§ 1280.118 Promotion.

Promotion means any action, including paid advertising and the dissemination of culinary and nutritional information and public relations with emphasis on new marketing strategies, to present a favorable image of U.S. lamb products to the public for the purpose of improving the competitive position of U.S. lamb and lamb products in the marketplace and to stimulate sales.

§ 1280.119 Referendum.

Referendum means a referendum to be conducted by the Secretary pursuant to the Act whereby producers, feeders, first handlers, and exporters shall be given the opportunity to vote to determine whether the continuance of this subpart is favored by a majority of eligible persons voting and a majority of volume voting.

§ 1280.120 Research.

Research means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of lamb or lamb products.

§ 1280.121 Secretary.

Secretary means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1280.122 Seedstock producer.

Seedstock producer means any lamb producer in the U.S. who engages in the production and sale of breeding replacement lambs or semen or embryos.

§ 1280.123 State.

The term *State* means each of the 50 States and the District of Columbia.

§ 1280.124 Suspend.

Suspend means to issue a rule under § 553 of title 5, U.S.C., to temporarily prevent the operation of an order or part thereof during a particular period of time specified in the rule.

§ 1280.125 Terminate.

Terminate means to issue a rule under § 553 of title 5, U.S.C., to cancel permanently the operation of an order or part thereof beginning on a date certain specified in the rule.

§ 1280.126 Unit.

The term *unit* means each State, group of States or class designation (producers, feeders, first handlers, or seedstock producers) which is represented on the Board.

§ 1280.127 United States.

The term *United States* means collectively the 50 States and the District of Columbia.

§ 1280.128 Wool.

The term *wool* means fiber from the fleece of a lamb.

§ 1280.129 Wool Products.

The term *wool products* means products produced, in whole or in part, from wool and products containing wool fiber, excluding pelts.

Lamb Promotion, Research, and Information Board

§ 1280.201 Establishment and membership.

(a) There is hereby established a Lamb Promotion, Research and Information Board of 12 members. Members of the Board shall be appointed by the Secretary from nominations submitted in accordance with this subpart. The seats shall be apportioned as follows:

(1) *Producers.* For purposes of nominating and appointing producers to the Board, the United States as defined within this subpart shall be divided into two regions. Region 1 shall include the geographic area east of the Mississippi River, which includes the following States: Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, Pennsylvania, Rhode Island, New Jersey, Delaware, Maryland, District of Columbia, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, Ohio, Indiana, Michigan, Illinois and Wisconsin. Region 2 shall consist of all States west of the Mississippi River, which includes the following states: Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, Nevada, California, Hawaii and Alaska. With regard to appointments to the Board, the Secretary shall ensure that the representation for producers on the Board shall meet the following criteria:

(i) Two producers appointed to the Board shall own annually 100 or less head of lambs;

(ii) One producer shall own annually between 101 and 500 head of lambs; and

(iii) Three producers shall own more than 500 head of lambs annually.

(iv) Each region must be represented by three producers.

(2) *Feeders.* There shall be three feeder representatives on the Board appointed by the Secretary from nominations submitted pursuant to this subpart. The Secretary in appointing feeder representatives to the Board shall ensure that such representatives meet the following criteria:

(i) One of the feeders appointed to the Board shall feed less than 5,000 head of lambs annually.

(ii) Two of the feeders appointed to the Board shall feed 5,000 or more head of lambs annually.

(iii) The Secretary shall ensure that the feeders appointed to the Board are not all located in one geographic region established for the nomination and appointment of producers pursuant to paragraph (a)(1) of this section.

(3) *First handlers.* There shall be two first handler representatives appointed to the Board by the Secretary from nominations submitted pursuant to this subpart.

(4) *Seedstock producers.* There shall be one seedstock producer appointed to the Board by the Secretary from nominations submitted pursuant to this subpart.

(b) In soliciting nominations for the Board, the Secretary will request those nominating to identify specific categories in which nominees will qualify.

(c) *Adjustment of membership.* At least once every 5 years, the Board will review the geographical distribution of the United States production of lambs. The review will be conducted using the National Agricultural Statistics Service inventory figures and the Board's annual assessment receipts. If warranted, the Board will recommend to the Secretary that the membership on the Board be adjusted to reflect changes in geographical distribution of domestic lamb production.

§ 1280.202 Nominations.

All nominations authorized under this section shall be made in the following manner:

(a) Nominations shall be obtained by the Secretary from eligible organizations certified under § 1280.206. Certified eligible organizations representing producers, feeders, first handlers, or seedstock producers shall submit to the Secretary at least two nominees for each seat on the Board. If the Secretary determines that a unit is not represented by a certified eligible organization, then the Secretary may solicit nominations from other organizations or other persons residing in the unit.

(b) After the establishment of the initial Board, the Department shall announce when a vacancy does or will exist. Nomination for subsequent Board members shall be submitted to the Secretary not less than 60 days prior to the expiration of the terms of the members whose terms are expiring, in the manner as described in this section. In the case of vacancies due to reasons other than the expiration of a term of office, successor Board members shall be appointed pursuant to § 1280.205.

(c) When there is more than one certified eligible organization representing the unit or when the Secretary solicits nominations from organizations and persons residing in that unit, they may caucus and jointly nominate, two qualified persons for each position representing that unit on the Board for which a member is to be appointed. If joint agreement is not reached with respect to any such nominations, or if no caucus is held, each eligible organization may submit to the Secretary two nominees for each appointment to be made to represent that unit.

§ 1280.203 Nominee's agreement to serve.

Any producer, feeder, first handler, or seedstock producer nominated to serve on the Board shall file with the Secretary at the time of the nomination a written agreement to:

(a) Serve on the Board if appointed;

(b) Disclose any relationship with any lamb promotion entity or with any organization that has or is being considered for a contractual relationship with the Board; and

(c) Withdraw from participation in deliberations, decision-making, or voting on matters that concern the relationship disclosed under paragraph (b) of this section.

§ 1280.204 Appointment.

From the nominations made pursuant to § 1280.202, the Secretary shall appoint the members of the Board on the basis of representation provided in § 1280.201.

§ 1280.205 Vacancies.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall appoint a successor from the most recent list of nominations for the position or the Secretary shall request nominations for a successor pursuant to § 1280.202 and such successor shall be appointed pursuant to § 1280.204.

§ 1280.206 Certification of organizations.

(a) *In General.* The eligibility of state, regional, or national organizations to represent producers, seedstock producers, feeders, and first handlers and to participate in the making of nominations under this subpart shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established under paragraphs (b) and (c) of this section. An eligibility determination by the Secretary shall be final.

(b) *Basis for Certification.* Certification shall be based upon, in addition to other available information, a factual report submitted by the organization that shall contain information considered relevant and specified by the Secretary, including:

(1) The geographic territory covered by the active membership of the organization;

(2) The nature and size of the active membership of the organization, including the number of active producers, seedstock producers, feeders, or first handlers represented by the organization;

(3) Evidence of stability and permanency of the organization;

(4) Sources from which the operating funds of the organization are derived;

(5) The functions of the organization; and

(6) The ability and willingness of the organization to further the purpose and objectives of the Act.

(c) *Primary Considerations.* The primary considerations in determining the eligibility of an organization under this paragraph shall be whether:

(1) The membership of the organization consists primarily of producers, seedstock producers, feeders, or first handlers who market or handle a substantial quantity of lamb or lamb products; and

(2) A primary purpose of the organization is in the production or marketing of lamb or lamb products.

§ 1280.207 Term of office.

(a) The members of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve proportionately for terms of 1-year, 2-years, and 3-years.

(b) No member may serve more than two consecutive 3-year terms.

(c) Each member shall continue to serve until a successor is appointed by the Secretary and has accepted the position.

§ 1280.208 Compensation.

Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

§ 1280.209 Removal.

If the Secretary determines that any person appointed under this part fails or refuses to perform his or her duties properly or engages in acts of dishonesty or willful misconduct, the Secretary shall remove the person from office. A person appointed under this part or any employee of the Board may be removed by the Secretary if the Secretary determines that the person's continued service would be detrimental to the purposes of the Act.

§ 1280.210 Powers and duties of the Board.

The Board shall have the following powers and duties:

(a) To administer this subpart in accordance with its terms and provisions;

(b) To develop and recommend to the Secretary for approval such bylaws as may be necessary to administer the Order, including activities authorized to be carried out under the Order;

(c) To meet not less than annually, organize, and select from among the members of the Board a Chairperson, Vice Chairperson, Secretary/Treasurer, other officers, and committees and subcommittees, as the Board determines to be appropriate;

(d) To prepare and submit for the approval of the Secretary, fiscal year budgets in accordance with § 1280.212.

(e) To employ persons, other than the members, as the Board considers necessary to assist the Board in carrying out its duties, and to determine the compensation and specify the duties of the persons;

(f) To develop and submit plans and projects to the Secretary for the Secretary's approval, and to enter into contracts or agreements, which must be approved by the Secretary before becoming effective, for the development and carrying out of programs or projects of research, information (including producer information), or promotion, and the payment of costs thereof with funds collected pursuant to this subpart. Each contract or agreement shall provide that any person who enters into a contract or agreement with the Board shall develop and submit to the Board a proposed activity; keep accurate records of all of its transactions relating to the contract or agreement; account for funds received and expended in connection with the contract or agreement; make periodic reports to the Board of activities conducted under the contract or agreement; and make such other reports available as the Board or the Secretary considers relevant. Any contract or agreement shall provide that:

(1) The contractor or agreeing party shall develop and submit to the Board a program, plan, or project together with a budget or budgets that shall show the estimated cost to be incurred for such program, plan, or project;

(2) The contractor or agreeing party shall keep accurate records of all its transactions and make periodic reports to the Board of activities conducted, submit accounting for funds received and expended, and make such other reports as the Secretary or the Board may require;

(3) The Secretary may audit the records of the contracting or agreeing party periodically; and,

(4) Any subcontractor who enters into a contract with a Board contractor and who receives or otherwise uses funds allocated by the Board shall be subject to the same provisions as the contractor.

(g) To receive, investigate, and report to the Secretary complaints of violations of the Order;

(h) To recommend to the Secretary such amendments to the Order as the Board considers appropriate;

(i) To maintain such records and books and prepare and submit such reports and records from time to time to the Secretary as the Secretary may prescribe; to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it; and to keep records that accurately reflect the actions and transactions of the Board;

(j) To cause its books to be audited by a competent auditor at the end of each fiscal year and at such other times as the Secretary may request, and to submit a report of the audit directly to the Secretary;

(k) To give the Secretary the same notice of meetings of the Board as is given to members in order that the Secretary's representative(s) may attend such meetings, and to keep and report minutes of each meeting of the Board to the Secretary;

(l) To furnish to the Secretary any information or records that the Secretary may request;

(m) To work to achieve an effective, continuous, and coordinated program of promotion, research, and information (including producer information), designed to strengthen the lamb industry's position in the marketplace; maintain and expand existing markets and uses for lamb and lamb products; and to carry out programs, plans, and projects designed to provide maximum benefits to the lamb industry;

(n) To provide not less than annually a report to producers, feeders and first handlers, accounting for the funds expended by the Board, and describing programs implemented under the Act; and to make such report available to the public upon request;

(o) To invest funds in accordance with § 1280.213.

§ 1280.211 Prohibited activities.

The Board may not engage in, and shall prohibit the employees and agents of the lamb industry from engaging in:

(a) Any action that would be a conflict of interest;

(b) Using funds collected under the Order to undertake any action for the purpose of influencing legislation or governmental action or policy, by local, State, national, and foreign governments, other than recommending to the Secretary amendments to the Order; and

(c) Any advertising, including promotion, research, and information activities authorized to be carried out under the order, that may be false or disparaging to another agricultural commodity.

Expenses

§ 1280.212 Budget and expenses.

(a) The Board shall prepare and submit to the Secretary a budget for the fiscal year covering its anticipated expenses and disbursements in administering, this subpart. The budget shall be submitted before the beginning of each fiscal year, and as frequently as may be necessary thereafter.

(b) Subject to this section, any amendment or addition to an approved budget must be approved by the Secretary, including shifting funds from one program, plan, or project to another.

(c) The Board is authorized to incur such expenses, including provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning, and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from funds received by the Board.

(d) With approval of the Secretary, the Board may borrow money for the payment of administrative expenses, subject to the same fiscal, budget, and audit controls as other funds of the Board. Any funds borrowed by the Board shall be expended only for startup costs and capital outlays and are limited to the first year of operation of the Board.

(e) The Board may accept voluntary contributions, but these shall only be used to pay expenses incurred in the conduct of programs, plans, and projects. Such contributions shall be free from any encumbrance by the donor and the Board shall retain complete control of their use.

(f) The Board shall reimburse the Secretary for all expenses incurred by the Secretary in the implementation, administration, and supervision of the Order, including all referendum costs in connection with the Order.

(g) The Board may not expend for administration, maintenance, and functioning of the Board in any fiscal year an amount that exceeds 10 percent of the assessments and other income received by the Board for that fiscal year, except for the initial fiscal year. Reimbursements to the Secretary required under paragraph (f) of this section are excluded from this limitation on spending.

§ 1280.213 Investment of funds.

The Board may invest, pending disbursement, funds it receives under this subpart, only in obligations of the

United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a financial institution that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States. Income from any such investment may be used for any purpose for which the invested funds may be used.

§ 1280.214 Refund escrow accounts.

(a) The Board shall establish an interest bearing escrow account with a financial institution which is a member of the Federal Reserve System and will deposit into such account an amount equal to the product obtained by multiplying:

(1) The total amount of assessments collected by the Board during the period beginning on the effective date of the Order and ending on the date the Secretary announces the results of the required referendum; by

(2) Ten percent (10 percent).

(b) The Board shall pay refunds of assessments to eligible persons requesting refunds during the period beginning on the effective date of the Order and ending on the date the Secretary announces the results of the required referendum in the manner specified in paragraph (c) of this section.

(c) If the amount deposited in the escrow account is less than the amount of refunds requested, the Board shall prorate the amount deposited in such account among all eligible persons who request a refund of assessments paid no later than the date the required referendum results are announced by the Secretary.

§ 1280.215 Refunds.

Any producer, seedstock producer, feeder, first handler, or exporter from whom an assessment is collected and remitted to the Board, or who pays an assessment directly to the Board, under authority of the Act and this subpart through the announcement of the results of the required referendum, and who is not in favor of supporting the promotion and research program as provided for in this subpart, shall have the right to receive from the Board a refund of such assessment, or a pro rata share thereof, upon submission of proof satisfactory to the Board that the producer, seedstock producer, feeder, first handler, or exporter paid the assessment for which refund is sought. Any such demand shall be made by such producer, seedstock producer, feeder, first handler, or exporter in accordance with the provisions of this subpart and in a manner consistent with regulations prescribed by the Board and approved by the Secretary.

§ 1280.216 Procedure for obtaining a refund.

Each producer, seedstock producer, feeder, first handler, or exporter who pays an assessment pursuant to the Act and this subpart during the period beginning on the effective date of the Order and ending on the date the required referendum results are announced may obtain a refund of such assessment only by following the procedures prescribed in this section and any regulations prescribed by the Board and approved by the Secretary.

(a) *Application form.* A producer, seedstock producer, feeder, first handler, or exporter shall obtain a Board-approved refund application form from the Board. Such form may be obtained by written request to the Board and the request shall bear the producer's, seedstock producer's, feeder's, first handler's, or exporter's signature or properly witnessed mark.

(b) *Submission of refund application to Board.* Any producer, seedstock producer, feeder, first handler, or exporter requesting a refund shall mail an application on the prescribed form to the Board within 60 days from the date the assessments were paid by such producer, seedstock producer, feeder, first handler, or exporter but no later than the date the results of the required referendum are announced by the Secretary. The refund application shall show (1) the producer's, seedstock producer's, feeder's, first handler's, or exporter's name and address; (2) name and address of the person who collected applicant's assessment; (3) number of head of lambs, weight of lambs, or its equivalent, on which a refund is requested; (4) total amount of refund requested; (5) date or inclusive dates on which assessments were paid; (6) certification that the producer, seedstock producer, feeder, first handler, or exporter did not collect the assessment from another producer, seedstock producer, feeder, first handler; or exporter or documentation of assessments collected from others; and (7) the producer's, seedstock producer's, feeder's, first handler's, or exporter's signature or properly witnessed mark.

(c) *Proof of payment of assessments.* The documentation provided pursuant to § 1280.225(b) to the producer, seedstock producer, feeder, first handler, or exporter by the person responsible for collecting an assessment pursuant to this subpart, or a copy thereof, or such other evidence deemed satisfactory to the Board, shall accompany the producer's, seedstock producer's, feeder's, first handler's, or exporter's refund application.

(d) *Payment of refunds.* The Board shall initiate payment of refund requests, or pay a pro rata share thereof, within 90 days of the date the results of the required referendum are released by the Secretary. Refunds shall be paid in a manner consistent with § 1280.214.

Assessments

§ 1280.217 Lamb purchases.

(a) Except as prescribed by regulations approved by the Secretary, each first handler or exporter making payment to a producer, seedstock producer, or feeder for lambs purchased from such producer, seedstock producer, or feeder shall collect an assessment from the producer, seedstock producer, or feeder; Each producer, seedstock producer, or feeder shall pay such assessment to the first handler or exporter, at the rate of one-half cent ($.005) per pound of live lambs sold.

(b) Except as otherwise specified in this subpart, a person shall not be considered a producer, seedstock producer, or feeder within the meaning of this subpart if:

(1) The person's only share in the proceeds of a sale of lambs is a sales commission, handling fee, or other service fee; or

(2) The person (i) acquired ownership of the lambs to facilitate the transfer of ownership of such lambs from the seller to a third party, (ii) resold such lambs no later than 10 days from the date on which the person acquired ownership, and (iii) certified, as required by regulations prescribed by the Board and approved by the Secretary, that the requirements of this provision have been satisfied.

(c) Each person processing or causing to be processed lambs or lamb products of that person's own production and marketing such lambs or lamb products, shall pay an assessment on such lambs or lamb products at the time of sale at a rate equivalent to the rate established in paragraph (e) of this section and shall remit such assessment to the Board.

(d) A person who is a market agency; i.e. commission merchant, auction market, or livestock market in the business of receiving lambs for sale or commission for or on behalf of a producer, seedstock producer, or feeder shall collect an assessment from the producer, seedstock producer, or feeder and shall pass the collected assessments on to the subsequent purchaser pursuant to this subpart and regulations

prescribed by the Board and approved by the Secretary.

(e) *Rate.* Except as otherwise provided, the rate of assessment shall be one-half of a cent ($.005 per pound) per pound on all live lambs sold. The rate of assessment may be raised or lowered no more than twenty-hundredths of a cent ($.002) in any 1 year following opportunity for comment by interested parties.

(f) The collection of assessments pursuant to § 1280.217, § 1280.218, and § 1280.219 shall begin with respect to lambs purchased, or lambs or lamb products marketed on and after the effective date of this section and shall continue until terminated or suspended by the Secretary.

(g) If the Board is not in place by the date the first assessments are to be collected, the Secretary shall have the authority to receive assessments and invest them on behalf of the Board, and shall pay such assessments and any interest earned to the Board when it is formed. The Secretary shall have the authority to promulgate rules and regulations concerning assessments and the collection of assessments if the Board is not in place or is otherwise unable to develop such rules and regulations.

(h) Payment remitted pursuant to this subpart shall be in the form of a negotiable instrument made payable to the Board. Such remittances and the reports specified in § 1280.223 and § 1280.225 shall be mailed to the location designated by the Board.

§ 1280.218 Exporter.

Each person exporting live lambs shall remit to the Board an assessment on such lambs at the time of export at the rate established in § 1280.217(e). An exporter directly exporting his or her own lambs shall remit an assessment to the Board at the rate established in § 1280.217(e).

§ 1280.219 First handlers.

Each first handler, in addition to remitting the assessment collected pursuant to § 1280.217, shall pay an assessment equal to thirty cents ($.30) per head of lambs purchased by the first handler for slaughter or slaughtered by such first handler pursuant to a custom slaughter arrangement. The rates of assessment for first handlers shall be increased or decreased proportionately if the assessment paid by producers and feeders is increased or decreased. Such assessment shall be remitted with the assessments collected pursuant to § 1280.217.

§ 1280.220 Collections.

(a) Each first handler and each exporter responsible for the collection of assessments under this subpart shall remit assessments to the Board by the 15th day of the month following the month in which the lambs were purchased for slaughter or export; or

(b) If a first handler marketed lambs or lamb products directly to consumers, assessments shall be remitted to the Board by the 15th day of the month following the month in which the lambs or lamb products were marketed, unless the Board, with the approval of the Secretary, has provided otherwise.

(c) *Late Payment Charges.* Any unpaid assessments due to the Board pursuant to § 1280.217 shall be increased 2 percent each month beginning with the day following the date such assessments were due. Any remaining amount due, which shall include any unpaid charges previously made pursuant to this paragraph, shall be increased at the same rate on the corresponding day of each month thereafter until paid. For the purposes of this paragraph, any assessment determined at a date later than the date prescribed by this subpart, because of a person's failure to timely submit a report to the Board, shall be considered to have been payable by the date it would have been due if the report had been timely filed. The timeliness of a payment to the Board shall be based on the applicable postmark date or the date actually received by the Board, whichever is earlier.

(d) Persons failing to remit total assessments due in a timely manner may also be subject to actions under Federal debt collection procedures.

§ 1280.221 Prohibition on use of funds.

No funds collected by the Board under this subpart shall be used to undertake any action for the purpose of influencing legislation or governmental action or policy, by local, state, national and foreign governments, other than recommending to the Secretary amendments to this subpart.

A plan or project conducted pursuant to this title shall not make false or misleading claims on behalf of lamb or lamb products or against a competing product.

Reports, Books, and Records

§ 1280.222 Books and Records of Board.

The Board shall:

(a) Maintain such books and records, which shall be made available to the Secretary for inspection and audit, as the Secretary may prescribe,

(b) Prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe, and

(c) Account for the receipt and disbursement of all funds entrusted to it. The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

§ 1280.223 Reports.

Each first handler required to remit assessments to the Board for live lambs pursuant to § 1280.217, each first handler marketing lamb products of that person's own production, and each exporter of lambs, shall report to the Board information pursuant to regulations prescribed by the Board and approved by the Secretary. Such information may include but is not limited to the following:

(a) The number of lambs purchased, initially transferred or which, in any other manner, is subject to the collection of assessment, the total weight in pounds, and the dates of such transactions;

(b) The number of lambs exported; the total weight in pounds of lambs exported;

(c) The amount of assessment remitted;

(d) The basis; if necessary, to show why the remittance is less than the total weight in pounds of lamb multiplied by the assessment rate;

(e) The date any assessment was paid.

§ 1280.224 Periodic evaluation.

Pursuant to the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401), the Board shall, not less often than every 5 years, authorize and fund, from funds otherwise available to the Board, an independent evaluation of the effectiveness of the Order and other programs conducted by the Board. The Board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this paragraph.

§ 1280.225 Books and records of persons.

(a) Each first handler, exporter of lambs, and market agency shall maintain and make available for inspection such books and records as may be required by regulations prescribed by the Board and approved by the Secretary, including records necessary to verify any required reports. Such records shall be maintained for at least 2 years beyond the fiscal period of their applicability.

(b) *Document Evidencing Payment of Assessments.* Each person, including first handlers, exporters and market agencies, responsible for collecting an

assessment paid pursuant to this subpart is required to give the person from whom the assessment was collected, written evidence of payment of the assessments paid pursuant to this subpart. Such written evidence serving as a receipt shall include, but not be limited to, the following information:

(1) Name and address of the collecting person.

(2) Name of person who paid assessment.

(3) Number of head of lamb sold.

(4) Total weight in pounds of lamb sold.

(5) Total assessments paid by the producer, seedstock producer, or feeder.

(6) Date of sale.

(7) Such other information as the board, with the approval of the Secretary, may require.

§ 1280.226 Use of information.

Information from records or reports required pursuant to this subpart shall be made available to the Secretary as is appropriate to the administration or enforcement of the Act, subpart or any regulation issued under the Act. In addition, the Secretary shall authorize the use, under this part, of information regarding persons paying producers, seedstock producers, feeders, first handlers or exporters that is accumulated under laws or regulation other than the Act or regulations issued under the Act.

§ 1280.227 Confidentiality.

All information obtained from books, records, or reports under the Act, this subpart, and the regulations issued thereunder shall be kept confidential by all persons, including all employees and former employees of the Board, all officers and employees and former officers and employees of contracting and subcontracting agencies or agreeing parties having access to such information. Such information shall not be available to Board members, producers, seedstock producers, feeders, exporters, or first handlers. Only those persons having a specific need for such information to effectively administer the provisions of this subpart shall have access to such information. Only such information so obtained as the Secretary deems relevant shall be disclosed by them, and then only in a judicial proceeding or administrative hearing brought at the direction, or on the request, of the Secretary, or to which the Secretary or any officer of the United States is a party. Nothing in this section shall be deemed to prohibit:

(1) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person; and

(2) The publication, by direction of the Secretary, of the name of any person violating this subpart, together with a statement of the particular provisions of this subpart violated by such person.

Miscellaneous

§ 1280.228 Right of the Secretary.

All fiscal matters, programs, plans, or projects, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1280.229 Personal liability.

No member or employee of the Board shall be held personally responsible, either individually or jointly, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty or willful misconduct.

§ 1280.230 Separability.

If any provision of the subpart is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this subpart, or the applicability thereof to other persons or circumstances shall not be affected thereby.

§ 1280.231 Patents, copyrights, inventions, product formulations, and publications.

(a) Any patents copyrights, inventions or publications developed through the use of funds collected by the Board under the provisions of this subpart shall be the property of the U.S. Government as represented by the Board, and shall, along with any rents, royalties, residual payments, or other income from the rental, sale leasing, franchising, or other uses of such patents, copyrights, inventions, or publication, inure to the benefit of the Board. Upon termination of this subpart, § 1280.235 shall apply to determine the disposition of all such property.

(b) Should patents, copyrights, inventions or publications be developed through the use of funds collected by the Board under this subpart and funds contributed by another organization or person, ownership and related rights to such patents, copyrights, inventions or publications shall be determined by agreement between the Board and the party contributing funds towards the development of such patent, copyright, invention or publication in a manner consistent with paragraph (a) of this section.

§ 1280.232 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Board or by any interested persons affected by the provisions of the Act, including the Secretary.

§ 1280.233 Referenda.

(a) *Required Referendum.* For the purpose of ascertaining whether the persons subject to this part favor the continuation, suspension, or termination of this part, the Secretary shall conduct a referendum among persons subject to assessments under § 1280.217, § 1280.218, and § 1280.219 who, during a representative period determined by the Secretary, have engaged in the production, feeding, handling, or slaughter of lamb; or the exportation of lamb.

(1) *Time for Referendum.* The referendum shall be conducted not later than 3 years after assessments first begin under this part.

(2) *Approval of Part.* This part may be approved in a referendum by a majority of those persons voting for approval who also represent a majority of the volume of lamb produced, fed, slaughtered, handled, and exported.

(b) *Subsequent Referenda.* The Secretary shall conduct a subsequent referendum:

(1) Not later than 7 years after assessments first begin under this part;

(2) At the request of the Board established pursuant to § 1280.201; or

(3) At the request of 10 percent or more of the lamb producers, seedstock producers, feeders, first handlers, and exporters eligible to vote to determine if the persons favor the continuation, suspension, or termination of this part.

(c) *Other Referenda.* The Secretary may conduct a referendum at any time to determine whether the continuation, suspension or termination of this part or a provision of this part is favored by lamb producers, seedstock producers, feeders, first handlers, and exporters eligible to vote.

(d) *Costs of Referenda.* The Board shall reimburse the Secretary for any expenses incurred by the Secretary to conduct referenda.

(e) *Manner of Conducting Referenda.* A referendum conducted under this section with respect to this part shall be conducted in the manner determined by the Secretary to be appropriate.

(1) *Voting.* Eligible voters may vote by mail ballot in the referendum or in person if so prescribed by the Secretary.

(2) *Notice.* Not later than 30 days before a referendum is conducted under

this section with respect to this part, the Secretary shall notify the eligible voters, in such manner as determined by the Secretary, of the period during which voting in the referendum will occur. The notice shall explain any registration and voting procedures established under this part.

§ 1280.234 Suspension or termination.

(a) The Secretary shall suspend or terminate this part or subpart or a provision thereof if the Secretary finds that this part, subpart or a provision thereof obstructs or does not tend to effectuate the purposes of the Act,

(b) If, as a result of a referendum the Secretary determines that this subpart is not approved, the Secretary shall:

(1) Not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under this subpart; and

(2) As soon as practical, suspend or terminate, as the case may be, activities under this subpart in an orderly manner.

§ 1280.235 Proceedings after termination.

(a) Upon the termination of this subpart, the Board shall recommend to the Secretary not more than five of its members to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all funds and property owned, in possession of or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into pursuant to this subpart;

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person as the Secretary may direct; and

(4) Upon the direction of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the same obligations as imposed upon the Board and the trustees.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligations as imposed upon the Board and the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be returned to the persons who contributed such funds, or paid assessments, or if not practicable, shall be turned over to the Department to be utilized, to the extent practicable, in the interest of continuing one or more of the lamb research or information programs hitherto authorized.

§ 1280.236 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or any regulation issued thereunder, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty obligation or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any such rule or regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or of this subpart or of any rule or regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, the Secretary or of any person, with respect to any such violation.

§ 1280.237 Rules and Regulations.

The Secretary may prescribe such rules and regulations as may be necessary to effectively carry out the provisions of this subpart.

§ 1280.238 OMB Control Numbers.

The control number for the information requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35 has not yet been assigned, except that the OMB control number for the nominee Background form is 0505–0001.

Proposal II

§ 1280.108 Feeder.

The term *feeder* means any person who is engaged in the purchasing of lambs for feeding to a market or slaughter weight.

§ 1280.116 Producer.

The term producer means any person who is engaged in the annual lambing of ewes in the U.S. for sale to another person or who retains ownership of lambs until such lambs reach a market or slaughter weight.

§ 1280.122 Seedstock producer.

Seedstock producer means any lamb producer actively engaged in the production and sale of breeding replacement ewes, rams, or semen or embryos.

§ 1280.201 Establishment and membership.

(a)(2)(i) Two lamb feeders appointed to the Board shall feed less than 5,000 head of lambs annually.

(ii) One lamb feeder appointed to the Board shall feed 5,000 or more head of lambs annually.

Proposal III

§ 1280.233 Referenda.

(a)(2) *Approval of Part.* This part may be approved in a referendum by a majority of those persons voting for approval.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23647 Filed 9–20–01; 8:45 am]

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Federal Register

Friday,
September 21, 2001

Part IV

Department of Transportation

Coast Guard

33 CFR Part 165

Protection of Naval Vessels; Temporary Final Rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[LANT AREA–01–001]

RIN 2115–AG23

Protection of Naval Vessels

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Following terrorist attacks in New York and Washington, DC., the Coast Guard is establishing temporary regulations for the safety or security of U.S. naval vessels in the navigable waters of the United States. The regulations are issued under the authority contained in 14 U.S.C. 91. Naval Vessel Protection Zones will provide for the regulation of vessel traffic in the vicinity of U.S. naval vessels in the navigable waters of the United States.

DATES: This rule is effective from September 14, 2001 to June 15, 2002.

ADDRESSES: You may mail comments and related material to Commander (Amr), Coast Guard Atlantic Area, 431 Crawford Street, Portsmouth, VA 23704–5004. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket LANT AREA 01–001 and are available for inspection or copying at 431 Crawford Street, Portsmouth, VA, room 416 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: CDR Chris Doane, Commander (Amr), Coast Guard Atlantic Area, 431 Crawford Street, Portsmouth, VA 23704–5004; telephone number (757) 398–6372.

SUPPLEMENTARY INFORMATION:

Regulatory Information

In order to protect the interests of national security, the Coast Guard is promulgating temporary regulations to provide for the safety and security of U.S. naval vessels in the navigable waters of the United States. As a result, the establishment and enforcement of naval vessel protection zones is a function directly involved in, and necessary to military operations. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice and comment rule-making and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation.

Also, under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective immediately. This temporary regulation of short duration is necessary to provide for the immediate security and safety of U.S. naval vessels following the terrorist attacks in New York City and Washington, DC. To delay the effective date would be impracticable and contrary to the public interest.

Background and Purpose

These zones are necessary to provide for the safety and security of United States naval vessels in the navigable waters of the United States. The regulations are issued under the authority contained in 14 U.S.C. 91.

Discussion of Rule

This rule, for safety and security concerns, controls vessel movement in a regulated area surrounding U.S. naval vessels. U.S. naval vessel means any vessel owned, operated, chartered, or leased by the U.S. Navy; and any vessel under the operational control of the U.S. Navy or a unified commander. All vessels within 500 yards of a U.S. naval vessel shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the official patrol (a Coast Guard commissioned, warrant or petty officer; or the Commanding Officer of a U.S. naval vessel or his or her designee). No vessel is allowed within 100 yards of a U.S. naval vessel, unless authorized by the official patrol. Vessels requesting to pass within 100 yards of a U.S. naval vessel shall contact the official patrol on VHF–FM channel 16. The official patrol may permit vessels that can only operate safely in a navigable channel to pass within 100 yards of a U.S. naval vessel in order to ensure a safe passage in accordance with the Navigation Rules. Similarly, commercial vessels anchored in a designated anchorage area may be permitted to remain at anchor within 100 yards of passing naval vessels.

Violations of these regulations are punishable as a class D felony (imprisonment for not more than 6 years and a fine of not more than $250,000) and in rem liability against the vessel.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) Individual naval vessel protection zones are limited in size; (ii) The official patrol may authorize access to the naval vessel protection zone; (iii) the naval vessel protection zone for any given transiting naval vessel will effect a given geographical location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate near or anchor in the vicinity of U.S. naval vessels in the navigable waters of the United States.

This temporary regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Individual naval vessel protection zones are limited in size; (ii) The official patrol may authorize access to the naval vessel protection zone; (iii) the naval vessel protection zone for any given transiting naval vessel will affect a given geographic location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement

Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**.

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

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

The Coast Guard's preliminary review indicates this temporary rule is categorically excluded from further environmental documentation under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.lC. The environmental analysis and Categorical Exclusion Determination will be prepared and submitted after establishment of this temporary naval vessel protection zone, and will be available in the docket. This temporary rule ensures the safety and security of U.S. naval vessels. All standard environmental measures remain in effect. The Categorical Exclusion Determination will be made available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 subpart G reads as follows:

Authority: 14 U.S.C. 91 and 633; 49 CFR 1.45.

2. Subpart G is added to part 165 to read as follows:

Subpart G—Protection of Naval Vessels

Sec.
165.2000 Purpose.
165.2015 Definitions.
165.2020 Enforcement authority.
165.2025 Atlantic area.

Subpart G—Protection of Naval Vessels

§ 165.2000 Purpose.

This subpart establishes the geographic parameters of naval vessel protection zones surrounding U.S. naval vessels in the navigable waters of the United States. This subpart also establishes when the U.S. Navy will take enforcement action in accordance with the statutory guidelines of 14 U.S.C. 91. Nothing in the rules and regulations contained in this subpart shall relieve any vessel, including U.S. naval vessels, from the observance of the Navigation Rules. The rules and regulations contained in this subpart supplement, but do not replace or supersede, any other regulation pertaining to the safety or security of U.S. naval vessels.

§ 165.2015 Definitions.

The following definitions apply to this subpart:

Atlantic Area means that area described in 33 CFR 3.04–1 Atlantic Area.

Naval defensive sea area means those areas described in 32 CFR part 761.

Naval vessel protection zone is a 500-yard regulated area of water surrounding U.S. naval vessels, which is necessary to provide for the safety or security of U.S. naval vessels.

Navigable waters of the United States means those waters as defined in 33 CFR 2.05–25.

Navigation rules means the Navigation Rules, International-Inland.

Official patrol means a Coast Guard commissioned, warrant or petty officer; or the Commanding Officer of a U.S. naval vessel or his or her designee.

Pacific Area means that area described in 33 CFR 3.04–3 Pacific Area.

Restricted area means those areas set out in 33 CFR part 334.

U.S. naval vessel means any vessel owned, operated, chartered, or leased by the U.S. Navy; and any vessel under the operational control of the U.S. Navy or a unified commander.

Vessel means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, except U.S. Coast Guard or U.S. naval vessels.

§ 165.2020 Enforcement authority.

(a) *Coast Guard.* Any Coast Guard commissioned, warrant or petty officer may enforce the rules and regulations contained in this subpart.

(b) *Senior naval officer present in command.* In the navigable waters of the United States, when immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to exercise effective control in the vicinity of United States naval vessels, the senior naval officer present in command is responsible for the enforcement of the rules and regulations contained in this subpart to ensure the safety and security of his or her command.

Note to paragraph (b): The senior naval officer present in command will normally be the Commanding Officer of a U.S. naval vessel.

§ 165.2025 Atlantic area.

(a) This section applies to any vessel or person in the navigable waters of the United States within the boundaries of the U.S. Coast Guard Atlantic Area, which includes the First, Fifth, Seventh, Eighth and Ninth U.S. Coast Guard Districts.

Note to paragraph (a): The boundaries of the U.S. Coast Guard Atlantic Area and the First, Fifth, Seventh, Eighth and Ninth U.S. Coast Guard Districts are set out in 33 CFR part 3.

(b) A naval vessel protection zone exists around U.S. naval vessels at all times in the navigable waters of the United States, whether the U.S. naval vessel is underway, anchored, or moored, except when the naval vessel is moored within a restricted area or within a naval defensive sea area.

(c) The Navigation Rules shall apply at all times within a naval vessel protection zone.

(d) When within a naval vessel protection zone all vessels shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the official patrol. No vessel or person is allowed within 100 yards of a U.S. naval vessel, unless authorized by the official patrol.

(e) To request authorization to operate within 100 yards of a U.S. naval vessel, contact the official patrol on VHF–FM channel 16.

(f) When conditions permit, the official patrol may:

(1) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a U.S. naval vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(2) Permit commercial vessels anchored in a designated anchorage area to remain at anchor within 100 yards of passing naval vessels.

Dated: September 14, 2001.

Thad W. Allen,

Vice Admiral, U.S. Coast Guard, Commander, Atlantic Area.

[FR Doc. 01–23705 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[PAC AREA–01–001]

RIN 2115–AG23

Protection of Naval Vessels

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Following terrorist attacks in New York and Washington, DC, the Coast Guard is establishing temporary regulations for the safety or security of U.S. naval vessels in the navigable waters of the United States. The regulations are issued under the authority contained in 14 U.S.C. 91. Naval Vessel Protection Zones will provide for the regulation of vessel traffic in the vicinity of U.S. naval vessels in the navigable waters of the United States.

DATES: This temporary rule is effective from September 14, 2001, to June 15, 2002.

ADDRESSES: You may mail comments and related material to Commander (Poft/Pmt), Coast Guard Pacific Area, Coast Guard Island, Alameda, CA 94501. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket PAC AREA 01–001 and are available for inspection or copying at Commander (Poft/Pmt), Coast Guard Island, Alameda, CA, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: CDR Joe Billy, Commander (Poft), or CDR Steve Danscuk, Commander (Pmt), Coast Guard Pacific Area, Coast Guard Island, Alameda, CA 94501; telephone numbers (510) 437–3505 and (510) 437–2943 respectively.

SUPPLEMENTARY INFORMATION:

Regulatory Information

In order to protect the interests of national security, the Coast Guard is promulgating temporary regulations to provide for the safety and security of U.S. naval vessels in the navigable waters of the United States. As a result, the establishment and enforcement of naval vessel protection zones is a function directly involved in, and necessary to military operations. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice and comment rule-making and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation.

Also, under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective immediately. This temporary regulation of short duration is necessary to provide for the immediate security and safety of U.S. naval vessels following the terrorist attacks in New York City and Washington, DC. To delay the effective date would be impracticable and contrary to the public interest.

Background and Purpose

These zones are necessary to provide for the safety and security of United States naval vessels in the navigable waters of the United States. The regulations are issued under the authority contained in 14 U.S.C. 91. The zones established by these regulations control the movement and anchorage of vessels near U.S. naval vessels, and are intended to prevent an attack on a U.S. naval vessel, like what happened to USS COLE in Aden, Yemen on October 12, 2000.

Discussion of Rule

This rule, for safety and security concerns, controls vessel movement in a regulated area surrounding U.S. naval

vessels. U.S. naval vessel means any vessel owned, operated, chartered, or leased by the U.S. Navy; and any vessel under the operational control of the U.S. Navy or a unified commander. All vessels within 500 yards of a U.S. naval vessel shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the official patrol (a Coast Guard commissioned, warrant or petty officer; or the Commanding Officer of a U.S. naval vessel or his or her designee). No vessel is allowed within 100 yards of a U.S. naval vessel, unless authorized by the official patrol. Vessels requesting to pass within 100 yards of a U.S. naval vessel shall contact the official patrol on VHF–FM channel 16. The official patrol may permit vessels that can only operate safely in a navigable channel to pass within 100 yards of a U.S. naval vessel in order to ensure a safe passage in accordance with the Navigation Rules. Similarly, commercial vessels anchored in a designated anchorage area may be permitted to remain at anchor within 100 yards of passing naval vessels.

Violations of these regulations are punishable as a class D felony (imprisonment for not more than 6 years and a fine of not more than $250,000) and in rem liability against the vessel. Any person who violates this regulation, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years (class C felony).

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) individual naval vessel protection zones are limited in size; (ii) The official patrol may authorize access to the naval vessel protection zone; (iii) the naval vessel protection zone for any given transiting naval vessel will effect a given geographical location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate near or anchor in the vicinity of U.S. naval vessels in the navigable waters of the United States.

This temporary regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) individual naval vessel protection zones are limited in size; (ii) The official patrol may authorize access to the naval vessel protection zone; (iii) the naval vessel protection zone for any given transiting naval vessel will affect a given geographic location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact one of the points of contact listed under **FOR FURTHER INFORMATION CONTACT.**

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

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination

with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Environment

The Coast Guard's preliminary review indicates this temporary rule is categorically excluded from further environmental documentation under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.lD. As an emergency action, the environmental analysis, requisite regulatory consultations, and Categorical Exclusion Determination will be prepared and submitted after establishment of this temporary naval vessel protection zone, and will be available in the docket. This temporary rule ensures the safety and security of U.S. naval vessels. All standard environmental measures remain in effect. The Categorical Exclusion Determination will be made available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

Subpart G—Protection of Naval Vessels

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

Authority: 14 U.S.C. 91 and 633; 49 CFR 1.45.

2. Add § 165.2030 to read as follows:

§ 165.2030 Pacific Area.

(a) This section applies to any vessel or person in the navigable waters of the United States within the boundaries of the U.S. Coast Guard Pacific Area, which includes the Eleventh, Thirteenth, Fourteenth, and Seventeenth U.S. Coast Guard Districts.

Note to paragraph (a): The boundaries of the U.S. Coast Guard Pacific Area and the Eleventh, Thirteenth, Fourteenth, and Seventeenth U.S. Coast Guard Districts are set out in 33 CFR part 3.

(b) A naval vessel protection zone exists around U.S. naval vessels at all times in the navigable waters of the United States, whether the U.S. naval vessel is underway, anchored, or moored, except when the naval vessel is moored within a restricted area or within a naval defensive sea area.

(c) The Navigation Rules shall apply at all times within a naval vessel protection zone.

(d) When within a naval vessel protection zone all vessels shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the official patrol. No vessel or person is allowed within 100 yards of a U.S. naval vessel, unless authorized by the official patrol.

(e) To request authorization to operate within 100 yards of a U.S. naval vessel, contact the official patrol on VHF–FM channel 16.

(f) When conditions permit, the official patrol may:

(1) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a U.S. naval vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(2) Permit commercial vessels anchored in a designated anchorage area to remain at anchor within 100 yards of passing naval vessels.

Dated: September 14, 2001.

E. R. Riutta,

Vice Admiral, U.S. Coast Guard, Commander, Pacific Area.

[FR Doc. 01–23706 Filed 9–19–01; 8:45 am]

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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)

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